

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 253
SPONSOR(S): Quinones
TIED BILLS:

Corrections

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Criminal Justice Committee</u>	<u> </u>	<u>Cunningham</u>	<u>Kramer</u>
2) <u>Justice Appropriations Committee</u>	<u> </u>	<u> </u>	<u> </u>
3) <u>Justice Council</u>	<u> </u>	<u> </u>	<u> </u>
4) <u> </u>	<u> </u>	<u> </u>	<u> </u>
5) <u> </u>	<u> </u>	<u> </u>	<u> </u>

SUMMARY ANALYSIS

Currently, there is no statutory restriction on where the Department of Corrections may site a probation office. However, if the Department intends to site a probation office within one-quarter mile (1320 feet) of a licensed day care center or school, the Department must publish notice of their intent to do so in the local newspaper and provide written notification to the county or city administrator in the county or city in which the office space is to be located. In addition to complying with the above statutory requirements, it is the Department's policy to locate probation and parole offices at least 250 feet away from certain locations, such as licensed day care centers and schools.

This bill prohibits probation and parole offices from being located within 2,500 feet of a licensed daycare center or school for children in grade 12 or lower. Offices that do not comply with this requirement by the effective date of this act (July 1, 2006) have until August 1, 2006, or the expiration of its current lease, whichever is earlier, to relocate to a compliant location.

In Florida, the Criminal Justice Standards and Training Commission (CJSTC), housed within the Florida Department of Law Enforcement, establishes uniform minimum standards for the employment and training of full-time, part-time, and auxiliary correctional probation officers (CPOs). Every prospective CPO must successfully complete a CJSTC-developed Basic Recruit Training Program and pass a statewide certification exam in order to receive their certification. Because the statutory definition of a CPO only includes state employees, the CJSTC is only responsible for certifying state CPOs, not *county* CPOs. Counties currently have discretion in setting training standards for county CPOs.

This bill gives counties the discretion to have their probation officers certified by the CJSTC. Counties electing to require their probation officers to be certified must provide certification criteria similar to those provided for in s. 943.13, F.S. Additionally, the CJSTC must provide training and certification consistent with s. 943.13, F.S.

This bill will likely have a significant fiscal impact. See fiscal section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – The bill gives counties the discretion to have their probation officers certified by the Criminal Justice Standards and Training Commission.

Maintain Public Security – The bill prohibits probation and parole offices from being located within 2,500 feet of a licensed day care center or school for children in grade 12 or lower.

B. EFFECT OF PROPOSED CHANGES:

Relocating Probation and Parole Offices

The Florida Department of Corrections (Department) currently supervises over 148,000 offenders in the community at approximately 150 accredited¹ probation and parole offices.² These offices conduct interviews, investigations, and drug testing, and provide offenders access for reporting and meeting with their individual probation officers.³ Depending on the level of community supervision, offenders report in for supervision daily, weekly, monthly, or as directed by the releasing authority.

Currently, there is no statutory restriction on where the Department of Corrections may site a probation office. However, if the Department intends to site a probation office within one-quarter mile (1320 feet) of a licensed day care center or school, the Department must publish notice of their intent to do so in the local newspaper and provide written notification to the county or city administrator in the county or city in which the office space is to be located.⁴ In addition to complying with the above statutory requirements, it is the Department's policy to locate probation and parole offices 250 feet away from certain locations, such as licensed day care centers and schools.⁵

This bill prohibits probation and parole offices from being located within 2,500 feet of a licensed daycare center or school for children in grade 12 or lower. Offices that do not comply with this requirement by the effective date of this act (July 1, 2006) have until August 1, 2006, or the expiration of its current lease, whichever is earlier, to relocate to a compliant location.

The Department reports that approximately 75% of its existing probation offices (113 offices) would be required to relocate pursuant to the provisions of this bill. Additionally, the Department reports that locating office space that complies with the bill's provisions may be difficult (i.e. office space in areas outside the 2,500 foot restricted zone may be more costly than space within the zone).

Certification of County Probation Officers

In Florida, the Criminal Justice Standards and Training Commission (CJSTC), housed within the Florida Department of Law Enforcement, establishes uniform minimum standards for the employment and training of full-time, part-time, and auxiliary correctional probation officers (CPOs).⁶ Every prospective CPO must

¹ The American Correctional Association and the Commission on Accreditation for Corrections are private, non-profit organizations which administer the only national accreditation program for all components of adult and juvenile corrections.

² <http://www.dc.state.fl.us/facilities/comcor/index.html>

³ *Id.*

⁴ s. 945.28, F.S.

⁵ Department Procedure 210.007.

⁶ <http://www.fdle.state.fl.us/cjst/commission/index.html>

successfully complete a CJSTC-developed Basic Recruit Training Program and pass a statewide certification exam in order to receive their certification.⁷ Because the statutory definition of a CPO only includes state employees, the CJSTC is only responsible for certifying state CPOs, not *county* CPOs (county probationers have generally committed misdemeanors, have sentences of a year or less in length, and are supervised by the county - state probationers have generally committed felonies, have sentences of more than a year in length, and are supervised by the Department of Corrections).⁸ Counties currently have discretion in setting training standards for county CPOs.

This bill gives counties the discretion to have their probation officers certified by the CJSTC.⁹ Counties electing to require their probation officers to be certified must provide certification criteria similar to those provided for in s. 943.13, F.S.¹⁰ Additionally, the CJSTC must provide training and certification consistent with s. 943.13, F.S.

C. SECTION DIRECTORY:

Section 1. Amends s. 945.28, F.S., prohibiting probation and parole offices from being located within 2,500 feet of a licensed day care center facility or a school for children in grade 12 or lower; deleting the requirement that the Department of Corrections publish in the newspaper and provide written notification to the county or city administrator if a probation/parole office is to be located within one-quarter mile of a licensed daycare center of a school for children grade 12 or lower.

Section 2. Providing that probation and parole offices have until August 1, 2006, or the expiration of their current leases, whichever is earlier, to relocate to a location that complies with s. 945.28(2)(a), F.S.

Section 3. Creates s. 943.1301, F.S. providing that counties may require their probation officers to be certified by the Criminal Justice Standards and Training Commission and FDLE; requiring counties to provide certification criteria similar to those in s. 943.13, F.S.; requiring the Standards and Training Commission and FDLE to provide training and certification for county probation officers.

Section 4. This act takes effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁷ *Id.*

⁸ Section 943.10, F.S., defines "correctional probation officer" as "a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controllees within institutions of the Department of Corrections or within the community."

⁹ The bill's language references the "commission" and the "department." Because the bill amends language in s. 945.28, F.S., the definitions contained in s. 943.10, F.S., apply. Thus, the term "commission" refers to the CJSTC, and the term "department" refers to FDLE.

¹⁰ Section 943.13, F.S. provides minimum employment qualifications for officers.

2. Expenditures:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Relocating Probation and Parole Offices

The Department reports that approximately 75% of its existing probation offices (113 offices) would be required to relocate pursuant to the provisions of this bill. The Department reports the fiscal impact as follows:

	Year 1	Year 2	Year 3
Termination of 113 Existing Offices (Buy-Out)	\$ 25,642,498.78		
Tenant Reimbursement	\$270,000.00		
Estimated New Lease ¹¹	10,741,000.68	IND	IND
Moving Costs	IND	IND	IND
Relocating Telephones	540,705.00		
Computer Cabling & Installation	973,975.00	-	-
Total Section 1	\$ 38,168,179.46	\$ -	\$ -
Summary	Year 1	Year 2	Year 3
Recurring	\$ 10,741,000.68	IND	IND
Non-Recurring	\$27,427,178.78		
Total	\$ 38,168,179.46	\$ -	\$ -
Notes:			
1. The estimated lease costs for Years 2 and 3 are indeterminate due to various issues such as the possibility of a significant increase due to limited availability of sites and possible "Tenant-at-Will/Tenant-at-Sufferance" situation.			
2. There are eight (8) offices with DMS leases that do not require a buy-out requirement. Also, DMS current lease rate is \$15.86, which is much lower than most of the private lease rates.			
3. Circuit 6-Office 67 is housed in a building owned by DOC, the bill will require relocation and possibly lease costs with a private vendor for lease space.			

¹¹ The Department states that this figure represents the estimated amount that the new lease would exceed the current lease as well as office retrofitting.

Certification of County Probation Officers

The amount of expenditures would be dependant on the number of counties that choose to require the CJSTC to certify their county CPOs. State government costs would include possible additions to the CPO Basic Recruit Curriculum or developing a Basic Recruit Curriculum for county probation officers. Local Government costs would include the cost of developing substantially similar certification criteria as well as county CPO training costs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Relocating Probation and Parole Offices

The bill does not address what must occur if a probation and parole office is located, and a daycare center or school is subsequently built/established within 2,500 feet of the office – would the probation office be required to move?

Currently, all of the Department of Corrections' facilities and programs are accredited by the American Correctional Association (ACA).¹² In regards to probation offices, the ACA standards provide that "Field facilities are located in areas with community input that are optimally accessible to offenders' places of residence and employment, to transportation networks and other community agencies." Restricting probation offices from being within 2,500 feet of licensed daycare centers and schools for children in grades K-12 may result in probation offices being located in remote areas, thereby making it difficult for some offenders to report to their probation office. This would be contrary to the ACA standards.

Certification of County Probation Officers

The bill provides that if a county elects to require its CPOs to be certified by the CJSTC, the county must provide certification criteria that is substantially similar to the criteria for CPOs established in s. 943.13, F.S. However, Ch. 943 requires that in order to be certified by the CJSTC as a CPO, a person must comply with the provisions of s. 943.13, F.S., not comply with *substantially similar* provisions of s. 943.13, F.S. If the purpose is for the CJSTC to certify county CPOs, then the specific provisions of s. 943.13, F.S., should be required.

¹² <http://www.dc.state.fl.us/pub/aca/index.html>. The ACA establishes standards that are considered to be the national benchmark for the effective operation of correctional systems throughout the United States.

If county CPOs are to be certified by the CJSTC, definitions of “county probation officer” and “part-time county probation officer” should be included in s. 943.10, F.S.

The bill states that the CJSTC and FDLE will provide *training* and certification to county CPOs. However, neither the CJSTC or FDLE provide training, only certification.¹³ Training is provided by CJSTC-certified training schools.

FDLE / CJSTC expressed concerns relating to uniformity of certification. Specifically, the certification of county CPOs should be required of all county CPOs throughout the state, rather than give counties the option of requiring such certification.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

¹³ Although the CJSTC establishes and maintains officer training programs, curricula requirements, and certifies training schools and training school instructors, the training schools actually *train* officers.