

**By** the Committees on Appropriations; and Criminal Justice; and Senators Flores, Bracy, Garcia, Baxley, Gibson, Steube, Rodriguez, Perry, Rouson, Powell, Rader, Clemens, Braynon, Farmer, Passidomo, Montford, and Benacquisto

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1                                   A bill to be entitled  
2       An act relating to judicial resources; creating s.  
3       25.052, F.S.; requiring the Supreme Court to issue an  
4       annual report regarding certain cases; specifying data  
5       to be included in such report; providing for future  
6       legislative review and repeal; amending s. 985.12,  
7       F.S.; requiring the establishment of civil citation or  
8       similar diversion programs for juveniles in each  
9       county; providing definitions; specifying program  
10      eligibility, participation, and implementation  
11      requirements; providing exceptions; providing  
12      applicability; requiring the Department of Juvenile  
13      Justice to generate annual reports; requiring reports  
14      by specified dates; amending ss. 943.051 and 985.11,  
15      F.S.; conforming provisions to changes made by the  
16      act; amending s. 985.557, F.S.; requiring the  
17      department, beginning on a certain date, to collect  
18      specified information relating to children who qualify  
19      for prosecution as adults and for children who are  
20      transferred for criminal prosecution as adults;  
21      requiring the department to work with the Office of  
22      Program Policy Analysis and Government Accountability  
23      to generate a report analyzing the data of juveniles  
24      transferred for prosecution as adults during a certain  
25      period; requiring the department to provide the report  
26      to the Governor and the Legislature by a certain date;  
27      requiring the department to work with the Office of  
28      Program Policy Analysis and Government Accountability  
29      to generate an annual report to include certain

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30 information and provide it to the Governor and the  
31 Legislature by a specified date; providing  
32 severability; providing effective dates.  
33

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

35  
36 Section 1. Section 25.052, Florida Statutes, is created to  
37 read:

38 25.052 Annual report.-

39 (1) Between October 1 and October 15 of each year, the  
40 Supreme Court shall provide a report with data as of September  
41 30 of that year, to the Governor, the Attorney General, the  
42 President of the Senate, and the Speaker of the House of  
43 Representatives consisting of two parts.

44 (a) In part I of the report, the court shall provide the  
45 following information regarding each case on the court's docket  
46 as of September 30 of the current year, for which a decision or  
47 disposition has not been rendered within 180 days after oral  
48 argument was heard or after the date on which the case was  
49 submitted to the court panel for a decision without oral  
50 argument:

51 1. The case name and number.

52 2. The case type.

53 3. A brief description of the case.

54 4. The date on which the case was added to the court's  
55 docket.

56 5. The date of oral argument or the date the case was  
57 submitted to the court panel for decision without oral argument.

58 6. The number of days that have elapsed since the date the

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59 oral argument was heard or the date the case was submitted to  
60 the court panel for a decision without oral argument.

61 7. A detailed explanation of the court's failure to render  
62 a decision or disposition within 180 days after oral argument  
63 was heard or after the date on which the case was submitted to  
64 the court panel for a decision without oral argument.

65 8. The date on which, or the time period within which, the  
66 court expects to render a decision or disposition.

67 (b) In part II of the report, the court shall provide the  
68 following information regarding each case decided or disposed of  
69 by the court between October 1 of the prior year and September  
70 30 of the current year, for which the decision or disposition  
71 was not rendered within 180 days after oral argument was heard  
72 or after the date on which the case was submitted to the court  
73 panel for a decision without oral argument:

74 1. The information required in subparagraphs (a)1.-5. and  
75 7.

76 2. The date that a decision or disposition was issued.

77 3. The number of days that had elapsed between the date  
78 oral argument was heard or the date the case was submitted to  
79 the court panel for a decision without oral argument and the  
80 date on which a decision or disposition was issued.

81 (2) The report shall be submitted in an electronic  
82 spreadsheet format capable of being sorted and filtered by the  
83 following elements:

84 (a) The case number.

85 (b) The case type.

86 (c) The date on which the case was added to the court's  
87 docket.

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88 (d) The date of oral argument or the date the case was  
89 submitted to the court panel for decision without oral argument.

90 (e) The number of days that elapsed since the date oral  
91 argument was heard or the date the case was submitted to the  
92 court panel for a decision without oral argument.

93 (f) The date of decision or disposition.

94 (3) The case type of each case reported shall include  
95 civil, criminal not seeking the death penalty, criminal seeking  
96 the death penalty, court rules, bar discipline, or judicial  
97 discipline.

98 (4) This section is repealed July 1, 2022, unless reviewed  
99 and reenacted by the Legislature before that date.

100 Section 2. Effective October 1, 2017, section 985.12,  
101 Florida Statutes, is amended to read:

102 985.12 Civil citation and similar diversion programs.-

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

104 (a) "Law enforcement officer" has the same meaning as  
105 provided in s. 943.10.

106 (b) "Misdemeanor offense" means one misdemeanor violation  
107 of law.

108 (2) (a) ~~(1)~~ There is established a process for the use of  
109 juvenile civil citation and similar diversion programs to  
110 provide ~~process for the purpose of providing~~ an efficient and  
111 innovative alternative to custody by the department ~~of Juvenile~~  
112 Justice for juveniles ~~children~~ who commit nonserious delinquent  
113 acts and to ensure swift and appropriate consequences. The  
114 department shall encourage and assist in the implementation and  
115 improvement of civil citation and ~~programs or other~~ similar  
116 diversion programs in ~~around~~ the state.

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117        (b) One or more ~~The~~ civil citation or similar diversion  
118 programs ~~program~~ shall be established in each county to serve  
119 juveniles who commit misdemeanor offenses as provided in this  
120 section. Such programs must meet the requirements of this  
121 section and be established at the local level with the  
122 concurrence of the chief judge of the circuit, state attorney,  
123 public defender, and the head of each local law enforcement  
124 agency involved. At least one program must be applicable  
125 countywide. The countywide program may be established by a  
126 county or by interlocal agreement pursuant to s. 163.01 by a  
127 county working jointly with any municipalities or other entities  
128 within the county's boundaries or contiguous counties and any  
129 municipalities or other entities within the counties'  
130 boundaries. The program may be operated by an entity such as a  
131 law enforcement agency, the department, a juvenile assessment  
132 center, the county or municipality, or another entity selected  
133 by the county or municipality. Any additional programs shall  
134 complement the countywide program. Any program may work with any  
135 other program in the state to best serve the juveniles in the  
136 jurisdiction. An entity operating such a ~~the civil citation or~~  
137 ~~similar diversion~~ program must do so in consultation and  
138 agreement with the state attorney and local law enforcement  
139 agencies.

140        (3) Under ~~such~~ a juvenile civil citation or similar  
141 diversion program, a law enforcement officer who makes, ~~upon~~  
142 ~~making~~ contact with a juvenile who admits having committed a  
143 misdemeanor offense for the first time ~~misdemeanor,~~ may:

144        (a) Choose to issue a simple warning or inform the child's  
145 guardian or parent of the child's infraction; or ~~may~~

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146        (b) Issue a civil citation to the juvenile or require the  
147 juvenile's participation in a similar diversion program, as  
148 follows:

149        1. A law enforcement officer shall issue the citation if  
150 the violation of law is a misdemeanor offense and is one of the  
151 following:

152        a. Section 562.111, relating to possession of alcoholic  
153 beverages by persons under age 21;

154        b. Section 784.03(1), relating to battery. This sub-  
155 subparagraph excludes battery relating to domestic violence as  
156 defined in s. 741.28;

157        c. Section 806.13, relating to criminal mischief;

158        d. Section 810.08 or s. 810.09, relating to trespass;

159        e. Section 812.014(2)(e) or s. 812.014(3)(a), relating to  
160 theft;

161        f. Section 812.015(2), relating to retail and farm theft;

162        g. Section 856.021, relating to loitering or prowling;

163        h. Section 870.01(1), relating to affrays and riots;

164        i. Section 877.03, relating to disorderly conduct;

165        j. Section 893.13(6)(b), relating to possession of certain  
166 amounts of cannabis;

167        k. Section 893.147, relating to use, possession,  
168 manufacture, delivery, transportation, advertisement, or retail  
169 sale of drug paraphernalia; or

170        1. Section 843.02, relating to resisting an officer without  
171 violence.

172        2. A law enforcement officer may issue a civil citation to  
173 a juvenile or require the juvenile's participation in a similar  
174 diversion program if the violation of law is a misdemeanor

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175 offense not enumerated in subparagraph 1.

176 3. Notwithstanding subparagraph 1., a law enforcement  
177 officer may issue a civil citation to a juvenile or require the  
178 juvenile's participation in a similar diversion program if the  
179 violations of law are more than one misdemeanor offense arising  
180 out of the same criminal episode.

181 (4) Under a juvenile civil citation or similar diversion  
182 program, a law enforcement officer who makes contact with a  
183 juvenile who admits to having committed a misdemeanor offense  
184 and has one or two prior misdemeanors from a separate criminal  
185 episode may issue a civil citation to the juvenile or require  
186 the juvenile's participation in a similar diversion program,  
187 regardless of whether the violations of law are enumerated in  
188 subparagraph (3) (b)1.

189 (5) Under a juvenile civil citation or similar diversion  
190 program, a law enforcement officer who makes contact with a  
191 juvenile who admits to having committed a misdemeanor offense  
192 and is currently alleged to have committed, or is currently  
193 charged with and awaiting final disposition, of an offense that  
194 would be a felony, may issue a civil citation to the juvenile or  
195 require the juvenile's participation in a similar diversion  
196 program, regardless of whether the violations of law are  
197 enumerated in subparagraph (3) (b)1.

198 (6) If an arrest is made for a misdemeanor offense subject  
199 to subparagraph (3) (b)2., subparagraph (3) (b)3., subsection (4),  
200 or subsection (5), a law enforcement officer must provide  
201 written documentation as to why the arrest was warranted.

202 (7) A law enforcement officer shall advise a juvenile  
203 eligible to receive a civil citation under subsection (3), (4),

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204 or (5) that he or she has the option to refuse the civil  
205 citation or other similar diversion program and be referred to  
206 the department. This option may be exercised at any time before  
207 completion of the community service assignment required under  
208 subsection (9). Participation in a civil citation or similar  
209 diversion program is not considered a referral to the  
210 department.

211 (8) Upon issuance of the civil citation or documentation  
212 requiring a similar diversion program, the law enforcement  
213 officer shall send a copy to the county sheriff, the state  
214 attorney, the department or the entity operating the program as  
215 designated by the department, the parent or guardian of the  
216 juvenile, and the victim. The entity operating the program shall  
217 enter such information into the juvenile justice information  
218 system.

219 (9) A juvenile who elects to participate in a civil  
220 citation or similar diversion program shall complete, and assess  
221 up to 50 community service hours, and participate require  
222 participation in intervention services as indicated by an  
223 assessment of the needs of the juvenile, including family  
224 counseling, urinalysis monitoring, and substance abuse and  
225 mental health treatment services.

226 (a) The juvenile shall report to the entity operating the  
227 program within 10 business days after the date of issuance of  
228 the civil citation or documentation for a similar diversion  
229 program. The juvenile shall spend a minimum of 5 hours per week  
230 completing the community service assignment. The entity  
231 operating the program shall immediately notify the department  
232 through the juvenile justice information system that a juvenile



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233 has reported to the entity operating the program and the  
234 expected date on which the juvenile will complete the community  
235 service assignment ~~A copy of each citation issued under this~~  
236 ~~section shall be provided to the department, and the department~~  
237 ~~shall enter appropriate information into the juvenile offender~~  
238 ~~information system. Use of the civil citation or similar~~  
239 ~~diversion program is not limited to first-time misdemeanors and~~  
240 ~~may be used in up to two subsequent misdemeanors. If an arrest~~  
241 ~~is made, a law enforcement officer must provide written~~  
242 ~~documentation as to why an arrest was warranted.~~

243 (b) At the conclusion of a juvenile's civil citation  
244 ~~program~~ or similar diversion program, the entity agency  
245 operating the program shall report the outcome of the program to  
246 the department.

247 (c) If the juvenile fails to timely report for a community  
248 service assignment, complete such assignment, or comply with  
249 assigned intervention services within the prescribed time, the  
250 entity operating the program shall notify the law enforcement  
251 officer. The law enforcement officer shall determine if there is  
252 good cause to arrest the juvenile for the original misdemeanor  
253 offense and refer the case to the state attorney or allow the  
254 juvenile to continue in the program.

255 (d) If the juvenile commits a subsequent delinquent act  
256 then the entity operating the program shall notify the law  
257 enforcement officer and the law enforcement officer shall arrest  
258 the juvenile for the original misdemeanor offense and refer the  
259 case to the state attorney ~~The issuance of a civil citation is~~  
260 ~~not considered a referral to the department.~~

261 (10)-(2) The department shall develop guidelines for ~~the~~

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262 civil citation and similar diversion programs ~~program~~ which  
263 include intervention services that are based on ~~upon~~ proven  
264 civil citation or similar diversion programs in ~~within~~ the  
265 state. The department shall generate a report annually on the  
266 best practices of the programs. The department must provide the  
267 report annually to the Governor, the President of the Senate,  
268 and the Speaker of the House of Representatives no later than  
269 January 31 each year. The department must also provide an  
270 electronic copy of the annual report to the civil citation and  
271 similar diversion programs no later than January 31 of each  
272 year.

273 (11) The department shall generate a report annually on  
274 participation and outcomes for civil citation and similar  
275 diversion programs, reported as statewide aggregate data and  
276 data for each civil citation and similar diversion program from  
277 the previous calendar year. The annual report shall be available  
278 on the department's website no later than January 31 of each  
279 year. The department must also provide an electronic copy of the  
280 annual report to each civil citation and similar diversion  
281 program. At a minimum, the data shall include:

282 (a) The race, ethnicity, gender, and age of the juvenile;

283 (b) The juvenile's county of residence;

284 (c) The misdemeanor offenses committed;

285 (d) The county where the misdemeanor offenses were  
286 committed;

287 (e) Whether the juvenile has previously participated in a  
288 civil citation or similar diversion program;

289 (f) Whether the juvenile successfully completed or failed  
290 to complete a civil citation or similar diversion program; and

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291 (g) Recidivism data for juveniles in paragraph (f).

292 (12) This section does not apply to:

293 (a) A juvenile who has entered a plea of nolo contendere or  
294 guilty to, or has been found to have committed, an offense that  
295 would be a felony if committed by an adult.

296 (b) A misdemeanor offense arising out of a criminal episode  
297 in which the juvenile is also alleged to have committed an  
298 offense that would be a felony if committed by an adult.

299 ~~(3) Upon issuing such citation, the law enforcement officer~~  
300 ~~shall send a copy to the county sheriff, state attorney, the~~  
301 ~~appropriate intake office of the department, or the community~~  
302 ~~service performance monitor designated by the department, the~~  
303 ~~parent or guardian of the child, and the victim.~~

304 ~~(4) The child shall report to the community service~~  
305 ~~performance monitor within 7 working days after the date of~~  
306 ~~issuance of the citation. The work assignment shall be~~  
307 ~~accomplished at a rate of not less than 5 hours per week. The~~  
308 ~~monitor shall advise the intake office immediately upon~~  
309 ~~reporting by the child to the monitor, that the child has in~~  
310 ~~fact reported and the expected date upon which completion of the~~  
311 ~~work assignment will be accomplished.~~

312 ~~(5) If the child fails to report timely for a work~~  
313 ~~assignment, complete a work assignment, or comply with assigned~~  
314 ~~intervention services within the prescribed time, or if the~~  
315 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~  
316 ~~officer shall issue a report alleging the child has committed a~~  
317 ~~delinquent act, at which point a juvenile probation officer~~  
318 ~~shall process the original delinquent act as a referral to the~~  
319 ~~department and refer the report to the state attorney for~~

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320 review.

321 ~~(6) At the time of issuance of the citation by the law~~  
322 ~~enforcement officer, such officer shall advise the child that~~  
323 ~~the child has the option to refuse the citation and to be~~  
324 ~~referred to the intake office of the department. That option may~~  
325 ~~be exercised at any time before completion of the work~~  
326 ~~assignment.~~

327 Section 3. Effective October 1, 2017, paragraph (b) of  
328 subsection (3) of section 943.051, Florida Statutes, is amended  
329 to read:

330 943.051 Criminal justice information; collection and  
331 storage; fingerprinting.—

332 (3)

333 (b) A minor who is charged with or found to have committed  
334 the following offenses shall be fingerprinted and the  
335 fingerprints shall be submitted electronically to the  
336 department, unless the minor participates in ~~is issued~~ a civil  
337 citation or similar diversion program pursuant to s. 985.12:

- 338 1. Assault, as defined in s. 784.011.  
339 2. Battery, as defined in s. 784.03.  
340 3. Carrying a concealed weapon, as defined in s. 790.01(1).  
341 4. Unlawful use of destructive devices or bombs, as defined  
342 in s. 790.1615(1).  
343 5. Neglect of a child, as defined in s. 827.03(1)(e).  
344 6. Assault or battery on a law enforcement officer, a  
345 firefighter, or other specified officers, as defined in s.  
346 784.07(2)(a) and (b).  
347 7. Open carrying of a weapon, as defined in s. 790.053.  
348 8. Exposure of sexual organs, as defined in s. 800.03.

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- 349 9. Unlawful possession of a firearm, as defined in s.  
350 790.22(5).
- 351 10. Petit theft, as defined in s. 812.014(3).
- 352 11. Cruelty to animals, as defined in s. 828.12(1).
- 353 12. Arson, as defined in s. 806.031(1).
- 354 13. Unlawful possession or discharge of a weapon or firearm  
355 at a school-sponsored event or on school property, as provided  
356 in s. 790.115.

357 Section 4. Effective October 1, 2017, paragraph (b) of  
358 subsection (1) of section 985.11, Florida Statutes, is amended  
359 to read:

360 985.11 Fingerprinting and photographing.—

361 (1)

362 (b) Unless the child is participating in ~~is issued~~ a civil  
363 citation or ~~is participating in a~~ similar diversion program  
364 pursuant to s. 985.12, a child who is charged with or found to  
365 have committed one of the following offenses shall be  
366 fingerprinted, and the fingerprints shall be submitted to the  
367 Department of Law Enforcement as provided in s. 943.051(3)(b):

368 1. Assault, as defined in s. 784.011.

369 2. Battery, as defined in s. 784.03.

370 3. Carrying a concealed weapon, as defined in s. 790.01(1).

371 4. Unlawful use of destructive devices or bombs, as defined  
372 in s. 790.1615(1).

373 5. Neglect of a child, as defined in s. 827.03(1)(e).

374 6. Assault on a law enforcement officer, a firefighter, or  
375 other specified officers, as defined in s. 784.07(2)(a).

376 7. Open carrying of a weapon, as defined in s. 790.053.

377 8. Exposure of sexual organs, as defined in s. 800.03.

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- 378 9. Unlawful possession of a firearm, as defined in s.  
379 790.22(5).
- 380 10. Petit theft, as defined in s. 812.014.
- 381 11. Cruelty to animals, as defined in s. 828.12(1).
- 382 12. Arson, resulting in bodily harm to a firefighter, as  
383 defined in s. 806.031(1).
- 384 13. Unlawful possession or discharge of a weapon or firearm  
385 at a school-sponsored event or on school property as defined in  
386 s. 790.115.

387

388 A law enforcement agency may fingerprint and photograph a child  
389 taken into custody upon probable cause that such child has  
390 committed any other violation of law, as the agency deems  
391 appropriate. Such fingerprint records and photographs shall be  
392 retained by the law enforcement agency in a separate file, and  
393 these records and all copies thereof must be marked "Juvenile  
394 Confidential." These records are not available for public  
395 disclosure and inspection under s. 119.07(1) except as provided  
396 in ss. 943.053 and 985.04(2), but shall be available to other  
397 law enforcement agencies, criminal justice agencies, state  
398 attorneys, the courts, the child, the parents or legal  
399 custodians of the child, their attorneys, and any other person  
400 authorized by the court to have access to such records. In  
401 addition, such records may be submitted to the Department of Law  
402 Enforcement for inclusion in the state criminal history records  
403 and used by criminal justice agencies for criminal justice  
404 purposes. These records may, in the discretion of the court, be  
405 open to inspection by anyone upon a showing of cause. The  
406 fingerprint and photograph records shall be produced in the

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407 court whenever directed by the court. Any photograph taken  
408 pursuant to this section may be shown by a law enforcement  
409 officer to any victim or witness of a crime for the purpose of  
410 identifying the person who committed such crime.

411 Section 5. Subsection (5) is added to section 985.557,  
412 Florida Statutes, to read:

413 985.557 Direct filing of an information; discretionary and  
414 mandatory criteria.—

415 (5) DATA COLLECTION RELATING TO DIRECT FILE.—

416 (a) Beginning March 1, 2018, the department shall collect  
417 data relating to children who qualify to be prosecuted as adults  
418 under this section and s. 985.556 regardless of the outcome of  
419 the case, including, but not limited to:

420 1. Age.

421 2. Race and ethnicity.

422 3. Gender.

423 4. Circuit and county of residence.

424 5. Circuit and county of offense.

425 6. Prior adjudications or adjudications withheld.

426 7. Prior periods of probation including any violations of  
427 probation.

428 8. Previous contacts with law enforcement agencies or the  
429 court which resulted in a civil citation, arrest, or charges  
430 being filed with the state.

431 9. Initial charges.

432 10. Charges at disposition.

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

435 12. Whether the child was represented by counsel or whether

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436 the child waived counsel.

437 13. Risk assessment instrument score.

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

440 15. The child's history of mental impairment or disability-  
441 related accommodations.

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

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

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

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

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

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

454 22. The case resolution in juvenile court.

455 23. The case resolution in adult court.

456 (b) Beginning March 1, 2018, for a child transferred for  
457 criminal prosecution as an adult, the department shall also  
458 collect:

459 1. Disposition data, including, but not limited to, whether  
460 the child received adult sanctions, juvenile sanctions, or  
461 diversion and, if sentenced to prison, the length of the prison  
462 sentence or the enhanced sentence; and

463 2. Whether the child was previously found incompetent to  
464 proceed in juvenile court.



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465 (c) For every juvenile case transferred between July 1,  
466 2016, and June 30, 2017, the department shall work with the  
467 Office of Program Policy Analysis and Government Accountability  
468 to generate a report analyzing the aggregated data. The  
469 department must provide this report to the Governor, the  
470 President of the Senate, and the Speaker of the House of  
471 Representatives by January 31, 2018.

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

479 Section 6. If any provision of this act or its application  
480 to any person or circumstance is held invalid, the invalidity  
481 does not affect other provisions or applications of the act  
482 which can be given effect without the invalid provision or  
483 application, and to this end the provisions of this act are  
484 severable.

485 Section 7. Except as otherwise expressly provided in this  
486 act, this act shall take effect July 1, 2017.