

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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**BILL:** PCS/SB 458 (496256)

**INTRODUCER:** Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); and Senators Brandes and Rouson

**SUBJECT:** Florida Criminal Justice Reform Task Force

**DATE:** April 4, 2017

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sumner</u>	<u>Hrdlicka</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>McAuliffe</u>	<u>Sadberry</u>	<u>ACJ</u>	<b>Recommend: Fav/CS</b>
3.	<u>McAuliffe</u>	<u>Hansen</u>	<u>AP</u>	<b>Pre-meeting</b>
4.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/SB 458 creates a 28-member joint legislative entity called Florida Criminal Justice Reform Task Force for conducting a comprehensive review of the state's criminal justice system, court system, and corrections system. The task force must submit a report of its findings, conclusions, and recommendations for proposed legislation to the President of the Senate and the Speaker of the House of Representatives by the date of convening of the 2018 Regular Legislative Session (January 9, 2018). The task force will be assigned legislative support staff under an appointed executive director. Membership on the task force is prohibited for certain individuals and groups that provide corrections, mental health, substance abuse, reentry, or similar criminal justice-related services. The task force expires January 31, 2018.

The bill may increase workload for legislative staff and increase agency expenses relating to travel reimbursement for task force members. However, increases in workload and expenses should be absorbed within existing resources of the affected agencies. See Section V. C. below.

The bill is effective upon becoming law.

## II. Present Situation:

The Florida Department of Corrections (DOC) is the third largest state prison system in the country. It incarcerates approximately 100,000 inmates in correctional facilities and supervises nearly 140,000. As of June 30, 2015, there were 11,000 correctional officers. The department's annual budget is \$2.4 billion for 2016.<sup>1</sup>

According to an article in the February 2016 State Legislatures Magazine, at least 25 states have used what is commonly called justice reinvestment to develop and adopt prison reforms.<sup>2</sup> The process involves an analysis of the data on what drives prison populations and costs, enactment of policies that address those factors, investments that support carrying out the changes, and oversight and measurement to ensure the desired results are being achieved.

The article indicates that half the states have reduced their prison populations since 2009. Five states, Alabama, Idaho, Mississippi, Nebraska, and Utah, adopted reforms in 2014 and 2015 that have a collective projected savings or avoided cost of more than \$1.7 billion over the next two decades.<sup>3</sup>

In June 2016, the Florida Government Efficiency Task Force recommended that the Legislature introduce a bill for consideration during the 2017 Legislative Session to establish an inter-branch, bipartisan criminal justice task force of stakeholders from both inside and outside of state government to conduct an operational review of the DOC.<sup>4</sup>

The task force cited the prison population, the number of correctional officers, and the cost of maintaining this system as significant factors behind the need for a task force. It states that the \$2.4 billion budget represents more than half of the total \$4.9 billion appropriated to criminal and civil justice.

The task force also cited the 2015 Office of Program Policy and Accountability (OPPAGA) study on the DOC's operations as further rationale for reform.<sup>5</sup> In 2015, OPPAGA contracted with an independent consultant for a study of operations of the DOC. Specifically, the report reviewed correctional officer staffing, security operations, inmate programs, and a risk and needs assessment.

The study found that DOC's staffing is inexperienced due to high turnover and the number of staff is insufficient.<sup>6</sup> The rate of turnover in Fiscal Year 2014-15 was 17.6 percent and there were more than 2,900 separations.<sup>7</sup> In addition, half of the correctional officers had less than 3.1 years

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<sup>1</sup> Florida Department of Corrections. *Annual Report*, Fiscal Year 2014=2015  
[http://www.dc.state.fl.us/pub/annual/1415/FDC\\_AR2014-15.pdf](http://www.dc.state.fl.us/pub/annual/1415/FDC_AR2014-15.pdf).

<sup>2</sup>Allison Lawrence, *Justice Reinvestment: States Tackle Prison Reform*, *State Legislatures Magazine*, National Conference of State Legislatures, February 2016, available at <http://www.ncsl.org/bookstore/state-legislatures-magazine/prison-break.aspx> (last visited March 9, 2017).

<sup>3</sup> *Id.*

<sup>4</sup> Government Efficiency Task Force, *Final Report*, June 30, 2016.

<sup>5</sup> OPPAGA, *Study of Operations of the Florida Department of Corrections*, Report No. 15-FDC, November 2015, available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=15-FDC> (last visited March 9, 2017).

<sup>6</sup> *Id.* at p. 122.

<sup>7</sup> *Id.* at p. 18.

of work experience. The study also found that correctional officer staffing levels at times appeared to drop below the minimum acceptable levels.<sup>8</sup> Many staff had not completed basic training; nearly 1,400 officers were on temporary employment authorization.

The study also found that certain policies or procedures led to inmate idleness, the mixing of populations, or the ability to move contraband articles, all of which could lead to violence or other problems arising within the facility and population.<sup>9</sup> The perimeter security systems were found to be outdated, in poor operational condition, and fencing is in disrepair.<sup>10</sup> “The study recommended the DOC review comprehensive staffing, perimeter security, emergency management plans, facility repairs, contraband and abuse policies, inmate safety and interaction policies, and inmate programs and their effectiveness.”<sup>11</sup>

### III. Effect of Proposed Changes:

The bill creates the Florida Criminal Justice Reform Task Force (task force) for conducting a comprehensive review of the state’s criminal justice system, court system, and corrections system.

#### Membership

The task force is composed of 28 members.

The following members are appointed:

- Two members of the Senate, appointed by the President of the Senate;
- Two members of the House of Representatives, appointed by the Speaker of the House of Representatives;
- Two circuit judges, one of whom must have presided over a mental health court or drug court, appointed by the chair of the Conference of Circuit Judges of Florida;
- Two county court judges, appointed by the chair of the Conference of County Court Judges;
- A justice of the Supreme Court or judge of a district court of appeal, appointed by the Chief Justice of the Supreme Court;
- A representative of the Florida State University Project on Accountable Justice, appointed by the chair of the organization’s executive board;
- Two county commissioners, appointed by the Florida Association of Counties;
- Appointed by the Governor from a list of three nominees recommended by the chairs of the committees in the Senate and the House of Representatives with jurisdiction over criminal justice matters, are:
  - A representative from a victim’s advocacy group;
  - A formerly incarcerated individual who has demonstrated exceptional commitment to rehabilitation and community improvement; and
  - Two representatives of the faith community, either clergy or employees of faith-based policy organizations.

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<sup>8</sup> *Id.* at pp. 28-30.

<sup>9</sup> *Id.* at pp. 54, 72, 104, and 122.

<sup>10</sup> *Id.* at p. 48.

<sup>11</sup> Government Efficiency Task Force, *Final Report*, June 30, 2016.

The rest of the membership consists of:

- The chairs of the committees of the Senate and House of Representatives with jurisdiction over criminal justice matters, or their designees;
- Two designees of the Executive Office of the Governor with demonstrated knowledge in the criminal justice field;
- The Attorney General or his or her designee;
- The Secretary of Corrections or his or her designee;
- The Secretary of Juvenile Justice or his or her designee;
- The president of the Florida Prosecuting Attorneys Association or his or her designee;
- The president of the Florida Public Defender Association or his or her designee;
- The president of the Florida Association of Criminal Defense Lawyers or his or her designee;
- The president of the Florida Sheriffs Association or his or her designee; and
- The president of the Florida Police Chiefs Association or his or her designee.

### **Terms of Membership**

Task force appointments must be made within 30 days of the effective date of the bill. For those appointments that are selected from a list of nominees jointly recommended by the chairs of the Senate and House of Representatives committees with jurisdiction over criminal justice matters, the chairs must submit the names of nominees to the Governor within 15 days of the effective date of this act.

All members must serve the duration of the task force. The original appointing authority fills any vacancies. Membership must reflect the racial, gender, geographic, and economic diversity of the state, as well as the diversity and demographics of the state's prison population. Any member may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty.

Task force members serve without compensation but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061, F.S.

Membership on the task force is prohibited for individuals employed by or under contract with an entity that contracts with the state or local governments and for representatives from trade associations, professional groups, or other groups that provide corrections, mental health, substance abuse, reentry, or similar criminal justice-related services.

### **Duties**

The task force is authorized and directed to study, evaluate, analyze, and undertake a comprehensive review of the state's adult criminal justice system, using a data-driven approach, to develop sentencing and corrections policy recommendations for proposed legislation. The policy recommendations must accomplish the following goals:

- Reduce correctional populations and associated correctional spending by focusing prison capacity on offenders who committed serious offenses or who are violent;
- Hold offenders accountable more efficiently by implementing or expanding research-based supervision and sentencing practices; and

- Reinvest savings into strategies shown to decrease recidivism, including reentry outcomes.

The task force is required to request technical assistance from nongovernmental research groups, including, but not limited to, the Justice Reinvestment Initiative.<sup>12</sup> The Department of Corrections, the Department of Law Enforcement, the Office of the State Courts Administrator, the Department of Juvenile Justice, the Office of Program Policy Analysis and Government Accountability, and any other state agency or department must provide assistance, data, and other information to the task force as requested.

### **Meetings**

The task force must:

- Hold its first meeting within 60 days of the effective date of the bill, upon the call of the Senate President and the Speaker of the House of Representatives. At the first meeting, the task force elects a chair and any other offices the members deem necessary.
- Hold a minimum of four regular meetings.
- Meet upon the call of the chair or a request of a majority of the membership (a majority constitutes a quorum).

Written notice is required for all meetings at least 5 days before the date the meeting is scheduled. Emergency meetings may be scheduled at the request of the entire membership and without the 5-day written notice. All meetings must be open to the public.

### **Staffing**

The President of the Senate and the Speaker of the House of Representatives jointly appoint an executive director and are authorized to assign legislative staff to provide support for the task force.

### **Task Force Records**

The task force is subject to policies governing public records disclosure prescribed in the joint rules of the Senate and House of Representatives. The task force shall maintain records of its meetings.

### **Report**

The task force must submit a report of its findings, conclusions, and recommendations for proposed legislation to the President of the Senate and the Speaker of the House of Representatives by the date of convening of the 2018 Regular Session of the Legislature (January

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<sup>12</sup> The U.S. Department of Justice's Office of Justice Programs administers the Justice Reinvestment Initiative. Generally, a state that requests assistance is assigned a technical assistance provider to provide guidance to the state to review the state's criminal justice system and make recommendations for reform. However, as of January 2012, the program was not accepting new sites. Office of Justice Programs, Bureau of Justice Administration, Justice Reinvestment Initiative, *How Do I Participate? State Site Selection Process*, available at [https://www.bja.gov/programs/justicereinvestment/how\\_do\\_i\\_participate.html](https://www.bja.gov/programs/justicereinvestment/how_do_i_participate.html) (last visited March 9, 2017).

9, 2018). Upon submission of the report, the task force is dissolved and discharged of further duties.

### **Expiration**

This section expires January 31, 2018.

The act takes effect upon becoming a law.

## **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:**

PCS/SB 458 requires the presiding officers of the Legislature to appoint an executive director and assign staff to assist the task force. Most likely, this workload will be absorbed within existing legislative resources.

The bill allows task force members to be reimbursed travel costs. It is unclear which governmental entity will be responsible for such costs for those members not headquartered in Tallahassee. If the Office of Legislative Services (OLS) is assigned the obligation for reimbursement of travel expenses, there will be a nominal impact to the OLS budget,<sup>13</sup> and should not exceed \$50,000.

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<sup>13</sup> Office of Legislative Services, Bill Analysis for Senate Bill 458, January 27, 2017.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

None.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**Recommended CS by Appropriations Subcommittee on Criminal and Civil Justice on March 22, 2017:**

The committee substitute makes membership on the task force prohibited for individuals employed by or under contract with an entity that contracts with the state or local governments and for representatives from trade associations, professional groups, or other groups that provide corrections, mental health, substance abuse, reentry, or similar criminal justice-related services.

- B. **Amendments:**

None.