

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 Budget Committee

BILL: SB 2118 (SPB 7122)

INTRODUCER: Budget Committee

SUBJECT: Criminal Justice

DATE: April 1, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sneed	Meyer, C.		SPB 7122 Favorable, as amended
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill makes conforming changes to the Florida Statutes necessary to implement the Senate's proposed budget for Fiscal Year 2011-12. The bill eliminates the Cybercrime Office in the Department of Legal Affairs (DLA) and establishes the Cybercrime Office in the Florida Department of Law Enforcement (FDLE). The bill also provides for a type two transfer of all powers, duties and resources of the Cybercrime Office from DLA to FDLE. The bill reduces the number of basic recruit training hours necessary to be a certified correctional officer from 552 hours to 360 hours. In addition, the bill eliminates the Department of Correction's authority to operate the Basic Training Program (aka: boot camps) for youthful offenders. The bill also removes permissive language, thereby making it a requirement for the courts to assess individuals convicted of a crime a \$100 fee for any crime lab services provided. All fines collected will continue to be deposited into FDLE's Operating Trust Fund and used to reimburse state and local county-operated crime laboratories. The bill has an effective date of July 1, 2011.

The bill is expected to have a positive fiscal impact to the state.

The bill substantially amends section 943.13 and repeals sections 16.61, 951.231(1)(c), and 958.045 of the Florida Statutes.

II. Present Situation:

Department of Legal Affairs, Cybercrime Office

Section 16.61, F.S., created the Cybercrime Office in the Department of Legal Affairs in 2006. The office is charged with investigating violations of state law pertaining to the sexual exploitation of children over the Internet and other electronic devices. The office currently employs 34 full-time equivalent (FTE) positions and has a budget of \$2.5 million.

The Florida Department of Law Enforcement has a computer crimes unit that has been in existence since 1998 and handles computer and other cybercrime investigations, including those involving child predators. The unit currently employs 14 FTE and has a budget of \$1.4 million.

Correctional Officer Recruit Training

As required in s. 943.13, F.S., the minimum qualifications for correctional officers include completing the basic recruit training course and eligibility for, or possession of, a current employment certificate of compliance issued by the Florida Criminal Justice Standards and Training Commission. The Commission is housed within the Department of Law Enforcement. Typical applicants with the Department of Corrections have not had the required training to be a correctional officer. The department hires new recruits at a salary of \$28,007, plus benefits, and pays for their academy training, including tuition, books and materials, ammunition, and uniforms. When a trainee completes basic training and passes the certification exam, the department increases his salary to \$30,808 annually, which is the entry-level salary for a certified officer.

According to a recent OPPAGA analysis, the department paid \$3.1 million in Fiscal Year 2009-10 in tuition costs for 2,144 trainees to attend correctional officer academies, plus \$18 million in salaries to trainees while they attended the academy training. In the northern part of the state the department primarily uses in-house staff to train recruits at a reported cost of \$905 per trainee. In the central and southern regions of the state, the department must rely primarily on community colleges and technical centers to provide the training at an average cost of \$2,376 per trainee.

The state's Correctional Officer Basic Recruit Training established by the Florida Criminal Justice Standards and Training Commission currently requires each correctional officer recruit to take 552 hours of classroom training and pass a final exam to become certified. The curriculum has 11 components including: Criminal Justice Legal I and II (68 hours); Criminal Justice Communications (42 hours); Interpersonal Skills (112 hours); Criminal Justice Defensive Tactics (80 hours); Firearms (80 hours); First Aid (40 hours); Emergency Preparedness (26 hours); Correctional Operations (64 hours); and Physical Fitness Training (40 hours). The course typically takes 16 weeks to complete.

OPPAGA found that many states require fewer correctional officer recruit training hours. For example, Georgia requires 4 weeks, California requires 4 ½ weeks, Texas requires 5 weeks, New York requires 8 weeks, and Alabama requires 12 weeks of training.

Department of Corrections Youthful Offender Basic Training Program

One purpose of Florida's Youthful Offender Act (ch. 958, F.S.) is to provide sentencing alternatives to improve a youthful offender's chances for rehabilitation. Section 958.04, F.S., provides the following sentencing options for a court-adjudicated youthful offender:

- (1) probation or community control;
- (2) up to 364 days of incarceration as a condition of probation or community control;
- (3) a split sentence of incarceration followed by probation or community control; or
- (4) custody by the Department of Corrections.

In cases where the court has elected adult adjudication and sentencing, the Department of Corrections may administratively classify someone as a youthful offender if that person is between 18 and 24 years old or has been transferred for criminal prosecution pursuant to chapter 985, F.S.; has not been previously sentenced as a youthful offender by a court; and has received a sentence of less than 10 years.

Unlike court adjudication which results in a limited sentence length and the sealing of court records, the department's youthful offender classification only determines the correctional facilities and programs a youthful offender may be placed.

The Department of Corrections has two programming tracks for youthful offenders:

- *Basic Training Program* for offenders approved to participate by the court
- *Extended Day Program* created by the department for offenders who are not assigned to a Basic Training Program

Basic Training Program

This is a statutorily mandated, structured, disciplinary program that lasts a minimum of 120 days and is based upon a military basic training model with marching drills, calisthenics, a rigid dress code, manual labor assignments, and physical training with obstacle courses. In addition, the program includes training in decision making and personal development, along with the required general education courses, drug counseling, and other rehabilitation. Successful completion results in modification of the youthful offender's sentence. A participant who fails the program is placed in the general youthful offender population.

Candidates are selected by the department from the entire youthful offender population and are not limited to just offenders recommended by the courts. Candidates must be able to engage in strenuous physical activities, and have never been imprisoned in a state or federal facility. The department's selection process must also include review of the candidate's criminal history and assessment of the potential rehabilitative benefits of the boot camp. If a youthful offender meets these qualifications and is selected for participation, the department must seek permission from the sentencing court to place him or her in the program.

The department operates the following *Basic Training Programs*:

- A 28-bed boot camp for females located at Lowell Correctional Institution in Marion County. There are currently 4 inmates housed at this boot camp. Inmates are supervised by a staff of 14.
- A 112-bed boot camp for males located at Sumter Correctional Institution in Bushnell, Florida. Currently, there are 77 inmates housed at this boot camp. Inmates are supervised by a staff of 36.

Approximately two-thirds of the 1,147 youthful offenders who entered the Basic Training Program from 2005 through 2009 completed the program and had the remainder of their sentences modified.

Extended Day Program (EDP)

Only a small percentage of youthful offenders can take part in this basic training program, but the Legislature mandates that enhanced program services be provided to all youthful offenders. The EDP was created by the department to fulfill this mandate in a structured way. EDP is a regimented program that takes up 16 hours a day Monday through Saturday with work, academic and vocational counseling, personal development, and self-betterment programs. Sunday is used for religious services, visitation, parental support, and independent activities.

EDP consists of 3 phases, with participants in each phase distinguished by the color of their cap:

- The Orange Cap phase is a two-week orientation to familiarize the youthful offender with what is expected of him or her. It is a basic training phase characterized by physical training, regimented discipline, and constant supervision. An Orange Cap must pass an evaluation on the orientation materials in order to advance to Phase II.
- The Red Cap phase requires the youthful offender to participate in vocational, academic, and betterment programs and assumes a standard work assignment. Rigid discipline and structured physical training continues six days a week, but Red Caps have less personal supervision than Orange Caps and they may also be allowed limited privileges. It takes at least 4 months to complete the Red Cap phase.
- A youthful offender who is promoted to Blue Cap status is a role model for other youthful offenders and is expected to be a positive example to his or her peers. Blue Caps are continuously evaluated to ensure that they are maintaining performance in responsibility, drill, work assignments, and education programs. Blue Caps can become peer facilitators and assist staff with certain activities. Approximately 241 youthful offenders are currently in Blue Cap status.

Youthful Offender Recidivism Rates

In 2009, the department reported that the overall 36-month recidivism rate for inmates released from 2001 to 2008 is 33.1 percent. Inmates who are under 25 years old at the time of release have the highest recidivism rate of any age group, increasing to 36 percent recidivism after 36 months and reaching beyond 50 percent before five years elapse.

The department recently calculated the three year recidivism rates for male youthful offenders released from 2001 to 2008 that either successfully completed BTP or EDP participants who reached the final level in EDP. The data reflected that the youthful offenders who had reached the final level of EDP prior to release had a recidivism rate that was approximately 5 percent lower than the youthful offenders who graduated from BTP.

Department of Law Enforcement (FDLE) statewide crime lab fee

S. 938.25, Florida Statutes, allows the courts to assess a \$100 fee to any defendant who pleads guilty or nolo contendere to, or who is convicted of, violating certain specified offenses, if the investigation included services provided by any of the state or county-operated criminal analysis

laboratories that operate throughout the state. The proceeds from the assessment are deposited into the Operating Trust Fund within FDLE and used by FDLE to recover their state-operated labs or to reimburse the local county-operated crime lab that provided the service.

III. Effect of Proposed Changes:

Section 1 repeals section 16.61, Florida Statutes, which established the Cybercrime Office within the Department of Legal Affairs and authorized it to perform specific investigative functions.

Section 2 amends section 943.13(9), Florida Statutes, provides for a 35 percent reduction in the number of correctional officer recruit training hours required for certification by the Florida Criminal Justice Standards and Training Commission. Reducing the number of training hours from 552 to 360 hours will result in a costs savings for training and salaries for the Department of Corrections and for private entities that operate correctional facilities under ch. 957, F.S. The adjustment brings Florida more in line with the certified correctional officer training required by more populated states and adjoining states.

Section 3 creates section 943.0415, Florida Statutes, to establish the Cybercrime Office within the Department of Law Enforcement. The duties of the office include investigating violations of state law pertaining to the sexual exploitation of children through the use of devices that are capable of storing electronic data.

Section 4 repeals section 951.231(1)(c), Florida Statutes, to eliminate a cross-reference for the Department of Corrections youthful offender Basic Training Program.

Section 5 repeals section 958.045, Florida Statutes, to eliminate the Department of Corrections authority to operate the Basic Training Program for youthful offenders, otherwise known as “boot camps.” Elimination of the program is a cost savings for the state. Low inmate enrollment and a high staffing ratio make this boot camp-style program less efficient to operate than other programs. In addition, the program has a negligible impact on offender recidivism rates. Youthful offenders that are currently enrolled in the program will be transferred to the Extended Day Program.

Section 6 authorizes a type two transfer of the Cybercrime Office’s staff and functions from the Department of Legal Affairs to the Department of Law Enforcement. The merger will result in a cost savings. A total of 15 FTE and \$611,523 of general revenue funding and \$404,272 in trust fund budget authority is being transferred to FDLE. The remaining 19 FTE and \$1,419,936 of general revenue in the Department of Legal Affairs are eliminated in the Senate proposed budget.

Section 7 transfers section 938.25, Florida Statutes relating to the Operating Trust Fund in the Department of Law Enforcement and amends it by removing the permissive language and making it a requirement for the courts to assess a \$100 lab fee to all persons convicted of a crime when criminal analysis lab services are used in connection with the investigation or prosecution of actions relating to chapters 775-896, Florida Statutes. It also renumbers the section to 938.055, Florida Statutes.

Section 8 amends section 921.187(1)(l), Florida Statutes, to incorporate the renumbered section above.

Section 9 amends section 943.361, Florida Statutes, to incorporate the renumbered section above.

Section 10 provides an effective date of July 1, 2011.

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 for a reduction in the Department of Corrections of \$8,300,000 of recurring general revenue for salaries and expenses related to correctional officer training. SPB 7122 also provides for the transfer of 15 FTE and \$611,523 from the General Revenue Fund and \$404,272 in trust fund authority from the Department of Legal Affairs to FDLE. Elimination of the remaining Cybercrime Office staff (19 FTE) and \$1,419,936 of recurring general revenue in the Department of Legal Affairs is also included in the Senate's proposed budget. In addition, the bill provides for the reduction of 50 FTEs in the Department of Corrections and \$2,702,881 in general revenue due to the elimination of the Basic Training Program for youthful offenders, otherwise known as "boot camps." The bill does not create a new fee or fine; however, it does remove permissive language, thereby making it a requirement for the courts to assess defendant's the prescribed fee for any crime lab services provided. All fines collected will continue to be deposited into FDLE's Operating Trust Fund and used to reimburse local county-operated crime laboratories.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.