

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: SB 1420

INTRODUCER: Senator Gainer

SUBJECT: Probationary or Supervision Services

DATE: February 9, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1420 removes a current prohibition on a private entity providing probationary or supervision services to misdemeanor offenders sentenced or placed on probation or other supervision by circuit courts. The bill retains the current prohibition on a private entity providing probationary or supervision services to felony offenders sentenced or placed on probation or other supervision by circuit courts.

Private entities would financially benefit from whatever compensation they receive for supervising misdemeanor offenders sentenced in circuit court. The Department of Corrections states that the fiscal impact of the bill is indeterminate. However, to the extent the bill reduces the department's supervision workload, there would presumably be a cost savings to the department. See Section V. Fiscal Impact Statement.

II. Present Situation:

Presently, private entities are not allowed to supervise offenders who are placed on supervision for felony or misdemeanor offenses when sentenced in circuit court.¹ Private entities are allowed to supervise offenders who are placed on supervision for misdemeanor offenses when sentenced in county court.²

Section 948.01(1), F.S., provides that any state court having original jurisdiction of criminal actions may at a time to be determined by the court, with or without an adjudication of the guilt of the defendant, hear and determine the question of the probation of a defendant in a criminal case, except for an offense punishable by death, who has been found guilty by the verdict of a

¹ Section 948.01(1)(a) and (5), F.S.

² Section 948.15(1)-(3), F.S.

jury, has entered a plea of guilty or a plea of nolo contendere, or has been found guilty by the court trying the case without a jury.

If the court places the defendant on probation or into community control for a felony, the Department of Corrections (DOC) must provide immediate supervision by an officer employed in compliance with the minimum qualifications for officers as provided in s. 943.13, F.S.³ The imposition of sentence may not be suspended and the defendant thereupon placed on probation or into community control unless the defendant is placed under the custody of the DOC or another public or private entity.⁴ A private entity may not provide probationary or supervision services to felony or misdemeanor offenders sentenced or placed on probation or other supervision by the circuit court.⁵

Section 948.15(1), F.S., provides that a defendant found guilty of a misdemeanor who is placed on probation must be under supervision not to exceed six months unless otherwise specified by the court. Probation supervision services for a defendant found guilty of a misdemeanor for possession of a controlled substance or drug paraphernalia under ch. 893, F.S., may be provided by a licensed substance abuse education and intervention program, which may provide substance abuse education and intervention as well as any other terms and conditions of probation. In relation to any offense other than a felony in which the use of alcohol is a significant factor, the period of probation may be up to one year.

A private entity or public entity, including a licensed substance abuse education and intervention program, under the supervision of the board of county commissioners or the court may provide probation services and licensed substance abuse education and treatment intervention programs for offenders sentenced by the county court.⁶

Any private entity, including a licensed substance abuse education and intervention program, providing services for the supervision of misdemeanor probationers must contract with the county in which the services are to be rendered. In a county having a population of fewer than 70,000, the county court judge, or the administrative judge of the county court in a county that has more than one county court judge, must approve the contract.⁷

III. Effect of Proposed Changes:

The bill removes a current prohibition on a private entity providing probationary or supervision services to misdemeanor offenders sentenced or placed on probation or other supervision by circuit courts. The bill retains the current prohibition on a private entity providing probationary or supervision services to felony offenders sentenced or placed on probation or other supervision by circuit courts.

The bill takes effect July 1, 2018.

³ Section 948.01(1)(a), F.S.

⁴ Section 948.01(5), F.S.

⁵ Section 948.01(1)(a) and (5), F.S.

⁶ Section 948.15(2), F.S.

⁷ Section 948.15(3), F.S.

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:

Private entities would financially benefit from whatever compensation they receive for supervising misdemeanor offenders sentenced in circuit court.

C. Government Sector Impact:

The DOC states:

Over the past three years, there has been an average of 4,724 probation admissions where the primary offense was a misdemeanor. Courts will now be allowed to order that these cases be supervised by private entities; however, the actual number of cases that will be effected by this bill are unknown. Therefore the impact to the ... [DOC] is indeterminate.⁸

While the fiscal impact on the DOC may be indeterminate, to the extent the bill reduces the DOC's supervision workload, there would presumably be a cost savings to the DOC.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁸ 2018 Agency Legislative Bill Analysis (SB 1420) (Feb. 7, 2018), Department of Corrections (on file with the Senate Committee on Criminal Justice).

VIII. Statutes Affected:

This bill substantially amends section 948.01 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
