

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 527 Visiting County and Municipal Detention Facilities

**SPONSOR(S):** Criminal Justice & Public Safety Subcommittee, Benjamin

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 206

| REFERENCE  | ACTION           | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|--|------------------|---------|--|
| 1) Criminal Justice & Public Safety Subcommittee | 17 Y, 0 N, As CS | Mathews | Hall                                     |
| 2) Public Integrity & Elections Committee        |                  |         |  |
| 3) Judiciary Committee                           |                  |         |  |

### SUMMARY ANALYSIS

Florida's correctional system includes state-run correctional institutions, county and municipal detention facilities, and state juvenile facilities. State correctional institutions are overseen by the Department of Corrections (DOC), whereas county and municipal detention facilities are under the management and supervision of the county or municipality in which the facility is located. State juvenile facilities are funded and managed through collaboration between the state and local governments.

State facilities, including juvenile facilities, permit certain individuals and public officials to visit at their pleasure. Specifically, the Governor, Cabinet members, members of the Florida House of Representatives and the Florida Senate, and other specified persons, may visit any state correctional facility without notice. However, for visitation of a state juvenile facility, the visit must take place between 6:00 a.m. and 11:00 p.m. unless a request for an after-hours visit has been approved.

Currently, there is no comparable right of visitation for the same specified persons in county and municipal detention facilities. If a public official wants to visit a county or municipal detention facility, he or she must do so under the rules and regulations established by the respective detention facility, sheriff, municipality, or board of county commissioners.

CS/HB 527 authorizes the following persons who are elected or appointed to serve the county or municipality in which the county or municipal detention facility is located to visit such facility at their pleasure:

- Members of the governing body of the county or municipality.
- Members of the Legislature.
- State court judges.
- State attorneys.
- Public defenders.
- Regional counsels.

The bill prohibits a county or municipal detention facility from unreasonably withholding permission to visit the facility from a professional journalist or writer.

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

The bill provides an effective date of July 1, 2021.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Detention Facilities

The Department of Corrections (DOC) oversees the supervision and custody of inmates and all buildings, grounds, property, and other matters relating to the imprisonment, correction, and rehabilitation of adult offenders.<sup>1</sup> The main types of detention centers are state correctional institutions, commonly referred to as “prisons,” and county or municipal detention facilities, commonly referred to as “jails.” Generally, inmates in county or municipal detention facilities are housed in the facility for up to one year and state correctional institutions or prisons are used for housing inmates for longer than one year.

##### *State Facilities*

A state correctional institution is any temporary or permanent prison, road camp, prison industry, prison forestry camp, or any prison camp or prison farm or correctional facility in which prisoners are housed, worked, or maintained under the custody and jurisdiction of DOC.<sup>2</sup> Section 944.23, F.S., authorizes specific persons to visit state correctional institutions at their pleasure, including:

- The Governor.
- Cabinet members.
- Members of the Legislature.
- State court judges.
- State attorneys.
- Public defenders.
- Authorized representatives of the Florida Commission on Offender Review.<sup>3</sup>

Currently, no other person may be permitted to enter or visit a state correctional institution except under regulations prescribed by DOC.<sup>4</sup> Permission to enter a state correctional facility may not be unreasonably withheld from bona fide reporters or writers.<sup>5</sup>

##### *County and Municipal Detention Facilities*

A county detention facility is a county jail, county stockade, county work camp, county residential probation center, and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of a felony or misdemeanor.<sup>6</sup> Each county sheriff’s office or board of county commissioners may establish the visitation rules for its respective detention facilities, including, but not limited to, who may be authorized to visit, visitation hours, dress codes, and admission requirements.<sup>7</sup>

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<sup>1</sup> S. 945.025(1), F.S.

<sup>2</sup> S. 944.02(8), F.S.

<sup>3</sup> The Florida Commission on Offender Review is a quasi-judicial body that presides over hearings on post release decisions affecting inmates and ex-offenders throughout the state. The Commission makes a variety of determinations regarding parole and other releases and reviews releasees’ supervision status every two years. Florida Commission on Offender Review, *Organization Overview*, <https://www.fcor.state.fl.us/overview.shtml> (last visited Mar. 22, 2021).

<sup>4</sup> S. 944.23, F.S.

<sup>5</sup> The terms “bona fide reporter” and “writer” are undefined in s. 944.23, F.S.

<sup>6</sup> S. 951.23(1)(a), F.S.

<sup>7</sup> For example, see Nassau County Sheriff’s Office, Jail Visitation, <https://nassauso.com/corrections/jail-visitation> (last visited Mar. 22, 2021).

A municipal detention facility is a city jail, city stockade, city prison camp, and any other place except a county detention facility used by a municipality or municipal officer for the detention of persons charged with or convicted of violation of municipal laws or ordinances.<sup>8</sup>

A county or municipality may also extend specific visitation rules for private attorneys, state attorneys, and public defenders.<sup>9</sup> There is no comparable provision in current law authorizing specific persons and officials to visit county or municipal detention facilities as there is for state correctional institutions.

### *Juvenile Facilities*

A juvenile detention center or facility is a facility used pending court adjudication or disposition or execution of court order for the temporary care of a juvenile alleged or found to have committed a criminal offense.<sup>10</sup> In 2018, the Legislature authorized specific individuals and public officials to be able to visit all facilities housing juveniles under the Department of Juvenile Justice (DJJ) or a county between the hours of 6:00 a.m. and 11:00 p.m.<sup>11</sup> The following persons are permitted to visit any juvenile facility during such specified hours:

- The Governor.
- Cabinet members.
- Members of the Legislature.
- State court judges.
- State attorneys.
- Public defenders.
- A person authorized by the Secretary of DJJ.<sup>12</sup>

DJJ may not unreasonably withhold permission to visit a juvenile facility from a person who provides sufficient proof that he or she is a bona fide reporter or writer.<sup>13</sup> Visitation may occur outside of the regularly established timeframe as necessary under rules adopted by DJJ.<sup>14</sup>

### **Effect of Proposed Changes**

CS/HB 527 authorizes the following persons to visit the respective county or municipal detention facility located in the county or municipality in which they are elected or appointed to serve at their pleasure:

- Members of the governing body of the county or municipality.
- Members of the Legislature.
- State court judges.
- State attorneys.
- Public defenders.
- Regional counsels.

Any person not listed above or otherwise authorized by law may not enter a county or municipal detention facility except under rules or regulations prescribed by the respective county or municipality. The bill prohibits permission for visitation from being unreasonably withheld from a person who gives sufficient evidence that he or she is a professional journalist or writer.

The bill defines a “professional journalist” as a person regularly engaged in collecting, photographing, recording, writing, editing, reporting, or publishing news, for gain or livelihood, who obtained the information sought while working as a salaried employee of, or independent contractor for, a

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<sup>8</sup> S. 951.23(1)(d), F.S.

<sup>9</sup> For example, see Broward County Sheriff’s Office, Attorney Information, <https://www.sheriff.org/DOD/Pages/Attorney-Info.aspx> (last visited Mar. 22, 2021).

<sup>10</sup> S. 985.03(19), F.S.

<sup>11</sup> Ch. 2018-47, Laws of Fla.

<sup>12</sup> S. 985.6885, F.S.

<sup>13</sup> S. 985.6885, F.S. This section does not define bona fide reporter or writer.

<sup>14</sup> See Florida DJJ, *Visitation*, <http://www.djj.state.fl.us/youth-families/visitation> (last visited Mar. 22, 2021).

newspaper, news journal, news agency, press association, wire service, radio or television station, network, or news magazine.<sup>15</sup>

The bill provides an effective date of July 1, 2021.

**B. SECTION DIRECTORY:**

**Section 1:** Creates s. 951.225, F.S., relating to persons authorized to visit county and municipal detention facilities.

**Section 2:** Provides an effective date of July 1, 2021.

**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:

None.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

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<sup>15</sup> Book authors and others who are not professional journalists, as defined in this paragraph, are not included in the provisions of this section. S. 90.5015, F.S.

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 22, 2021, the Criminal Justice and Public Safety Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment revised the persons eligible to visit a county or municipal detention facility at their pleasure to specified elected or appointed officials serving in the county or municipality where the detention facility is located. The amendment also added regional counsels to the list of persons eligible to visit county or municipal detention facilities under the bill.

This analysis is drafted to the committee substitute as passed by the Criminal Justice and Public Safety Subcommittee.