

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6059 Department of Corrections' Direct-Support Organization
SPONSOR(S): Plakon
TIED BILLS: **IDEN./SIM. BILLS:** SB 938

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	10 Y, 0 N	Bhatt	Sumner
2) Judiciary Committee	18 Y, 0 N	Bhatt	Poche

SUMMARY ANALYSIS

A direct-support organization (DSO) is a non-profit organization authorized by statute to carry out specific tasks in support of a public entity or public cause. In 2014, the Legislature established transparency and reporting requirements for DSOs, including the requirement that authorization for the DSO is repealed on October 1st of the 5th year after enactment, unless reviewed and reenacted by the Legislature. In addition, a number of existing DSOs were scheduled for future repeal.

The Department of Corrections (DOC) established its DSO, the Corrections Foundation (Foundation), in 1996, to support DOC programs, personnel, and services through grants, contributions, and community partnerships. The Foundation supports DOC's officers, staff, and programs through initiatives such as the Employee Assistance Program and the Fallen Officers Fund that supports employees during a crisis or death. The Foundation's authorization is set to repeal on October 1, 2018.

HB 6059 eliminates the scheduled repeal date for the Foundation.

The bill does not appear to have a fiscal impact on state or local governments.

This bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Direct-Support Organizations

A direct-support organization (DSO) is a non-profit organization¹ authorized by statute to carry out specific tasks in support of a public entity or public cause. The function and purpose of a DSO is detailed in its enacting statute and the written contract with the agency the DSO was created to support.²

DSO Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing transparency and reporting requirements for DSOs.³ Specifically, the law requires each DSO to submit annually the following information to the agency it was created to support by August 1st:⁴

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent Internal Revenue Service (IRS) Form 990.⁵

Additionally, the information submitted annually by a DSO must be available on the respective agency's website along with a link to the DSO's website, if one exists.⁶ Any contract between an agency and a DSO must be contingent upon the DSO submitting the required information to the agency and posting the information on the agency's website.⁷ The contract must include a provision for ending operations and returning state-issued funds if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁸ If a DSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate its contract with the DSO.⁹

By August 15th of each year, each agency must report to the Governor, President of the Senate, Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information submitted by the DSO, along with the agency's recommendation and supporting rationale to continue, terminate, or modify the agency's association with the DSO.¹⁰

Any law creating, or authorizing the creation of a DSO must repeal its authorization on October 1st of the 5th year after enactment, unless reviewed and reenacted by the Legislature. A list of DSOs in existence prior to July 1, 2014 that are scheduled for repeal in 2018 and 2019 follows:

¹ Ch. 617, F.S.

² SS. 14.29(9)(a), 16.616(1), and 258.015(1), F.S.; see also Rules of the Florida Auditor General, *Audits of Certain Nonprofit Organizations* (effective June 30, 2017), Rule 10.720(1)(b) and (d), available at: https://flauditor.gov/pages/pdf_files/10_700/pdf (last accessed January 11, 2018).

³ S. 3, Ch. 2014-96, L.O.F.

⁴ S. 20.058(1), F.S.

⁵ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501. 26 C.F.R. 1.6033-2.

⁶ S. 20.058(2), F.S.

⁷ S. 20.058(4), F.S.

⁸ Ch. 2017-75, L.O.F.

⁹ S. 20.058(4), F.S.

¹⁰ S. 20.058(3), F.S.

DSOs Scheduled for Repeal ¹¹	
October 1, 2018	October 1, 2019
<ul style="list-style-type: none"> • Guardian ad Litem Program Foundation (s. 39.8298(8), F.S.) • Florida Department of Law Enforcement for Florida Missing Children’s Day (s. 683.231(8), F.S.) • Department of Corrections (s. 944.802(4), F.S.) • Executive Office of the Governor to assist victims of adult and juvenile crime. (s. 960.002(6), F.S.) • Department of Juvenile Justice (s. 985.672(7), F.S.) 	<ul style="list-style-type: none"> • Department of Environmental Protection (s. 20.2551(6), F.S.) • Division of Library and Information Services (s. 257.43(4), F.S.) • Division of Recreation and Parks (s. 258.015(4), F.S.) • Babcock Ranch Preserve (s. 259.10521(4), F.S.) • Division of Cultural Affairs (s. 265.703(4), F.S.) • Division of Historical Resources (s. 267.17(4), F.S.) • Florida Tourism Industry Marketing Corporation (ss. 288.1226(9) and 288.923(6), F.S.) • Florida Intergovernmental Relations Foundation (s. 288.809(5), F.S.) • Fish and Wildlife Conservation Commission (s. 379.223(4), F.S.) • Department of Agriculture and Consumer Services (s. 570.691(10), F.S.) • Florida Beef Council (s. 570.83(14), F.S.)

Current law requires all DSOs in existence prior to July 1, 2014 must be reviewed by the Legislature by July 1, 2019.¹²

DSO Audit Requirements

Section 215.981, F.S., requires each DSO with annual expenditures in excess of \$100,000 to annually audit its accounts and records.¹³ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the DSO. The audit report must be submitted within nine months of the fiscal year to the Auditor General and to the state agency the DSO supports. Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of DSO accounts and records.¹⁴

¹¹ Supra, FN 3.

¹² S. 20.058(5), F.S.

¹³ The independent audit requirement does not apply to a DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

¹⁴ S. 11.45(3), F.S.

The Corrections Foundation

The Corrections Foundation (Foundation) was established in 1996 as the non-profit DSO to support the Department of Corrections (DOC), under s. 944.802, F.S.

The Foundation is supported by four staff members and governed by a volunteer Board of Directors. The board members are appointed by the DOC Secretary and serve two-year terms.¹⁵ Membership is comprised of active and retired DOC employees, contractors, and individuals from other state and private agencies.¹⁶

The Foundation supports DOC programs, personnel, and services through grants, contributions, and community partnerships.¹⁷ Projects in support of DOC's officers and staff include:¹⁸

*Employee Assistance Program*¹⁹ - The Foundation gives DOC employees direct financial assistance in times of fire, critical illness or accident, or other circumstances through the Employee Assistance Program (EAP). Since 1999, the Foundation has provided assistance to over 5,700 DOC officers and staff.

*Fallen Officers Fund*²⁰ – Funding provided to the families of correctional officers killed in the line of duty.

*FSP Officer Safety Project*²¹ – Ensures officer safety by limiting direct interaction with dangerous inmates. Funding is used to install openings within cell doors, allowing an opening at one end to be opened while keeping the opposite closed so that food trays could be passed to an inmate without risk of an officer being grabbed or have objects thrown at officers.

*Troop Project – Flags for Freedom*²² –DOC employees support fellow employees during military deployment by providing gift packages and phone cards to soldiers and their families.

*Disaster Relief Fund*²³ – Funds were raised to benefit DOC officers and employees following catastrophic storms and flooding in the state over the last 13 years.

Projects in support of DOC programs include:

*Inspector General's Office K-9 Support*²⁴ – The Foundation supports K-9 teams by purchasing supplies and equipment, such as vehicles, cell phone and drug detection dogs, and equipment for the K-9 officers.

*Department of Corrections K-9 Tracking Units*²⁵ – DOC has 26 K-9 Tracking Units statewide used for escapes and to support local law enforcement in locating missing children, missing elders and fugitives. The Foundation has also provided GPS tracking collars and other equipment for the K-9 teams.

¹⁵ Corrections Foundation, *About, Mission and Information*, <https://www.correctionsfoundation.org/about/#ourmission> (last accessed January 11, 2018).

¹⁶ Id.

¹⁷ Id.

¹⁸ Corrections Foundation, *2017 Corrections Foundation Report*, available at <http://www.dc.state.fl.us/pub/cf/990-2017.pdf> (last accessed January 11, 2018).

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

²⁴ Id.

²⁵ Id.

*Dog Obedience Prison Programs*²⁶ – Twenty-one dog training programs receive funding through the Foundation.

*Computers for Florida's Kids*²⁷ – Established at Cross City Correctional Institution, inmates in this program refurbish older computers for donation to organizations and programs serving children. More than 7,000 computers have been donated to organizations since 2001. Inmates, in turn, receive job training in computer diagnostics and repair and an opportunity for job placement upon release.

*Other Programs*²⁸ – The Foundation accepted community donations and grants for past and present programs, including:²⁹

- Chaplaincy
- Culinary Arts
- Computer Education
- Education and Literacy Support
- Toastmaster Gavel Clubs
- Wellness Programs/Sports Equipment
- Lawtey Correctional Institution Law Equipment Maintenance
- Library Fund
- Reading Family Ties
- Literacy
- Ounce of Prevention
- Re-entry Program and Wellness Support

For the tax period beginning July 1, 2015 and ending June 30, 2016, the Foundation reported total revenue of \$695,920 and total expenditures of \$735,423.³⁰

Effect of Proposed Changes

HB 6059 removes the scheduled repeal date for the Foundation, the DSO for DOC. As a result, the DSO will remain in existence unless the legislature determines that another review is necessary.

This bill provides an effective date of July 1, 2018.

B. SECTION DIRECTORY:

Section 1: Amends s. 944.802, F.S., relating to direct-support organization; definition; use of property; board of directors; audit.

Section 2: Provides an effective date of July 1, 2018.

²⁶ Id.

²⁷ Id.

²⁸ Id.

²⁹ Id.

³⁰ Id.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES