

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 Judiciary

BILL: CS/SB 1678

INTRODUCER: Criminal Justice Committee and Senator Stargel

SUBJECT: Criminal Justice

DATE: February 19, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Storch</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Farach</u>	<u>Cibula</u>	<u>JU</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SB 1678 changes the deadline for the annual submission of reports by law enforcement agencies pursuant to the Florida Contraband Forfeiture Act from October 10 to December 1.

Additionally, the bill creates a model of uniform criminal justice data collection. Specifically, the bill:

- Defines terms used in the bill as they relate to data collection;
- Requires the clerks of the circuit court, state attorneys, public defenders, county jail operators, and the Department of Corrections (DOC) to collect certain data and transmit it to the Florida Department of Law Enforcement (FDLE) on a weekly basis;
- Requires the FDLE to publish data on the FDLE's website and make it searchable and accessible to the public;
- Digitizes the Criminal Punishment Code sentencing scoresheet;
- Requires additional information to be reported in the annual report for pretrial release programs;
- Authorizes a pilot project in the Sixth Judicial Circuit for the purposes of implementing the bill; and
- Appropriates \$1,750,000 in nonrecurring funds to the FDLE for the hiring of nine full-time employees for purposes of implementing the requirements of the bill and to assist in the transition to incident-based crime reporting to meet the requirements of the Federal Bureau of Investigation (FBI) under the National Incident-Based Reporting System.

The bill will have a significant, and largely indeterminate, fiscal impact on the clerks of the circuit courts, state attorneys, public defenders, the DOC, and the FDLE. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2018.

II. Present Situation:

Florida Contraband Forfeiture Act

The Florida Contraband Forfeiture Act (act), ss. 932.701-932.7062, F.S., provides for the seizure and civil forfeiture of property related to criminal and non-criminal violations of law.¹ Contraband and other property may be seized when used during a violation of, or for the purpose of violating, the act. Property constituting a “contraband article” includes, but is not limited to, a controlled substance as defined in ch. 893, F.S., any gambling paraphernalia being used or attempted to be used in violation of the state’s gambling laws, and any motor fuel upon which the motor fuel tax has not been paid as required by law.²

Currently, any contraband article, vessel, motor vehicle, aircraft, other personal property, or real property used in violation of any provision of the act, or in, upon, or by means of which any violation of the act has taken or is taking place, may be seized and forfeited subject to the act.³ If the court finds that the seizure occurred lawfully⁴ and that probable cause exists for the seizure, the forfeiture may proceed as set forth in the act.⁵

When a seizing agency obtains a final judgment granting forfeiture of real or personal property, it may elect to:

- Retain the property for the agency’s use;
- Sell the property at public auction or by sealed bid to the highest bidder;⁶ or
- Salvage, trade, or transfer the property to any public or nonprofit organization.⁷

Reports Concerning Seized or Forfeited Property

Section 932.7061, F.S., requires every law enforcement agency to submit an annual report by October 10 indicating whether the agency has seized or forfeited property under the act.⁸ In the event that a law enforcement agency received or expended forfeited property or proceeds from the sale of forfeited property in accordance with the act, the annual report must document such receipts and expenditures.

¹ Section 932.701(1), F.S.

² See s. 932.701(2)(a)1.-12., F.S.

³ Section 932.703(1)(a), F.S.

⁴ Section 932.703(1)(a), F.S., sets forth the circumstances that permit for a lawful seizure of property.

⁵ Section 932.703(2)(c), F.S.

⁶ Real property should be listed on the market and sold in a commercially reasonable manner after appraisal. Section 932.7055(1)(b), F.S.

⁷ Section 932.7055(1)(a)-(c), F.S.

⁸ Section 932.7061(1), F.S.

The report must be submitted in electronic form to the FDLE and the entity that has budgetary authority over the law enforcement agency. The report must specify, at a minimum, the type, approximate value, court case number, type of offense, disposition of property received, and amount of any proceeds received or expended. The report must be maintained by the FDLE in consultation with the Office of Program Policy Analysis and Government Accountability (OPPAGA).⁹

The FDLE must submit an annual report to the OPPAGA that compiles the information and data in the annual reports. The FDLE must also include a list of law enforcement agencies that failed to meet the reporting requirements and a summary of any action taken against such noncomplying agency by the office of Chief Financial Officer (CFO).¹⁰

Penalty for Noncompliance with Reporting Requirements

An agency that is in noncompliance with the reporting requirements in s. 932.7061, F.S., must be notified by the FDLE. Such agency has 60 days within receipt of the notification of noncompliance to comply with the reporting requirements. An agency that fails to comply within 60 days is subject to a civil fine of \$5,000. The fine is determined by the CFO and payable to the General Revenue Fund.¹¹

The FDLE must submit any substantial noncompliance to the office of the CFO, which will then be responsible for the enforcement of the fine.¹²

The fiscal year for sheriff departments runs from October 1-September 30, making it difficult to gather all required information and submit it by October 10 to comply with the statutory mandate. An agency that does not meet the deadline for submission of the annual report is subject to negative implications associated with a noncompliance status.¹³

Data Collection by Florida's Criminal Justice Agencies

Currently, Florida does not have a publicly accessible website containing comprehensive criminal justice data. Several state departments, local agencies and local offices, including the clerks of the circuit courts, state attorneys, public defenders, county jails, and the DOC collect data within the criminal justice system. Each entity collects and maintains data in different ways and for different purposes.

Clerks of the Circuit Courts

The clerks of the circuit courts use a secured single point-of-search database portal for statewide court case information, the Comprehensive Case Information System (CCIS).¹⁴ Section 28.2405,

⁹ *Id.*

¹⁰ Section 932.7061(2), F.S.

¹¹ Section 932.7062, F.S.

¹² *Id.*

¹³ Polk County Sheriff's Office, *Proposal for the 2018 FSA Legislative Summit*, (on file with the Senate Criminal Justice Committee).

¹⁴ See s. 28.2405, F.S. The Comprehensive Case Information System access site, available at <https://www.flccis.com/ocrs/login.xhtml> (last visited February 13, 2018).

F.S., requires all clerks to participate in the CCIS and submit data for criminal, civil, juvenile, probate, and traffic cases.¹⁵ The CCIS provides controlled access to court records for governmental agencies.¹⁶ Currently, 19 governmental organizations use the CCIS and may use it to search information related to call court cases maintained by the clerks.¹⁷

The CCIS has more than 45,000 active users. The clerks assign each user or organization a security level that allows them to view certain data on the CCIS. Not all data elements are available to all users and CCIS is not available to the public.¹⁸

County Detention Facilities

A county detention facility is a county jail, county stockade, county work camp, county residential probation center, or any other place, except a municipal detention facility, that is used by a county or county officer for the detention of persons charged with or convicted of a crime.¹⁹ Data collection and storage by jail facilities varies greatly from county to county. Larger jails have data systems allowing for direct data input and report generation, while smaller jails have databases using Microsoft Access or other commercially available templates²⁰

Section 951.23(2), F.S., requires administrators of county detention facilities to collect and report certain information to the DOC. The DOC then uses such data to analyze and evaluate county detention facilities.²¹ Many jails also collect data relating to jail capacity, per diems, demographic data, criminal charges, custody levels, and medical information.²² Jail administrators use this data to manage daily operations, verify total jail costs and budgets, and ensure proper staffing and training.²³

State Attorneys and Public Defenders

There is no statutory requirement for a state attorney or public defender to collect, publish, or report specific data. Many circuits, on their own initiative, collect data elements for internal purposes, but this data is not publicly available or shared among agencies.

Department of Corrections

The data system the DOC uses is the Offender Based Information System (OBIS).²⁴ Data collected within the OBIS includes sentencing information and scoresheets from the clerks of the circuit courts, criminal history information from the FDLE, and background information self-

¹⁵ See also Florida Court Clerks & Comptrollers, *Criminal Court Case Data Collection*, p. 7, November 14, 2017, (PowerPoint presentation on file with the Senate Criminal Justice Committee).

¹⁶ *Id.* at 2.

¹⁷ *Id.* at 3 and 6.

¹⁸ *Id.* at 11.

¹⁹ Section 951.23(1)(a), F.S.

²⁰ Florida Sheriffs Association, *Criminal Justice Data Collection*, p. 5, November 14, 2017, (PowerPoint presentation on file with the Senate Criminal Justice Committee).

²¹ Section 951.23(3), F.S.

²² *Supra*, n. 20 at 3.

²³ *Id.* at 6.

²⁴ Section 20.315(10), F.S., and Florida Department of Corrections, *Overview of FDC Criminal Justice Data*, p. 3, November 14, 2017. (PowerPoint presentation on file with the Senate Criminal Justice Committee).

reported by inmates.²⁵ The DOC uses this information for a variety of operational functions including determining an inmate's custody level, and an inmate's release date.²⁶ The DOC shares the OBIS information with law enforcement and other state and federal agencies pursuant to relevant statutory authority, federal law, or other directives.²⁷

The Bureau of Research and Data Analysis (Bureau) within the DOC analyzes the OBIS data to generate information for the DOC, the Governor, the Legislature, and other state agencies.²⁸ The Bureau publishes an annual report that includes information regarding inmate population, statistics, and other information relating to the DOC.²⁹ While annual reports are accessible to the public, users are not permitted to search the data that the DOC collected to create such reports.

III. Effect of Proposed Changes:

Reports Concerning Seized or Forfeited Property (Section 5, amending s. 932.7061, F.S.)

Current law requires agencies having seized or forfeited property pursuant to the act to submit an annual report by October 10 documenting the receipts and expenditures of forfeited property or proceeds from the sale of forfeited property pursuant to the Florida Contraband Forfeiture Act. The bill changes the deadline for the submission of the reports to December 1.

Criminal Justice Data Collection (Section 2, creating s. 900.05, F.S.)

The bill specifies that it is the intent of the Legislature to create a model of uniform criminal justice data collection by requiring local and state criminal justice agencies to report complete, accurate, and timely data, and make such data available to the public.

The bill defines the following terms:

- “Admission date” is the date a defendant was admitted to the DOC;
- “Admission type” is the underlying reason for which a defendant is admitted to the DOC, including a new conviction, probation violation, probation violation based on a new offense, parole violation, or parole violation based on a new offense;
- “Annual felony caseload” is the yearly adult criminal felony caseload of each full-time state attorney and assistant state attorney or public defender and assistant public defender, based on the number of felony cases reported to the Florida Supreme Court pursuant to s. 25.075, F.S.;³⁰
- “Annual misdemeanor caseload” is the yearly adult criminal misdemeanor caseload of each full-time state attorney and assistant state attorney or public defender and assistant public defender, based on the number of misdemeanor cases reported to the Florida Supreme Court pursuant to s. 25.075, F.S.;³¹

²⁵ *Id.* at 4.

²⁶ *Id.* at 5.

²⁷ *Id.* at 6.

²⁸ Florida Department of Corrections, *Bureau of Research and Data Analysis*, available at <http://www.dc.state.fl.us/orginfo/research.html> (last visited February 13, 2018).

²⁹ Florida Department of Corrections, *Annual Report Fiscal Year 2015-2016*, available at http://www.dc.state.fl.us/pub/annual/1516/FDC_AR2015-16.pdf (last visited February 13, 2018).

³⁰ The term does not include the appellate caseload of a public defender or assistant public defender.

³¹ The term does not include the appellate caseload of a public defender or assistant public defender.

- “Arraignment date or initial appearance” is the date a defendant first appears before a judge to enter a plea;
- “Arrest date” is the date a defendant is taken into physical custody by a law enforcement agency on a criminal charge, issued a notice to appear or a charging document is filed by the state attorney’s office.
- “Attorney assignment date” is the date a court-appointed attorney is assigned to the case or, if privately retained, the date an attorney files a notice of appearance with the clerk of court;
- “Attorney withdrawal date” is the date the court removes court-appointed counsel from a case or, for a privately retained attorney, the date a motion to withdraw is granted by the court;
- “Bail or bond hearing date” is the date a defendant appears in court for bail or bond determination;
- “Bail or bond modification date” is the date a hearing is held to consider a defendant’s bail or bond conditions and the conditions are modified;
- “Bail or bond posting date” is the date a defendant posts bail or bond;
- “Bail or bond revocation” is the date a court revokes a defendant’s bail or bond;
- “Bail or bond setting date” is the date a court confirms or orders bail or bond in a criminal case;
- “Booking date and reason” is the date a defendant is booked into a jail facility on a new charge or for a probation violation pursuant to a bench warrant for a pretrial release violation or pursuant to a warrant from another jurisdiction;
- “Case number” is the identification number assigned by the clerk of court to a criminal case;
- “Case status” means whether a case is open, closed, reopened due to a probation violation, or inactive;
- “Cash bail or bond amount” is the monetary amount of bail or bond imposed by a court;
- “Cash bail or bond payment” means whether or not a defendant posted bail or bond;
- “Charge class severity” means the degree of the misdemeanor or felony for each charged offense;
- “Charge description” is the statement of the charge matched to the statutory section establishing the conduct as criminal;
- “Charge disposition date” is the date of final judgment, adjudication, adjudication withheld, dismissal, or nolle prosequi of each charge;
- “Charge modifier” is an aggravating circumstance of an alleged crime that enhances or modifies a charge to a more serious offense level;
- “Charge sequence number” is the unique numerical identifier for each charge in a case with multiple charges;
- “Charge statute” is the statute for each charge which establishes the conduct as criminal;
- “Charge type” indicates whether the charge is a misdemeanor or felony;
- “Committing county” is the county from which the defendant was transported to the DOC;
- “Concurrent or consecutive sentence flag” indicates that a defendant is serving another sentence concurrently or consecutively in addition to the current sentence;
- “Court fees amount” is the amount of fees owed to the clerk of court at disposition of the case;
- “Court fees amount balance or payment to date” is the amount a defendant paid towards outstanding court fees and the remaining balance owed;

- “Current institution and institution security level” is the name of the institution where a defendant is currently incarcerated and the institution’s security level;
- “Daily cost of a jail bed” is the per diem cost, based on all sources of funding and costs associated with operations, for each inmate in a jail facility;
- “Daily cost of a prison bed” is the per diem cost, based on all sources of funding and costs associated with operations, for each inmate in a state correctional institution;
- “Daily cost per probationer” is the per diem cost for each individual serving probation with the DOC;
- “Daily jail population” is the number of inmates incarcerated within a jail facility on each day;
- “Daily jail postsentence population” is the number of inmates incarcerated within a jail facility on each day who have been sentenced and are either serving the sentence in jail or awaiting transportation to the DOC;
- “Daily jail presentence population” is the number of inmates incarcerated within a jail facility on each day who entered a plea to charges or were found guilty at trial and are awaiting sentencing;
- “Daily jail pretrial population” is the number of inmates incarcerated within a jail facility on each day awaiting case disposition;
- “Daily number of correctional officers” is the number of full-time, part-time, and auxiliary correctional officers who are actively providing supervision, protection care, custody, and control of inmates in a state correctional institution or jail facility each day;
- “Daily number of federal and state inmates held in jail” is the number of inmates who are temporarily incarcerated within a jail facility each day;
- “Daily prison population” is the number of inmates incarcerated in a state correctional institution on each day;
- “Date of court appearance” is the date a criminal case is considered by a court;
- “Date of failure to appear in court” is the date a criminal case was set to be heard by a court with required appearance by a defendant and he or she failed to appear;
- “Defense attorney type” means whether the attorney is court-appointed to or privately retained by a defendant, or that the defendant is represented pro se;
- “Deferred prosecution or pretrial diversion hearing date or agreement date” is the date a hearing is held or a contract is signed by the parties regarding a defendant’s admission into a deferred prosecution or pretrial diversion program;
- “Disciplinary violation and action” means any inmate disciplinary conduct and the consequences of such conduct;
- “Discovery motion date” is the date a defendant files a notice to participate in discovery;
- “Dismissal motion date” is the date a defendant files a motion to dismiss charges;
- “Dismissal motion hearing date” is the date a court considers a defendant’s motion to dismiss charges;
- “Disposition date” is the date on which all case activity is final;
- “Domestic violence flag” indicates that a charge involves domestic violence as defined in s. 741.28, F.S.;
- “Drug type for drug charge” indicates the type of drug specified in each drug charge against a defendant;

- “Ethnicity” is a person’s identification as Hispanic or Latino, not Hispanic or Latino, or Haitian;
- “Filing date” is the date a formal charge is filed against a defendant;
- “Fine amount” is the total fines imposed at case disposition;
- “Fine amount balance or payment to date” is the amount a defendant paid towards outstanding fines and the remaining balance owed;
- “Gang affiliation flag” indicates that a defendant is involved in or associated with a criminal gang as defined in s. 874.03, F.S.;
- “Good conduct credit earned” is time an inmate earned for good behavior in a jail facility or state correctional institution and credited toward his or her sentence;
- “Habitual offender flag” indicates that a defendant is a habitual felony offender as defined in s. 775.084, F.S., or a habitual misdemeanor offender as defined in s. 775.0837, F.S.;
- “Jail capacity” is the maximum number of inmates who can be incarcerated in a jail facility;
- “Judicial transfer date” is the date on which a defendant’s case is transferred to another court or presiding judge;
- “Length of probation sentence imposed” is the duration of probation ordered by a court;
- “Length of probation sentence served” is the amount of time on probation that a defendant has served to date;
- “Nonmonetary condition of release” is a condition of a defendant’s pretrial release imposed by the court that is not based on payment of bail or bond;
- “Number of contract attorneys representing indigent defendants for the office of the public defender” is the number of attorneys hired on a temporary basis, by contract, to represent indigent clients who were appointed a public defender;
- “Offense date” is the date that the alleged crime occurred;
- “Plea date” is the date a defendant enters a plea to a pending charge;
- “Presentence jail population at year-end” is the number of inmates incarcerated within a jail facility at the end of the calendar year who entered pleas or who were found guilty at trial and are awaiting sentencing;
- “Pretrial release decision” is the date the court decides the issue of a defendant’s pretrial release from incarceration;
- “Pretrial release offender flag” is an indication that the defendant has violated the terms of his or her pretrial release;
- “Prior incarceration within the state” is any prior history of a defendant being incarcerated in a jail facility or state correctional institution;
- “Postsentence jail population at year-end” is the number of inmates incarcerated within a jail facility at the end of the calendar year who have been sentenced and are either serving that sentence in the facility or awaiting transportation to the DOC;
- “Probation revocation” is any instance where a defendant’s probation was revoked;
- “Projected discharge date” is the anticipated date an inmate will be released from incarceration;
- “Race” is a person’s identification as American Indian or Alaskan Native, African American or Black, Asian, Hawaiian or other Pacific Islander, White, or Other, which includes multi-racial individuals;
- “Restitution amount ordered” is the amount of money imposed by the court to compensate a victim of a defendant’s criminal activity;

- “Sentence condition” is any requirement imposed by a court in addition to incarceration;
- “Sentence date” is the date a court enters a sentence against a defendant;
- “Sentence length” is the total duration of jail time, prison time, and probation that a defendant is ordered to serve;
- “Sentence type” is capital punishment, incarceration, probation, or a combination thereof;
- “Sentencing scoresheet” is the digitized worksheet created under s. 921.0024, F.S., to compute the defendant’s minimum sentence that may be imposed by the trial court;
- “Speedy trial motion date” is the date a defendant files a demand for speedy trial;
- “Speedy trial motion hearing date” is the date a court hears a defendant’s demand for speedy trial;
- “Sexual offender flag” is an indication that a defendant is a sexual offender as defined in s. 943.0435, F.S.;
- “Time served credit and length” is the amount of prior incarceration credited to an inmate’s current sentence to reduce the amount of time remaining in the sentence;
- “Total jail population at year-end” is the number of inmates incarcerated within a jail facility at the end of a calendar year; and
- “Trial date” is the date a defendant’s case is set for trial, beginning with jury selection.

The bill requires the following data to be collected and transmitted weekly, beginning January 1, 2019, to the FDLE:

- Each clerk of court must collect the following data for:
 - Each criminal case:
 - Case number;
 - Offense date;
 - County in which the offense was committed;
 - Arrest date;
 - Filing date;
 - Arraignment date or initial appearance;
 - Attorney assignment date;
 - Attorney withdrawal date;
 - Case status; and
 - Disposition date.
 - Each defendant:
 - Name;
 - Date of birth;
 - Age;
 - Zip code of primary residence;
 - Primary language;
 - Race and ethnicity;
 - Gender;
 - Citizenship;
 - Immigration status, if applicable; and
 - Whether the defendant is indigent under s. 27.52, F.S.
 - Any charge referred to the state attorney by law enforcement;
 - A formal charge filed against the defendant;

- Charge sequence number;
- Charge description;
- Charge statute;
- Charge type;
- Charge class severity;
- Charge modifier, if any;
- Charge disposition;
- Charge disposition date;
- Drug type for drug charge, if known;
- Domestic violence flag;
- Gang affiliation flag;
- Sexual offender flag; and
- Habitual offender flag.
- A plea date;
- Bail or bond and pretrial release:
 - Pretrial release decision;
 - Nonmonetary condition of release;
 - Cash bail or bond amount;
 - Cash bail or bond payment;
 - Booking date and reason;
 - Date defendant is released on bail, bond, or pretrial release;
 - Bail or bond revocation due to a new offense, a failure to appear, or a violation of the terms of bail or bond; and
 - Pretrial release offender flag.
- Pretrial dates:
 - Bail or bond hearing date;
 - Bail or bond setting date;
 - Bail or bond modification date;
 - Bail or bond posting date; and
 - Deferred prosecution or pretrial diversion hearing date or agreement date.
- Court dates and dates of motions and appearances:
 - Date of court appearance;
 - Date of failure to appear in court;
 - Judicial transfer date;
 - Trial date;
 - Bail or bond motion date;
 - Discovery motion date;
 - Speedy trial motion date;
 - Speedy trial motion hearing date;
 - Dismissal motion date; and
 - Dismissal motion hearing date.
- The defense attorney type;
- Sentencing:
 - Sentence date;
 - Sentence type;

- Sentence length;
- Sentence condition;
- Time served credit and length;
- Court fees amount;
- Court fees amount balance or payment to date;
- Fine amount;
- Fine amount balance or payment to date;
- Restitution amount ordered; and
- If restitution is ordered, the amount collected by the court and the amount paid to the victim.
- The number of judges, magistrates, court commissioners, or their equivalents hearing non-appellant, adult criminal cases in the circuit;
- Each state attorney must collect the following data on the:
 - Human victim of a criminal offense:
 - Race and ethnicity;
 - Gender;
 - Age; and
 - Relationship to the offender.
 - Number of full-time and part-time prosecutors;
 - Annual felony caseload;
 - Annual misdemeanor caseload;
 - Defendant:
 - Each charge referred to the office of the state attorney by law enforcement; and
 - Drug type for each drug charge.
 - Number of cases in which no information was filed;
- Each public defender must collect the following data on the:
 - Number of full-time and part-time public defenders;
 - Number of contract attorneys representing indigent defendants for the office of the public defender;
 - Annual felony caseload; and
 - Annual misdemeanor caseload.
- The administrator of each county detention facility must collect the following data on the:
 - Jail capacity;
 - Weekly admissions to jail for probation revocation;
 - Daily jail population;
 - Daily jail pretrial population;
 - Daily jail presentence population;
 - Daily jail postsentence population;
 - Daily number of federal and state inmates held in jail;
 - Total jail population at year-end;
 - Pretrial jail population at year-end;
 - Presentence jail population at year-end;
 - Postsentence jail population at year-end;
 - Number of federal and state inmates held in jail at year-end;
 - Daily cost of a jail bed;
 - Daily number of correctional officers;

- Annual jail budget;
- Revenue generated from the temporary incarceration of federal defendants or inmates;
- Inmate:
 - Booking date and reason;
 - Domestic violence flag;
 - Gang affiliation flag;
 - Habitual offender flag;
 - Pretrial release offender flag; and
 - Sexual offender flag.
- The DOC must collect the following data :
 - For each prisoner:
 - Name;
 - DOC number;
 - Date of birth;
 - Race and ethnicity;
 - Number of children;
 - Education level;
 - Admission date;
 - Admission type;
 - Current institution and institution security level;
 - Sexual offender flag;
 - Habitual offender flag;
 - Gang affiliation flag;
 - Sentencing scoresheet;
 - Committing county;
 - Whether the reason for admission to the DOC is for a new conviction or a probation violation. For an admission for a probation violation, the DOC must report whether the violation was technical, based on a new offense, or based on another term of probation.
 - Specific offense codes, including, for an inmate convicted of drug trafficking under s. 893.135, F.S., the offense code for each specific drug trafficked;
 - Concurrent or consecutive sentence flag;
 - Length of sentence or concurrent or consecutive sentences served;
 - Projected discharge date;
 - Time served, in days;
 - Good conduct credit earned;
 - Prior incarceration within the state;
 - Disciplinary violation and action; and
 - Participation in rehabilitative or educational correctional programs.
 - About each correctional facility:
 - Budget for each correctional institution;
 - Daily prison population;
 - Daily number of correctional officers; and
 - Daily cost of a prison bed.

- For probation and probationary services:
 - Each probationer:
 - Name;
 - Date of birth;
 - Race and ethnicity;
 - Sex; and
 - Department-assigned case number.
 - Length of probation sentence imposed and length of probation sentence served;
 - Probation release date or projected release date;
 - Probation revocation due to a violation;
 - Probation revocation due to a new offense; and
 - Daily cost per probationer.

Beginning January 1, 2019, the bill requires the FDLE to publish datasets in its possession in a modern, open, electronic format that is machine-readable and readily accessible by the public on the FDLE's website. The bill requires the data to be searchable, at a minimum, by each data element, county, circuit, and unique identifier.

Beginning March 1, 2019, the bill requires the FDLE to publish the data received pursuant to the bill in the same modern, open, electronic format that is machine-readable and readily accessible to the public on the FDLE's website. The bill requires such data to be published by the FDLE no later than July 1, 2019.

Criminal Justice Data Transparency (Section 6, creating s. 943.687, F.S.)

The bill requires the FDLE to:

- Collect, compile, maintain, and manage the data submitted by local and state entities pursuant to the bill, and coordinate related activities to collect and submit data;
- Create a unique identifier for each criminal case received from the clerks of court, which identifies the person who is the subject of the criminal case. The unique identifier must:
 - Be the same for that person in any court case and used across local and state entities for all information related to that person at any time;
 - Be randomly created; and
 - Not include any portion of the person's social security number or date of birth.
- Promote criminal justice data sharing by making data received under the bill comparable, transferable, and readily usable;
- Create and maintain an Internet-based database of criminal justice data received under the bill in a modern, open, electronic format that is machine-readable and readily accessible through an application program interface. The database must permit the public³² to search, at a minimum, by each data element, county, judicial circuit, or unique identifier;
- Develop written agreements with local, state, and federal agencies to facilitate criminal justice data sharing;
- Establish by rule:

³² The FDLE may not require a license or charge a fee to access or receive information from the database.

- Requirements for the entities subject to the data submission requirements under the bill to submit data through an application program interface;
 - A data catalog defining data objects, describing data fields, and detailing the meaning of and options for each data element reported pursuant to the bill;
 - How data collected pursuant to the bill is compiled, processed, structured, used, or shared. The rule must provide for the tagging of all information associated with each case number and unique identifier;
 - Requirements for implementing and monitoring the Internet-based database established by the bill; and
 - How information contained in the Internet-based database established by the bill is accessed by the public.
- Consult with local, state, and federal criminal justice agencies and other public and private users of the database established by the bill on the data elements collected under the bill, the use of such data, and adding data elements to be collected;
 - Monitor data collection procedures and test data quality to facilitate the dissemination of accurate, valid, reliable, and complete criminal justice data; and
 - Develop methods for archiving data, retrieving archived data, and data editing and verification.

Criminal Punishment Code Scoresheet (Section 4, amending s. 921.0024, F.S.)

Current law requires a Criminal Punishment Code scoresheet be prepared for each defendant who is sentenced for a felony offense. The scoresheet determines the permissible range for the sentence that may be imposed by the court.³³ The bill requires such scoresheets to be digitized.

The bill requires such digitized scoresheets to have individual, structured data cells for each data field on the scoresheet.

Current law requires the clerk of the circuit court to transmit scoresheets on a monthly basis.³⁴ The bill requires the digitized scoresheets to be electronically transmitted on a weekly basis.

Pretrial Release Annual Report (Section 3, amending s. 907.043, F.S.)

Current law requires each pretrial release program³⁵ to submit an annual report no later than March 31 for the previous calendar year that contains information about each program, including, but not limited to, the amount of fees paid by defendants to the pretrial release program and the number of persons employed by the program.³⁶

The bill requires the following additional information to be contained in the annual report:

- The number of defendants accepted into a pretrial release program who paid a surety or cash bail or bond;

³³ Section 921.0024(3) and (7), F.S.

³⁴ Section 921.0024(6), F.S.

³⁵ “Pretrial release program” means an entity, public or private, that conducts investigations of pretrial detainees, makes pretrial release recommendations to a court, and electronically monitors and supervises pretrial defendants. Section 907.043(2)(b), F.S.

³⁶ Section 907.043(4), F.S.

- The number of defendants for whom a risk assessment tool was used in determining whether the defendant should be released pending the disposition of the case and the number of defendants for whom a risk assessment tool was not used;
- The type of each criminal charge of a defendant accepted into a pretrial release program including, at a minimum, the number of defendants charged with:
 - Dangerous crimes as defined in s. 907.041, F.S.;
 - Nonviolent felonies; and
 - Misdemeanors only.
- The number of defendants accepted into a pretrial release program with no prior criminal conviction.

Department of Corrections Reports (Section 7, creating s. 945.041, F.S.)

The bill requires the DOC to publish on its website and make available to the public, inmate admissions by offense type. Specifically, burglary of dwelling offenses under s. 810.02(2), (3)(a), and (3)(b), F.S., must be reported as a separate category from all other property crimes.

The DOC must also publish the recidivism rate which the bill defines as rearrest, reconviction, reincarceration, and probation revocation in the state within a three-year time period following release from incarceration. This information must be updated on a quarterly basis.

Department of Corrections Annual Report (Section 1, amending s. 20.315, F.S.)

The bill amends s. 20.315, F.S., to require the DOC include the information in the newly created s. 945.041, F.S., (section 7) in the DOC's annual report submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Pilot Project (Section 9)

The bill establishes a pilot project in the Sixth Judicial Circuit for the purpose of improving criminal justice data transparency. The pilot project is tasked with ensuring data submitted under the bill is accurate, valid, reliable, and structured.

The bill permits the clerk of court, state attorney, public defender, or a sheriff in the circuit to enter into a memorandum of understanding with a national, nonpartisan, not-for-profit entity that provides data and measurement for county-level criminal justice systems. The memorandum of understanding will establish the duties and responsibilities of a data fellow. The data fellow will be funded by the entity and embedded with the office or agency. The data fellow will assist with compiling and reporting data pursuant to the newly created s. 900.05, F.S. The bill provides that the memorandum of understanding will specify when the pilot project will expire.

Appropriation (Section 10)

The bill authorizes an appropriation for the 2018-2019 fiscal year of \$1,750,000 in nonrecurring funds from General Revenue to the FDLE for the purposes of implementing the bill and transitioning to incident-based crime reporting, and collecting and submitting of crime statistics

that meet the requirements of the FBI under the National Incident-Based Reporting System. Nine full-time positions are authorized with a total salary rate of \$665,884.

Other (Section 8)

The bill reenacts s. 932.7602, F.S., to make a conforming change for the purpose of incorporating amendments made by the bill.

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:

Reports Concerning Seized or Forfeited Property

The bill will likely have no fiscal impact with regards to the reports. While law enforcement agencies are subject to a fine if they are in noncompliance with the reporting requirements pursuant to s. 932.7061, F.S., the agencies have 60 days after receiving notification of noncompliance to comply. Sections 932.7061 and 932.7062, F.S., went into effect July 1, 2016.³⁷ Since the law has gone into effect, no law enforcement agencies have been in noncompliance after the passage of the 60 days.³⁸ No fines have

³⁷ Chapter 2016-179, Laws of Fla.

³⁸ Conversation with Tabitha Krol, Government Affairs Coordinator, Florida Sheriffs Association (February 8, 2018).

been collected pursuant to s. 932.7062, F.S., to date,³⁹ and the modification to the submission deadline will enable law enforcement agencies a greater opportunity to achieve initial compliant status.

Criminal Justice Data Collection

Department of Corrections

The bill will have a negative fiscal impact on the DOC. The requirements of reporting additional budget information will require one additional full-time employee at a cost of approximately \$93,000 per year. Additionally, the DOC estimates that the cost of implementing the technology required to create digital scoresheets and report additional information as required by the bill will cost approximately \$432,908.⁴⁰

State Attorneys and Public Defenders

The bill will likely have an indeterminate, but potentially significant impact on the state attorneys and public defenders. Additional staff and updates or modifications to technology systems may be needed at each of the state attorney and public defender offices to comply with the bill.

Florida Department of Law Enforcement

The bill will have a significant fiscal impact on the FDLE. The FDLE is tasked with receiving, publishing, maintaining, and storing the data required under the bill. Additionally, the bill requires upkeep and maintenance of the data. The bill appropriates \$1,750,000 in nonrecurring funds from General Revenue for the 2018-2019 fiscal year to implement the bill and transition to incident-based crime reporting, and collecting and submitting of crime statistics that meet the requirements of the FBI under the National Incident-Based Reporting System. Nine full-time positions are authorized with a total salary rate of \$665,884.

The FDLE estimates that implementing the incident-based crime reporting system will take a minimum of 5 years. The FDLE further estimates that nine full-time employees will be insufficient to implement the bill. The FDLE anticipates conducting workshops with the various entities specified in the bill to plan the project and gauge the fiscal requirements.⁴¹

VI. Technical Deficiencies:

None.

³⁹ *Id.*

⁴⁰ HB 7071 has identical language to the data collection portion in SB 1678. Department of Corrections, *2018 Legislative Bill Analysis for HB 7071*, (February 9, 2018) (on file with the Senate Criminal Justice Committee).

⁴¹ Email from Ron Draa, Director of External Affairs, Florida Department of Law Enforcement, to Senate Criminal Justice Staff, (February 13, 2018) (on file with the Senate Criminal Justice Committee).

VII. Related Issues:

Definitions

Lines 92-96 “Admission type”: This definition is inconsistent with terminology used by the DOC and could create issues for collecting this type of data.

Lines 97-103 “Annual felony caseload”: The inclusion of “adult” in the definition thereby excludes any juveniles that were transferred to adult court which could result in an inaccurate annual felony caseload. Additionally, the consideration of an “annual felony caseload” is required to be collected and submitted on a *weekly* basis, despite the fact that an annual caseload figure would not change from week-to-week.

Lines 104-110 “Annual misdemeanor caseload”: The inclusion of “adult” in the definition thereby excludes any juveniles that were transferred to adult court which could result in an inaccurate annual felony caseload. Additionally, the consideration of an “annual misdemeanor caseload” is required to be collected and submitted on a weekly basis, despite the fact that an annual caseload figure would not change from week-to-week.

Lines 111-112 “Arraignment date or initial appearance”: The words “initial appearance” should be removed from the term because an arraignment is different from a defendant’s initial appearance.

Lines 113-116 “Arrest date”: The words “charging document” should be removed from the definition because the charging document has no relevance to the arrest date.

Lines 117-124 “Attorney assignment date” and “Attorney withdrawal date”: These definitions do not provide for the possibility that an assignment or withdrawal of an attorney can occur multiple times throughout the duration of a case. The purpose of this data point is unclear and it could result in an inaccurate caseload number because there is only one case and only the attorney representing the defendant is changing.

Lines 125-135 “Bail or bond hearing date,” “Bail or bond modification date,” “Bail or bond posting date,” “Bail or bond revocation,” and “Bail or bond setting date”: Rule 3.130 of Florida Criminal Procedure provides that bond is determined at the defendant’s first appearance.⁴² These definitions should be modified to accurately reflect Florida’s first appearance process. Line 126 should also be modified to read “bail *or* bond” not “*bailor*.”

Lines 147-148 “Cash bail or bond payment”: This definition is unnecessary because stating “cash bail or bond payment” indicates that it has been paid.

Lines 149-150 “Charge class severity”: This term should be combined with the term to “charge description,” which is a more encompassing term.

⁴² Fla. R. Crim. P. 3.130.

Lines 154-156 “Charge disposition date”: This definition does not provide for the possibility that there can be multiple charges in one case, any of which a state attorney can elect to drop which would result in different disposition dates for charges within one case. Furthermore, the purpose of this data point is unclear.

Lines 157-159 “Charge modifier”: The word “modifies” should be replaced with “reclassifies” to be consistent with how enhancements are handled in the Florida Statutes.

Lines 149-153 and 162-165 “Charge class severity,” “Charge description,” “Charge statute,” and “Charge type”: These terms should be combined into one term to describe the information of the charge.

Lines 174-176 “Court fees amount balance or payment to date”: The definition should change the word “and” to “or” to be consistent with the term that provides for either court fees amount balance *or* payment to date to be collected.

Lines 177-179 “Current institution and institution security level”: This term may want to be modified to provide for the collection of the defendant’s custody level, rather than the institution’s security level.

Lines 180-188: “Daily cost of a jail bed,” “Daily cost of a prison bed,” and “Daily cost per probationer”: These terms do not need to be defined because the plain meaning of the terms are clear. Additionally, the daily per diem costs for the DOC are determined annually so the weekly submission of such data is not necessary.

Lines 191-194 “Daily jail postsentence population”: This definition provides for the number of inmates incarcerated within a jail facility who have been sentenced to a jail term or to a prison term. These are two distinct statuses and should be provided for with separate data points.

Lines 207-209 “Daily number of federal and state inmates held in jail” and “Daily prison population”: These terms do not need to be defined as they are easily understood in their plain meaning.

Lines 154-156 and 234-235 “Charge disposition date” and “disposition date”: These terms are defined the same and could be combined into one term.

Lines 236-237 “Domestic violence flag”: The word “reclassification” should substitute the word “flag” to be consistent with the Florida Statutes.

Lines 238-239 “Drug type for drug charge”: This term does not need to be defined as it is understood in its plain meaning.

Lines 252-255: “Good conduct credit earned”: This term should be changed to “gain time” to be consistent with terms used in Florida Statutes.

Lines 278-279 “Plea date”: The words “a pending charge” should be substituted with “resolve a pending charge” in order to exclude the collection of data for not guilty pleas.

Line 280-283: “Presentence jail population at year-end”: This term should be removed because this data is already being collected pursuant to “daily jail presentence population” at lines 195-198.

Line 284-286 “Pretrial release decision”: This term should be removed because this data is already being collected pursuant to information related to the bail or bond hearings.

Lines 287-289 “Pretrial release offender flag”: This term should be modified to more actually reflect the data point being sought, which is the revocation of a defendant’s pretrial release.

Lines 293-297: “Postsentence jail population at year-end” This term should be removed because this data is already being collected pursuant to the bill in the “daily jail postsentence population” at lines 191-194..

Lines 298-299: “Probation revocation”: This term does not need to be defined as it is understood in its plain meaning.

Lines 300-301 “Projected discharge date”: This term should be modified to read “tentative release date” to be consistent with terms used in the Florida Statutes.

Lines 309-317 “Sentence condition,” “Sentence date,” “Sentence length,” and “Sentence type”: These terms do not need to be defined as they are understood in their plain meaning.

Lines 321-324 “Speedy trial motion date” and “speedy trial motion hearing date”: These terms do not need to be defined as they are understood in their plain meaning.

Lines 327-329 “Time served credit and length”: This term should be modified to “time served credit” to be consistent with terms used in the Florida Statutes.

Lines 333-334 “Trial date”: This term does not need to be defined as it is understood in its plain meaning.

Other

The requirement for the specified data to be collected and transmitted on a weekly basis to the FDLE could present a difficult task for the entities listed in the bill. Requiring the collection and transmission to the FDLE on a monthly or semi-annual basis would provide equally productive information with a less burdensome task.

Lines 361-362: This information would be better collected by the state attorney, than the clerk.

Line 424: The words “court commissioners” should be removed because this term is not present in the Florida Statutes.

Line 450: Should be modified to read “chief county correctional officer” to be consistent with terms used in the Florida Statutes.

Line 467: Should be removed from the data required to be collected because the annual jail budget will not change from week-to-week and thus, should only be collected once a year.

Lines 472-476: Should be removed from the data required to be collected by the administrator of each county detention facility because this data is already being collected by the clerk.

Line 478: The word “prisoner” should be substituted with the word “inmate” to provide consistent word usage throughout the bill.

Lines 480 and 482: The collection of the name and date of birth of each prisoner by the DOC is redundant because this data is already collected by the clerk.

Line 487: The information requested under lines 494-498 is the same as an admission type. Therefore, this information is redundant and should be grouped into one data point.

Line 499: The term offense code is not defined and is not used in statute. Therefore, this data point should be removed to prevent confusion.

Line 502: This information does not need to be collected by the DOC because it is already being collected by the clerk under the bill.

Lines 525-530: These need to be renumbered to reflect that these are data points collected for each probationer.

Lines 527: Should be modified to “probation termination date” to be consistent with terms used in the Florida Statutes.

Line 584: This term should be defined since it is unclear what constitutes a “nonviolent felony.”

Lines 637-640: The bill requires the scoresheets to be electronically transmitted on a weekly basis, by the first of each month. These are contradictory requirements and should be modified for clarification.

Lines 694-695: The requirement for the FDLE to provide access to the database free of charge may cause complications pursuant to s. 943.053, F.S., which permits the FDLE to charge a fee for access to criminal history records. The information that will be included in the database will encompass information that would be included in a criminal history record and this could result in the loss of revenue for the FDLE.

VIII. Statutes Affected:

The bill creates the following sections of the Florida Statutes: 900.05, 943.687, and 945.041.

This bill substantially amends the following sections of the Florida Statutes: 20.315, 907.043, 921.0024, and 932.7061.

The bill reenacts section 932.7062 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 February 12, 2018:

The Committee Substitute:

- Creates a model of uniform criminal justice data collection;
- Defines terms used in the bill as they relate to data collection;
- Requires the clerks of the circuit court, state attorneys, public defenders, county jail operators, and the Department of Corrections (DOC) to collect certain data and transmit it to the Florida Department of Law Enforcement (FDLE) on a weekly basis;
- Requires the FDLE to publish the data on the FDLE’s website and make it searchable and accessible to the public;
- Digitizes the Criminal Punishment Code sentencing scoresheet;
- Requires additional information to be reported in the annual report for pretrial release programs;
- Authorizes a pilot project in the Sixth Judicial Circuit for the purposes of implementing the bill; and
- Appropriates \$1,750,000 in nonrecurring funds to the FDLE for the hiring of nine full-time employees for purposes of implementing the requirements of the bill and to assist in the transition to incident-based crime reporting to meet the requirements of the FBI under the National Incident-Based Reporting System.

B. Amendments:

None.