

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 Committee on Criminal Justice

BILL: CS/SB 1208

INTRODUCER: Criminal Justice Committee and Senator Brandes

SUBJECT: Florida Correctional Operations Oversight Council

DATE: January 17, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1208 establishes the Florida Correctional Operations Oversight Council (Oversight Council) within the Office of the Chief Inspector General with the specific purpose of overseeing matters relating to the corrections and juvenile justice continuum with an emphasis on the safe and effective operations of major institutions and facilities under the purview of the Department of Corrections (DOC) and the Department of Juvenile Justice (DJJ).

The bill provides specified duties for the Oversight Council, including, in part:

- Evaluating, investigating, and overseeing the daily operations of correctional and juvenile facilities;
- Conducting announced and unannounced inspections of correctional and juvenile facilities; and
- Identifying and monitoring high-risk and problematic correctional or juvenile facilities.

The bill prohibits the Oversight Council from interfering with the day-to-day operations of the DOC or the DJJ.

The Oversight Council is comprised of nine members of whom the Governor, President of the Senate, and the Speaker of the House of Representatives are each authorized to appoint three members. The bill provides the initial appointments must be made by October 1, 2018, and designates the length of time for initial terms and subsequent terms of service. Members of the

Oversight Council will serve without compensation, but may receive reimbursement for per diem and travel expenses.

The bill enumerates specified criteria that must be met to be eligible for appointment to the Oversight Council, requires the members to represent the interests of the state in its entirety, and prohibits persons who have a specified conflict of interest from being appointed to the Oversight Council.

The bill provides a specific appropriation of \$168,074 recurring General Revenue funds and \$37,855 nonrecurring General Revenue funds, and creates one full-time equivalent position for the purpose of administering the Oversight Council at an authorized salary rate of \$70,000.

The bill is effective July 1, 2018.

II. Present Situation:

The Florida Corrections Commission

The Florida Corrections Commission (Commission) was established by the Legislature in 1994,¹ and abolished in 2006.² The Commission was housed within the DOC, but acted as an independent body.³ The Commission primarily focused on the DOC, but also looked at policies of the entire criminal justice system affecting corrections.⁴ The Commission consisted of nine members appointed by the Governor and subject to confirmation by the Senate.⁵ The membership of the Commission was required to equally represent all geographic areas of the state, and each member had to be a citizen and registered to vote. The term for each Commission member was four-years.⁶

The primary functions of the Commission included, but were not limited to:

- Recommending major correctional policies and assuring proper execution of approved policies and revisions;
- Periodically reviewing the status of the state correctional system and recommending improvements to the Legislature and the Governor;
- Monitoring the overall financial status of the DOC, including management of revenue and bond proceeds;
- Reviewing annual budget requests, the comprehensive correctional master plan, and the tentative construction program for compliance with laws and policies of the DOC; and
- Regularly evaluating the efficiency, productivity, and management of the DOC.⁷

¹ Chapter 94-117, L.O.F.

² Chapter 06-32, L.O.F.

³ Section 20.315(6)(a)3., F.S. (2005).

⁴ Section 20.315(6)(a)1., F.S. (2005).

⁵ Section 20.315(6)(a)2., F.S. (2005).

⁶ *Id.*

⁷ Section 20.315(6)(b), F.S. (2005).

The Commission was specifically prohibited from interfering with the day-to-day operations of the DOC.⁸

The Commission held regular meetings which were required to be noticed in accordance with Florida's public meetings laws.⁹ The Commission was also required to appoint an executive staff that served under the direction of the Commission.¹⁰

Office of the Inspector General

In 1994, the Florida Legislature created the Office of the Chief Inspector General and an Office of Inspector General in each state agency.¹¹ Every state agency has an inspector general who achieves their mission through conducting professional and independent investigations, audits, and reviews with the goal of enhancing the public trust in government.¹²

The Office of the Chief Inspector General is responsible for promoting accountability, integrity, and efficiency in the Executive Office of the Governor (EOG) and in agencies under the jurisdiction of the Governor.¹³ The Chief Inspector General serves as the Inspector General for the EOG and reports directly to the Governor.¹⁴ The duties of the Office of the Chief Inspector General include, in part, conducting audits, investigations, and other activities.¹⁵

Councils

Section 20.03(7), F.S., defines a "council" to mean an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.

Florida has established a number of councils that address a wide variety of public policy topics, such as the:

- Suicide Prevention Coordinating Council;¹⁶
- Statewide Council on Human Trafficking;¹⁷

⁸ Section 20.315(6)(c), F.S. (2005).

⁹ Article I, s. 24(b) of the Florida Constitution and s. 286.011, F.S., require all state, county, or municipal meetings to be open and noticed to the public.

¹⁰ Section 20.315(6)(e), F.S. (2005).

¹¹ Chapter 94-235, L.O.F.

¹² Florida Inspectors General, available at <http://www.floridaoig.com/default.htm> (last visited January 8, 2018).

¹³ Executive Office of the Governor (Chief Inspector General), *2016-2017 Annual Report*, available at http://www.floridaoig.com/library/Annual_rpts/2016-17-CIG-Annual-Report.pdf (last visited January 8, 2018).

¹⁴ Sections 14.32(4), F.S.

¹⁵ Section 14.32(2), F.S.

¹⁶ Section 14.20195, F.S., creates the council within the Executive Office of the Governor to develop strategies for preventing suicide. The council consists of 27 voting members and one nonvoting member: 13 members are from organizations enumerated in statute and appointed by the director of the Statewide Office for Suicide Prevention, ten members are state officials or their designees, and four are appointed by the Governor. Section 14.20195, F.S., provides, in part, specified term lengths for each class of members and requires at least quarterly meetings.

¹⁷ Section 16.617, F.S., creates the council within the Department of Legal Affairs for the purpose of enhancing the development and coordination of state and local law enforcement and social services responses to combat commercial sexual exploitation. The council consists of 11 enumerated entities or their designees, two members who are appointed by the

- Regional Planning Councils;¹⁸ and
- Council on Arts and Culture.¹⁹

Statutes that create councils at a minimum typically include provisions designating the specified number of members, procedures for appointing such members, and the purpose for and duties of the council.²⁰

III. Effect of Proposed Changes:

The bill establishes the Florida Correctional Operations Oversight Council (Oversight Council) within the Office of the Chief Inspector General. The Office of the Chief Inspector General must provide administrative support to the Oversight Council; however, the Oversight Council is not under the control, supervision, or direction of the Office of the Chief Inspector General in the performance of its duties.

The Oversight Council will operate as a council as such term is defined in s. 20.03, F.S., with the specific purpose of overseeing matters relating to the corrections and juvenile justice continuum with an emphasis on the safe and effective operations of major institutions and facilities under the purview of the DOC and the DJJ. The bill also requires the council to make recommendations and findings on the policies of other components of the criminal justice system if such policies affect corrections or the juvenile justice continuum.

The Oversight Council is comprised of nine members of whom the Governor, President of the Senate, and the Speaker of the House of Representatives are each authorized to appoint three members. All members must be initially appointed by October 1, 2018. The term length will be four-years; however, one appointee of each appointing entity must be appointed to an initial two-year term to achieve staggered terms. Members will serve without compensation, but may receive reimbursement for per diem and travel expenses as provided in s. 112.061, F.S.²¹

Governor, and two that are appointed by the Attorney General. Section 16.617, F.S., in part, provides that each member is appointed to a four-year term and provides a process for appointing new members in the event there is a vacancy. The duties of the council are outlined, including to meet at least quarterly.

¹⁸ Section 186.504, F.S., creates a regional planning council in each of the several comprehensive planning districts of the state and specifies representatives that will have voting rights for each planning council and authorizes the Governor to appoint ex officio nonvoting members. Section 186.505, F.S., provides powers and duties to each of the regional planning councils, including, in part, to receive and expend monies for use by appropriate regional entities for planning purposes, conduct studies of the resources of the region, and act in an advisory capacity to the constituent local governments in regional, metropolitan, county, and municipal planning matters.

¹⁹ Section 265.285, F.S., creates the council within the Department of State as an advisory body to promote and advocate for arts and cultural activities in Florida. The council is comprised of 15 members, which are appointed by the Governor, President of the Senate, and Speaker of the House of Representatives. Requirements are provided for the composition of the council as well as other administrative provisions necessary for the council to conduct business.

²⁰ See *supra* notes 19-22.

²¹ Section 112.061, F.S., establishes standardized travel reimbursement rates, procedures, and limitations, with specified exceptions, that apply to all public officers, employees, and authorized persons whose travel is authorized and paid for by a public agency. Per diem and travel expenses cover costs such as lodging, meals, vehicle rental, gas, plane fare, tolls, or parking fees. Rates are dependent upon factors such as whether the business travel requires an overnight stay or day trip and the length of time away from official headquarters.

The bill requires that members are Florida residents and emphasizes, but does not require, that members have a background in prison operations, jail management, or the juvenile justice continuum of services. Appointments must be made in a manner that provides equitable representation to all geographic regions of the state. Members must provide representation to the state in its entirety and not conduct themselves in a manner that benefits a particular region.

A person is prohibited from being appointed as a member of the Oversight Council if he or she has:

- An immediate family member that is employed by the DOC or the DJJ;
- An immediate family member that is employed by a private institution, facility, or provider under contract with the DOC or the DJJ; or
- A direct or indirect interest in a contract, subcontract, franchise, privilege, or other benefit that can be awarded by either the DOC or the DJJ during the term of service.

The Oversight Council's primary duties include:

- Evaluating, investigating, and overseeing the daily operations of correctional and juvenile facilities.
- Conducting announced and unannounced inspections of correctional and juvenile facilities,²² including entering any facility housing prisoners, residents, or juveniles. Members must be provided immediate access to places requested and given the ability to communicate with any prisoner, resident, or juvenile privately with adequate security in place.
- Identifying and monitoring high-risk and problematic correctional or juvenile facilities and reporting findings and recommendations relating to these facilities.
- Providing technical assistance when appropriate.
- Submitting an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, that includes statutory, budgetary, and operational recommendations to the Legislature which address problems identified by the council.²³
- Conducting confidential interviews with staff, officers, inmates, juveniles, volunteers, and public officials relating to the operations and conditions of correctional and juvenile facilities.
- Developing and implementing a monitoring tool that will be used to assess the performance of each correctional and juvenile facility.
- Conducting regular on-site visits to correctional and juvenile facilities.

The Oversight Council is prohibited from interfering with the day-to-day operations of the DOC or the DJJ.

Additionally, the Oversight Council must appoint an executive director to serve under the direction of the members. The bill provides that the executive director position will be governed by the classification plan and salary and benefits plan approved by the EOG.

²² This provision applies to facilities operated by the state or a private contractor.

²³ If the bill becomes law, the first report is due by November 1, 2019.

The bill provides a specific appropriation of \$168,074 recurring General Revenue funds and \$37,855 nonrecurring General Revenue funds, and creates one full-time equivalent position for the purpose of administering the Oversight Council at an authorized salary rate of \$70,000.

The bill is effective July 1, 2018.

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 a specific appropriation of \$168,074 recurring General Revenue funds and \$37,855 nonrecurring General Revenue funds, and creates one full-time equivalent position for the purpose of administering the Oversight Council at an authorized salary rate of \$70,000.

Additionally, to the extent that creating the Oversight Council improves the corrections and juvenile justice continuum systems, the bill may result in cost savings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 14.32 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on January 16, 2018:

The committee substitute provides consistent language throughout the bill and ensures that the oversight duties of the Correctional Operations Oversight Council apply to both correctional and juvenile facilities.

- B. **Amendments:**

None.