

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 963 Funding For Sheriffs

SPONSOR(S): Appropriations Committee, Health Care Appropriations Subcommittee, Hunschofsky

TIED BILLS: IDEN./SIM. BILLS: CS/SB 1452

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Care Appropriations Subcommittee	13 Y, 0 N, As CS	Fontaine	Clark
2) Appropriations Committee	25 Y, 0 N, As CS	Harrington	Pridgeon

SUMMARY ANALYSIS

Each sheriff must annually prepare and submit to the board of county commissioners a proposed budget for carrying out the powers, duties, and operations of the office for the next fiscal year. The proposed budget must show the estimated amounts of all proposed expenditures for operating and equipping the sheriff's office and jail, and must be categorized at the appropriate fund and functional level. At a public hearing, the board of county commissioners or the budget commission, as appropriate, may amend, modify, increase, or reduce any or all items of expenditures in the proposed budget and must ultimately approve such budget.

A child protective investigation is instigated when a credible report of child abuse, neglect, or abandonment is received by the Florida Abuse Hotline. An investigation entails determining if the allegation meets the statutory criteria to be accepted for an investigation, gathering of information, and making a determination of whether child maltreatment occurred or if the child is at-risk of abuse or neglect. The Department of Children and Families (DCF) conducts child protective investigations in 60 counties while the local sheriffs perform investigations in seven counties. Funding to sheriffs who perform such investigations is governed through a contractual agreement with DCF.

The bill clarifies that a sheriff may transfer funds between fund and functional categories and object and subobject code levels after his or her budget has been approved by the board of county commissioners or budget commission.

The bill permits a sheriff, who is under contract with DCF to conduct child protective investigations, to carry forward unused state funding from one fiscal year to the next. The bill caps the carry forward of unexpended funding to eight percent of the total contract amount or grant award agreement. Any unused funding in excess of the eight percent cap must be returned to DCF. The bill limits the use of carry forward funding, such that it:

- Cannot be used to increase a recurring obligation;
- Cannot be used for a program or service that is not authorized by the existing contract with DCF; and,
- Must be reported to the department separately from other funding.

The bill further specifies that all unexpended funding must be returned to DCF should a sheriff's office no longer provide child protective investigations.

This bill does not have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Sheriff's Budgets, Generally

Each sheriff must annually prepare and submit to the board of county commissioners a proposed budget for carrying out the powers, duties, and operations of the office for the next fiscal year.¹ The sheriff must submit a sworn certificate along with the proposed budget stating that the proposed expenditures are reasonable and necessary for the proper and efficient operation of the office for the next fiscal year.²

The proposed budget must show the estimated amounts of all proposed expenditures for operating and equipping the sheriff's office and jail, and must be categorized at the appropriate fund and functional level.³ The fund or functional level is the broadest category within the sheriff's budget (includes general law enforcement, corrections and detention alternative facilities, court services). Within the appropriate fund and functional category, expenditures are further itemized into objects, which include:⁴

- Personnel services;
- Operating expenses;
- Capital outlay;
- Debt service;
- Grants and aides; and
- Other uses.

If requested by the county, the sheriff must further break down expenses into the subobject level.⁵ The county may not amend, modify, increase, or reduce any expenditure at this subobject level.⁶

At a public hearing, the board of county commissioners or the budget commission, as appropriate, may amend, modify, increase, or reduce any or all items of expenditures in the proposed budget and must ultimately approve the budget.⁷

Any county constitutional officer whose budget is approved by the board of county commissioners, who has not been reelected to office or is not seeking reelection, must be prohibited from making any budget amendments, transferring funds between itemized appropriations, or expending in a single month more than one-twelfth of any itemized approved appropriation, following the date he or she is eliminated as a candidate or October 1, whichever comes later, without approval of the board of county commissioners.⁸ As such, current law provides that when a sheriff is no longer seeking reelection or has not been reelected, the sheriff loses the ability to transfer funds between itemized appropriations without approval of the board of county commissioners. Until then, the sheriff appears to retain flexibility to administer his office within the general parameters of his or her budget.⁹ This year, however, the Florida Supreme Court held that a sheriff must follow the budget amendment process established in ch. 129, F.S., before transferring funds between objects in his or her budget.¹⁰

¹ Section 30.49, F.S.

² Section 30.49(2)(b), F.S.

³ Section 30.49(2), F.S.

⁴ Section 30.49(2)(c), F.S.

⁵ Section 30.49(3), F.S.

⁶ *Id.*

⁷ Section 30.49(4), F.S.

⁸ Section 129.06(5), F.S.

⁹ *Id.*, see also ss. 30.15 and 30.53, F.S., illustrating that a sheriff has independence to exercise his or her constitutional duties.

¹⁰ *Alachua County, FL v. Watson, Jr.*, No. SC19-2016 (January 27, 2022). In this case, the Sheriff moved \$840,000 between objects without county approval. Both the trial court and the First District, however, held that the Sheriff had authority to make such transfers without approval, recognizing the Sheriff's budgetary independence.

Sheriff's Budgets, Child Protective Investigations

A child protective investigation is instigated when a credible report of child abuse, neglect, or abandonment is received by the Florida Abuse Hotline. An investigation entails determining if the allegation meets the statutory criteria to be accepted for an investigation, gathering of information, and making a determination of whether child maltreatment occurred or if the child is at-risk of abuse or neglect. Pursuant to s. 39.3065 F.S., since 1998, the Department of Children and Families (DCF) has been authorized to enter into contracts with county sheriffs to provide child protective investigations. An investigation begins when the Florida Abuse Hotline receives a report that a child has been abused, abandoned, or neglected. Currently, DCF is responsible for performing child protective investigations in 60 counties statewide, while sheriff's offices are responsible for performing child protective investigations in seven counties.

Funding for sheriffs who perform child protective investigations is provided annually in the General Appropriations Act (GAA). Although DCF provides funding, state monies are not the only source of funding for sheriff's offices. They receive other grants, including federal funding, for operations and programs. Funding provided for child protective investigations may not be integrated into the sheriff's regular operating budgets, and the accounting of such must be maintained separately from all other records and must be reported to DCF as specified in the grant agreement.¹¹ For Fiscal Year 2021-2022, the GAA provided \$57,673,013 to seven sheriffs for child protective investigation services. At the end of the fiscal year, each sheriff must return undisbursed appropriations to DCF. On average, over the past three years, sheriffs have remitted \$1,100,000 annually.

DCF also contracts with Community Based Care (CBC) lead agencies for child welfare activities. CBC lead agencies, however, are authorized to carry forward unexpended state funds from one fiscal year to the next, but the amount is capped at eight percent.¹²

Effect of the Bill

The bill clarifies that a sheriff may transfer funds between fund and functional categories and object and subobject code levels after his or her budget has been approved by the board of county commissioners or budget commission.

The bill allows a sheriff that provides child protective investigation services to carry forward documented, unexpended state funds from one fiscal year to the next. However, the cumulative amount carried forward may not exceed eight percent of the total contract or grant agreement. Funding in excess of the eight percent cap must be returned to DCF.

The bill specifies that the funds carried forward cannot be used to create a recurring obligation, or towards any program or service that is not currently authorized by the existing contract or grant agreement. The expenditure of funds carried forward must be separately reported to DCF. Also, a sheriff must return all unexpended funds, regardless of source, to the department if that sheriff's office discontinues providing child protective investigation services.

B. SECTION DIRECTORY:

Section 1. Amends s. 30.49, F.S., authorizing a sheriff to transfer funds between specified categories and code levels after his or her budget is approved.

Section 2. Amends s. 39.3065, F.S., allowing sheriffs to carry forward unexpended state funds provided for child protective investigations.

Section 3. Amends s. 129.06, F.S., conforming provisions to changes made by the act.

Section 4. Provides an effective date of July 1, 2022.

¹¹ Section 39.3065, F.S.

¹² Section 409.990, F.S.

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:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill does not affect revenues or expenditures for a state entity, local government, or the private sector; however, the bill allows for certain sheriff's offices to carry forward state funding provided for child protective investigations from one fiscal year to the next. Each sheriff's total amount of carry forward cannot exceed eight percent of its total contract amount with DCF. This may affect reversions to the General Revenue Fund in an insignificant way.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 14, 2022, the Health Care Appropriations Subcommittee adopted an amendment specifying that sheriffs may only carry forward state funds from one fiscal year to the next, as federal law does not allow federal funds to be carried forward.

On February 22, 2022, the Appropriations Committee adopted a proposed committee substitute (PCS) and reported the bill favorably with committee substitute. The PCS added a provision to the underlying bill to

allow sheriffs to transfer funds between fund and functional categories and object and subobject code levels after the budget has been approved by the board of county commissioners or budget commission.

This analysis is drafted to the committee substitute as approved by the Appropriations Committee.