

CHAPTER 2018-127

Committee Substitute for Committee Substitute for Senate Bill No. 1392

An act relating to criminal justice; amending s. 20.315, F.S.; requiring the Department of Corrections to include information in its annual report on inmate admission based on offense type and recidivism rate; creating s. 900.05, F.S.; providing legislative intent; declaring an important state interest; providing definitions; requiring specified entities to collect and periodically transmit specific data to the Department of Law Enforcement; requiring the department to compile, maintain, and make publicly accessible such data; providing sanctions for noncompliance by an entity required to collect and transmit data; creating s. 901.41, F.S.; providing legislative intent; encouraging local communities and public or private educational institutions to implement prearrest diversion programs for certain offenders; encouraging prearrest diversion programs to share information with other prearrest diversion programs; authorizing law enforcement officers, at their sole discretion, to issue a civil citation or similar prearrest diversion program notice under specified circumstances to adults who commit certain misdemeanor offenses; requiring an adult who receives a civil citation or similar prearrest diversion program notice to report for intake as required by the prearrest diversion program; requiring that the prearrest diversion program provide specified services to adults who participate, as appropriate; requiring that an adult who is issued a civil citation or similar prearrest diversion program notice fulfill a community service requirement; requiring the adult to pay restitution to a victim; requiring law enforcement officers to determine whether there is good cause to arrest participants who do not successfully complete a prearrest diversion program and, if so, to refer the case to the state attorney, or, in the absence of good cause, to allow the participant to continue in the program; requiring representatives of specified entities to create the prearrest diversion program; requiring the entities to develop policies and procedures for the development and operation of the program, including designation of the misdemeanor offenses that qualify persons for participation, and to solicit input from other interested stakeholders; authorizing specified entities to operate programs; requiring prearrest diversion program operators to electronically provide participants' personal identifying information to the clerk of the circuit court; specifying requirements for the clerks' handling and maintenance of certain information; requiring that a portion of any participation fee go to the appropriate clerk of the circuit court; requiring fees received by the clerks of the circuit court to be deposited in a certain fund; providing applicability; specifying that certain offenses are ineligible for such programs; amending s. 907.043, F.S.; requiring each pretrial release program to include in its annual report the types of criminal charges of defendants accepted into a pretrial release program, the number of defendants accepted into a pretrial release program who paid a bail or

bond, the number of defendants accepted into a pretrial release program with no prior criminal conviction, and the number of defendants for whom a pretrial risk assessment tool was used or was not; amending s. 921.0024, F.S.; requiring scoresheets prepared for all criminal defendants to be digitized; requiring the Department of Corrections to develop and submit revised digitized scoresheets to the Supreme Court for approval; requiring digitized scoresheets to include individual data cells for each field on the scoresheet; requiring the clerk of court to electronically transmit the digitized scoresheet used in each sentencing proceeding to the department; amending s. 943.0582, F.S.; requiring, rather than authorizing, the Department of Law Enforcement to adopt rules for the expunction of certain nonjudicial records of the arrest of a minor upon successful completion by the minor of certain diversion programs; providing and revising definitions; revising the circumstances under which the department must expunge certain nonjudicial arrest records; deleting the department's authority to charge a processing fee for the expunction; creating s. 943.687, F.S.; requiring the Department of Law Enforcement to collect, compile, maintain, and manage data collected pursuant to s. 900.05, F.S.; requiring the department to make data comparable, transferable, and readily usable; requiring an Internet-based database; providing requirements for data searchability and sharing; requiring monitoring of data collection procedures; providing for data archiving, editing, and retrieval; creating s. 945.041, F.S.; requiring the Department of Corrections to publish quarterly on its website inmate admissions based on offense type and recidivism rate; amending s. 985.12, F.S.; providing legislative findings and intent; deleting provisions establishing a juvenile civil citation process with a certain purpose; establishing a civil citation or similar prearrest diversion program in each judicial circuit, rather than at the local level, with the concurrence of specified persons; requiring that the state attorney and public defender of each circuit, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies create a civil citation or similar prearrest diversion program and develop its policies and procedures; authorizing such entities to solicit stakeholders for input in developing the program's policies and procedures; requiring the Department of Juvenile Justice to annually develop and provide guidelines on civil citation or similar prearrest diversion programs to the judicial circuits; providing requirements for the civil citation or similar prearrest diversion program; requiring the state attorney of each judicial circuit to operate the civil citation or similar prearrest diversion program; providing an exception; providing construction; requiring the arresting law enforcement officer to make a determination if a juvenile does not successfully complete the civil citation or similar prearrest diversion program; deleting provisions relating to the operation of and requirements for a civil citation or similar prearrest diversion program; requiring that a copy of each civil citation or similar prearrest diversion program notice be provided to the Department of Juvenile Justice; conforming provisions to changes made by the act; deleting provisions relating to requirements for a civil citation or similar prearrest diversion program; amending s. 985.125, F.S.; conforming a provision to

changes made by the act; amending s. 985.145, F.S.; requiring the department to enter information pertaining to a first-time misdemeanor offense into Prevention Web until formal charges are filed; requiring the department to retain records of a first-time misdemeanor offense in Prevention Web if formal charges are not filed; creating s. 985.126, F.S.; defining the term “diversion program”; requiring a diversion program to submit to the department specified data relating to diversion programs; requiring a law enforcement agency to submit to the department specified data about diversion programs; requiring the department to compile and publish the data in a specified manner; authorizing a minor under certain circumstances to deny or fail to acknowledge his or her expunction of a certain nonjudicial arrest record unless an exception applies; requiring the department to adopt rules; creating a pilot project in a specified judicial circuit to improve criminal justice data transparency and ensure data submitted under s. 900.05, F.S., is accurate, valid, reliable, and structured; permitting a memorandum of understanding with a national, nonpartisan, not-for-profit foundation meeting certain criteria for the purpose of embedding a data fellow in the office or agency; establishing data fellow duties and responsibilities; providing for the expiration of the pilot project; providing appropriations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 20.315, Florida Statutes, is amended to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(5) ANNUAL REPORTING.—The department shall report annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives recounting its activities and making recommendations for improvements to the performance of the department. The annual report shall include information published under s. 945.041.

Section 2. Section 900.05, Florida Statutes, is created to read:

900.05 Criminal justice data collection.—

(1) LEGISLATIVE FINDINGS AND INTENT.—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 making such data available to the public. The Legislature finds that it is an important state interest to implement a uniform data collection process and promote criminal justice data transparency.

(2) DEFINITIONS.—As used in this section, the term:

(a) “Annual felony caseload” means the yearly caseload of each full-time state attorney and assistant state attorney or public defender and assistant public defender for cases assigned to the circuit criminal division, based on the number of felony cases reported to the Supreme Court under s. 25.075. The term does not include the appellate caseload of a public defender or assistant public defender. Cases reported pursuant to this term must be associated with a case number and each case number must only be reported once regardless of the number of attorney assignments that occur during the course of litigation.

(b) “Annual misdemeanor caseload” means the yearly caseload of each full-time state attorney and assistant state attorney or public defender and assistant public defender for cases assigned to the county criminal division, based on the number of misdemeanor cases reported to the Supreme Court under s. 25.075. The term does not include the appellate caseload of a public defender or assistant public defender. Cases reported pursuant to this term must be associated with a case number and each case number must only be reported once regardless of the number of attorney assignments that occur during the course of litigation.

(c) “Attorney assignment date” means 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.

(d) “Attorney withdrawal date” means 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.

(e) “Case number” means the identification number assigned by the clerk of court to a criminal case.

(f) “Case status” means whether a case is open, inactive, closed, or reopened due to a violation of probation or community control.

(g) “Charge description” means the statement of the conduct that is alleged to have been violated, the associated statutory section establishing such conduct as criminal, and the misdemeanor or felony classification that is provided for in the statutory section alleged to have been violated.

(h) “Charge modifier” means an aggravating circumstance of an alleged crime that enhances or reclassifies a charge to a more serious misdemeanor or felony offense level.

(i) “Concurrent or consecutive sentence flag” means an indication that a defendant is serving another sentence concurrently or consecutively in addition to the sentence for which data is being reported.

(j) “Daily number of correctional officers” means 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 county detention facility or state correctional institution or facility each day.

(k) “Defense attorney type” means whether the attorney is a public defender, regional conflict counsel, or other counsel court-appointed for the defendant; the attorney is privately retained by the defendant; or the defendant is represented pro se.

(l) “Deferred prosecution or pretrial diversion agreement date” means the date a contract is signed by the parties regarding a defendant’s admission into a deferred prosecution or pretrial diversion program.

(m) “Deferred prosecution or pretrial diversion hearing date” means each date that a hearing, including a status hearing, is held on a case that is in a deferred prosecution or pretrial diversion program, if applicable.

(n) “Disciplinary violation and action” means any conduct performed by an inmate in violation of the rules of a county detention facility or state correctional institution or facility that results in the initiation of disciplinary proceedings by the custodial entity and the consequences of such disciplinary proceedings.

(o) “Disposition date” means the date of final judgment, adjudication, adjudication withheld, dismissal, or nolle prosequi for the case and if different dates apply, the disposition dates of each charge.

(p) “Domestic violence flag” means an indication that a charge involves domestic violence as defined in s. 741.28.

(q) “Gang affiliation flag” means an indication that a defendant is involved in or associated with a criminal gang as defined in s. 874.03.

(r) “Gain-time credit earned” means a credit of time awarded to an inmate in a county detention facility in accordance with s. 951.22 or a state correctional institution or facility in accordance with s. 944.275.

(s) “Habitual offender flag” means an indication that a defendant is a habitual felony offender as defined in s. 775.084 or a habitual misdemeanor offender as defined in s. 775.0837.

(t) “Judicial transfer date” means a date on which a defendant’s case is transferred to another court or presiding judge.

(u) “Number of contract attorneys representing indigent defendants for the office of the public defender” means the number of attorneys hired on a temporary basis, by contract, to represent indigent clients who were appointed a public defender.

(v) “Pretrial release violation flag” means an indication that the defendant has violated the terms of his or her pretrial release.

(w) “Prior incarceration within the state” means any prior history of a defendant being incarcerated in a county detention facility or state correctional institution or facility.

(x) “Tentative release date” means the anticipated date that an inmate will be released from incarceration after the application of adjustments for any gain-time earned or credit for time served.

(y) “Sexual offender flag” means an indication that a defendant required to register as a sexual predator as defined in s. 775.21 or as a sexual offender as defined in s. 943.0435.

(3) DATA COLLECTION AND REPORTING.—Beginning January 1, 2019, an entity required to collect data in accordance with this subsection shall collect the specified data required of the entity on a biweekly basis. Each entity shall report the data collected in accordance with this subsection to the Department of Law Enforcement on a monthly basis.

(a) Clerk of the court.—Each clerk of court shall collect the following data for each criminal case:

1. Case number.
2. Date that the alleged offense occurred.
3. County in which the offense is alleged to have occurred.
4. Date the defendant is taken into physical custody by a law enforcement agency or is issued a notice to appear on a criminal charge, if such date is different from the date the offense is alleged to have occurred.
5. Date that the criminal prosecution of a defendant is formally initiated through the filing, with the clerk of the court, of an information by the state attorney or an indictment issued by a grand jury.
6. Arraignment date.
7. Attorney assignment date.
8. Attorney withdrawal date.
9. Case status.
10. Disposition date.
11. Information related to each defendant, including:
 - a. Identifying information, including name, date of birth, age, race or ethnicity, and gender.
 - b. Zip code of primary residence.
 - c. Primary language.
 - d. Citizenship.
 - e. Immigration status, if applicable.

f. Whether the defendant has been found by a court to be indigent pursuant to s. 27.52.

12. Information related to the formal charges filed against the defendant, including:

a. Charge description.

b. Charge modifier, if applicable.

c. Drug type for each drug charge, if known.

d. Qualification for a flag designation as defined in this section, including a domestic violence flag, gang affiliation flag, sexual offender flag, habitual offender flag, or pretrial release violation flag.

13. Information related to bail or bond and pretrial release determinations, including the dates of any such determinations:

a. Pretrial release determination made at a first appearance hearing that occurs within 24 hours of arrest, including all monetary and nonmonetary conditions of release.

b. Modification of bail or bond conditions made by a court having jurisdiction to try the defendant or, in the absence of the judge of the trial court, by the circuit court, including modifications to any monetary and nonmonetary conditions of release.

c. Cash bail or bond payment, including whether the defendant utilized a bond agent to post a surety bond.

d. Date defendant is released on bail, bond, or pretrial release.

e. Bail or bond revocation due to a new offense, a failure to appear, or a violation of the terms of bail or bond, if applicable.

14. Information related to court dates and dates of motions and appearances, including:

a. Date of any court appearance and the type of proceeding scheduled for each date reported.

b. Date of any failure to appear in court, if applicable.

c. Judicial transfer date, if applicable.

d. Trial date.

e. Date that a defendant files a notice to participate in discovery.

f. Speedy trial motion and hearing dates, if applicable.

g. Dismissal motion and hearing dates, if applicable.

15. Defense attorney type.

16. Information related to sentencing, including:

a. Date that a court enters a sentence against a defendant.

b. Charge sentenced to, including charge sequence number, charge description, statute, type, and charge class severity.

c. Sentence type and length imposed by the court, including, but not limited to, the total duration of imprisonment in a county detention facility or state correctional institution or facility, and conditions probation or community control supervision.

d. Amount of time served in custody by the defendant related to the reported criminal case that is credited at the time of disposition of the case to reduce the actual length of time the defendant will serve on the term of imprisonment that is ordered by the court at disposition.

e. Total amount of court fees imposed by the court at the disposition of the case.

f. Outstanding balance of the defendant's court fees imposed by the court at disposition of the case.

g. Total amount of fines imposed by the court at the disposition of the case.

h. Outstanding balance of the defendant's fines imposed by the court at disposition of the case.

i. Restitution amount ordered, including the amount collected by the court and the amount paid to the victim, if applicable.

j. Digitized sentencing scoresheet prepared in accordance with s. 921.0024.

17. The number of judges or magistrates, or their equivalents, hearing cases in circuit or county criminal divisions of the circuit court. Judges or magistrates, or their equivalents, who solely hear appellate cases from the county criminal division are not to be reported under this subparagraph.

(b) State attorney.—Each state attorney shall collect the following data:

1. Information related to a human victim of a criminal offense, including:

a. Identifying information of the victim, including race or ethnicity, gender, and age.

b. Relationship to the offender, if any.

2. Number of full-time prosecutors.

- 3. Number of part-time prosecutors.
- 4. Annual felony caseload.
- 5. Annual misdemeanor caseload.
- 6. Any charge referred to the state attorney by a law enforcement agency related to an episode of criminal activity.
- 7. Number of cases in which a no-information was filed.
- 8. Information related to each defendant, including:
 - a. Each charge referred to the state attorney by a law enforcement agency related to an episode of criminal activity.
 - b. Drug type for each drug charge, if applicable.
 - (c) Public defender.—Each public defender shall collect the following data for each criminal case:
 - 1. Number of full-time public defenders.
 - 2. Number of part-time public defenders.
 - 3. Number of contract attorneys representing indigent defendants for the office of the public defender.
 - 4. Annual felony caseload.
 - 5. Annual misdemeanor caseload.
 - (d) County detention facility.—The administrator of each county detention facility shall collect the following data:
 - 1. Maximum capacity for the county detention facility.
 - 2. Weekly admissions to the county detention facility for a revocation of probation or community control.
 - 3. Daily population of the county detention facility, including the specific number of inmates in the custody of the county that:
 - a. Are awaiting case disposition.
 - b. Have been sentenced by a court to a term of imprisonment in the county detention facility.
 - c. Have been sentenced by a court to a term of imprisonment with the Department of Corrections and who are awaiting transportation to the department.

d. Have a federal detainer or are awaiting disposition of a case in federal court.

4. Information related to each inmate, including:

a. Date a defendant is processed into the county detention facility subsequent to an arrest for a new violation of law or for a violation of probation or community control.

b. Reason why a defendant is processed into the county detention facility if it is for a new law violation or a violation of probation or community control.

c. Qualification for a flag designation as defined in this section, including domestic violence flag, gang affiliation flag, habitual offender flag, pretrial release violation flag, or sexual offender flag.

5. Total population of the county detention facility at year-end. This data must include the same specified classifications as subparagraph 3.

6. Per diem rate for a county detention facility bed.

7. Daily number of correctional officers for the county detention facility.

8. Annual county detention facility budget. This information only needs to be reported once annually at the beginning of the county's fiscal year.

9. Revenue generated for the county from the temporary incarceration of federal defendants or inmates.

(e) Department of Corrections.—The Department of Corrections shall collect the following data:

1. Information related to each inmate, including:

a. Identifying information, including name, date of birth, race or ethnicity, and identification number assigned by the department.

b. Number of children.

c. Education level, including any vocational training.

d. Date the inmate was admitted to the custody of the department.

e. Current institution placement and the security level assigned to the institution.

f. Custody level assignment.

g. Qualification for a flag designation as defined in this section, including sexual offender flag, habitual offender flag, gang affiliation flag, or concurrent or consecutive sentence flag.

- h. County that committed the prisoner to the custody of the department.
- i. Whether the reason for admission to the department is for a new conviction or a violation of probation, community control, or parole. For an admission for a probation, community control, or parole violation, the department shall report whether the violation was technical or based on a new violation of law.
- j. Specific statutory citation for which the inmate was committed to the department, including, for an inmate convicted of drug trafficking under s. 893.135, the statutory citation for each specific drug trafficked.
- k. Length of sentence or concurrent or consecutive sentences served.
- l. Tentative release date.
- m. Gain time earned in accordance with s. 944.275.
- n. Prior incarceration within the state.
- o. Disciplinary violation and action.
- p. Participation in rehabilitative or educational programs while in the custody of the department.
- 2. Information about each state correctional institution or facility, including:
 - a. Budget for each state correctional institution or facility.
 - b. Daily prison population of all inmates incarcerated in a state correctional institution or facility.
 - c. Daily number of correctional officers for each state correctional institution or facility.
- 3. Information related to persons supervised by the department on probation or community control, including:
 - a. Identifying information for each person supervised by the department on probation or community control, including his or her name, date of birth, race or ethnicity, sex, and department-assigned case number.
 - b. Length of probation or community control sentence imposed and amount of time that has been served on such sentence.
 - c. Projected termination date for probation or community control.
 - d. Revocation of probation or community control due to a violation, including whether the revocation is due to a technical violation of the conditions of supervision or from the commission of a new law violation.

4. Per diem rates for:
 - a. Prison bed.
 - b. Probation.
 - c. Community control.

This information only needs to be reported once annually at the time the most recent per diem rate is published.

(4) DATA PUBLICLY AVAILABLE.—Beginning January 1, 2019, the Department of Law Enforcement shall publish datasets in its possession in a modern, open, electronic format that is machine-readable and readily accessible by the public on the department’s website. The published data must be searchable, at a minimum, by each data element, county, circuit, and unique identifier. Beginning March 1, 2019, the department shall begin publishing the data received under subsection (2) in the same modern, open, electronic format that is machine-readable and readily accessible to the public on the department’s website. The department shall publish all data received under subsection (2) no later than July 1, 2019.

(5) NONCOMPLIANCE.—Notwithstanding any other provision of law, an entity required to collect and transmit data under subsection (3)(a) or (3)(d) which does not comply with the requirements of this section is ineligible to receive funding from the General Appropriations Act, any state grant program administered by the Department of Law Enforcement, or any other state agency for 5 years after the date of noncompliance.

Section 3. Section 901.41, Florida Statutes, is created to read:

901.41 Prearrest diversion programs.—

(1) LEGISLATIVE INTENT.—The Legislature encourages local communities and public or private educational institutions to implement prearrest diversion programs that afford certain adults who fulfill specified intervention and community service obligations the opportunity to avoid an arrest record. The Legislature does not mandate that a particular prearrest diversion program for adults be adopted, but finds that the adoption of the model program provided in this section would allow certain adults to avoid an arrest record while ensuring that they receive appropriate services and fulfill their community service obligations. If a prearrest diversion program is implemented, the program is encouraged to share information with other prearrest diversion programs.

(2) MODEL PREARREST DIVERSION PROGRAM.—Local communities and public or private educational institutions may adopt a prearrest diversion program in which:

(a) Law enforcement officers, at their sole discretion, may issue a civil citation or similar prearrest diversion program notice to certain adults who

commit a qualifying misdemeanor offense, as determined by the representatives that develop the program under subsection (3). A civil citation or similar prearrest diversion program notice may be issued if the adult who commits the offense:

1. Admits that he or she committed the offense or does not contest the offense; and

2. Has not previously been arrested and has not received an adult civil citation or similar prearrest diversion program notice, unless the terms of the local adult prearrest diversion program allow otherwise. The local adult prearrest diversion program shall establish a limit on the number of times an eligible adult may participate in the program.

(b) An adult who receives a civil citation or similar prearrest diversion program notice shall report for intake as required by the local prearrest diversion program and must be provided appropriate assessment, intervention, education, and behavioral health care services by the program. While in the local prearrest diversion program, the adult shall perform community service hours as specified by the program. The adult shall pay restitution due to the victim as a program requirement. If the adult does not successfully complete the prearrest diversion program, the law enforcement officer must determine if there is good cause to arrest the adult for the original misdemeanor offense and, if so, refer the case to the state attorney to determine whether prosecution is appropriate or, in the absence of a finding of good cause, allow the adult to continue in the program.

(3) PROGRAM DEVELOPMENT; IMPLEMENTATION; OPERATION.

(a) Representatives of participating law enforcement agencies, a representative of the program services provider, the public defender, the state attorney, and the clerk of the circuit court shall create the prearrest diversion program and develop its policies and procedures, including, but not limited to, eligibility criteria, program implementation and operation, and the determination of the fee, if any, to be paid by adults participating in the program. In developing the program's policies and procedures, which must include the designation of the misdemeanor offenses that qualify adults for participation in the program, the representatives must solicit input from other interested stakeholders. The program may be operated by an entity such as a law enforcement agency or a county or municipality, or other entity selected by the county or municipality.

(b) Upon intake of an adult participating in the prearrest diversion program, the program operator shall electronically provide the participant's personal identifying information to the clerk of the circuit court for the county in which the program provides services. Such information is not a court record, and the clerk of the circuit court shall maintain the confidentiality of the participant's personal identifying information as provided in subsection (5). The clerk of the circuit court shall maintain such information in a statewide database, which must provide a single point

of access for all such statewide information. If the program imposes a participation fee, the clerk of the circuit court must receive a reasonable portion, to be determined by the stakeholders creating the program, for receipt and maintenance of the required information. The fee shall be deposited by the clerk of the circuit court into the fine and forfeiture fund established under s. 142.01.

(4) APPLICABILITY.—This section does not preempt a county or municipality from enacting noncriminal sanctions for a violation of an ordinance or other violation, and it does not preempt a county, a municipality, or a public or private educational institution from creating its own model for a prearrest diversion program for adults.

(5) ELIGIBILITY.—A violent misdemeanor, a misdemeanor crime of domestic violence, as defined in s. 741.28, or a misdemeanor under s. 741.29, s. 741.31, s. 784.046, s. 784.047, s. 784.048, s. 784.0487, or s. 784.049 does not qualify for a civil citation or prearrest diversion program.

Section 4. Paragraph (b) of subsection (4) of section 907.043, Florida Statutes, is amended to read:

907.043 Pretrial release; citizens' right to know.—

(4)

(b) The annual report must contain, but need not be limited to:

1. The name, location, and funding sources of the pretrial release program, including the amount of public funds, if any, received by the pretrial release program.

2. The operating and capital budget of each pretrial release program receiving public funds.

3.a. The percentage of the pretrial release program's total budget representing receipt of public funds.

b. The percentage of the total budget which is allocated to assisting defendants obtain release through a nonpublicly funded program.

c. The amount of fees paid by defendants to the pretrial release program.

4. The number of persons employed by the pretrial release program.

5. The number of defendants assessed and interviewed for pretrial release.

6. The number of defendants recommended for pretrial release.

7. The number of defendants for whom the pretrial release program recommended against nonsecured release.

8. The number of defendants granted nonsecured release after the pretrial release program recommended nonsecured release.

9. The number of defendants assessed and interviewed for pretrial release who were declared indigent by the court.

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

11. 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.

12. The specific statutory citation for each criminal charge related to a defendant whose case is accepted into a pretrial release program, including, at a minimum, the number of defendants charged with dangerous crimes as defined in s. 907.041; nonviolent felonies; or misdemeanors only. A “nonviolent felony” for purposes of this subparagraph excludes the commission of, an attempt to commit, or a conspiracy to commit any of the following:

- a. An offense enumerated in s. 775.084(1)(c);
- b. An offense that requires a person to register as a sexual predator in accordance with s. 775.21 or as a sexual offender in accordance with s. 943.0435
- c. Failure to register as a sexual predator in violation of s. 775.21 or as a sexual offender in violation of s. 943.0435;
- d. Facilitating or furthering terrorism in violation of s. 775.31;
- e. A forcible felony as described in s. 776.08;
- f. False imprisonment in violation of s. 787.02;
- g. Burglary of a dwelling or residence in violation of s. 810.02(3).
- h. Abuse, aggravated abuse, and neglect of an elderly person or disabled adult in violation of s. 825.102;
- i. Abuse, aggravated abuse, and neglect of a child in violation of s. 827.03;
- j. Poisoning of food or water in violation of s. 859.01;
- k. Abuse of a dead human body in violation of s. 872.06;
- l. A capital offense in violation of chapter 893;
- m. An offense that results in serious bodily injury or death to another human; or

n. A felony offense in which the defendant used a weapon or firearm in the commission of the offense.

13. The number of defendants accepted into a pretrial release program with no prior criminal conviction.

14.10. The name and case number of each person granted nonsecured release who:

- a. Failed to attend a scheduled court appearance.
- b. Was issued a warrant for failing to appear.
- c. Was arrested for any offense while on release through the pretrial release program.

15.11. Any additional information deemed necessary by the governing body to assess the performance and cost efficiency of the pretrial release program.

Section 5. Subsections (3), (4), (5), (6), and (7) of section 921.0024, Florida Statutes, are amended to read:

921.0024 Criminal Punishment Code; worksheet computations; scoresheets.—

(3) A single digitized scoresheet shall be prepared for each defendant to determine the permissible range for the sentence that the court may impose, except that if the defendant is before the court for sentencing for more than one felony and the felonies were committed under more than one version or revision of the guidelines or the code, separate digitized scoresheets must be prepared. The scoresheet or scoresheets must cover all the defendant's offenses pending before the court for sentencing. The state attorney shall prepare the digitized scoresheet or scoresheets, which must be presented to the defense counsel for review for accuracy in all cases unless the judge directs otherwise. The defendant's scoresheet or scoresheets must be approved and signed by the sentencing judge.

(4) The Department of Corrections, in consultation with the Office of the State Courts Administrator, state attorneys, and public defenders, must develop and submit the revised digitized Criminal Punishment Code scoresheet to the Supreme Court for approval by June 15 of each year, as necessary. The digitized scoresheet shall have individual, structured data cells for each data field on the scoresheet. Upon the Supreme Court's approval of the revised digitized scoresheet, the Department of Corrections shall produce and provide ~~sufficient copies of~~ the revised digitized scoresheets by September 30 of each year, as necessary. Digitized scoresheets must include individual data cells to indicate item entries for the scoresheet preparer's use in indicating whether any prison sentence imposed includes a mandatory minimum sentence or the sentence imposed was a

downward departure from the lowest permissible sentence under the Criminal Punishment Code.

(5) The Department of Corrections shall make available ~~distribute sufficient copies of the~~ digitized Criminal Punishment Code scoresheets to those persons charged with the responsibility for preparing scoresheets.

(6) The clerk of the circuit court shall transmit a complete, and accurate ~~digitized, and legible~~ copy of the Criminal Punishment Code scoresheet used in each sentencing proceeding to the Department of Corrections. Scoresheets must be electronically transmitted no less frequently than monthly, by the first of each month, and may be sent collectively.

(7) A digitized sentencing scoresheet must be prepared for every defendant who is sentenced for a felony offense. ~~A copy of~~ The individual offender's digitized Criminal Punishment Code scoresheet and any attachments thereto prepared pursuant to Rule 3.701, Rule 3.702, or Rule 3.703, Florida Rules of Criminal Procedure, or any other rule pertaining to the preparation and submission of felony sentencing scoresheets, must be included with ~~attached to the copy of~~ the uniform judgment and sentence form provided to the Department of Corrections.

Section 6. Section 943.0582, Florida Statutes, is amended to read:

943.0582 ~~Prearrest, postarrest, or teen court~~ Diversion program expunction.—

(1) Notwithstanding any law dealing generally with the preservation and destruction of public records, the department shall adopt rules to ~~may provide, by rule adopted pursuant to chapter 120,~~ for the expunction of a ~~any~~ nonjudicial record of the arrest of a minor who has successfully completed a ~~prearrest or postarrest~~ diversion program for a misdemeanor offense ~~minors as authorized by s. 985.125.~~

(2)(a) As used in this section, the term:

(a) “Diversion program” means a program under s. 985.12, s. 985.125, s. 985.155, or s. 985.16 or a program to which a referral is made by a state attorney under s. 985.15.

(b) “Expunction” has the same meaning ascribed in and effect as s. 943.0585, except that:

1. The provisions of s. 943.0585(4)(a) do not apply, except that the criminal history record of a person whose record is expunged pursuant to this section shall be made available only to criminal justice agencies for the purpose of:

a. ~~Determining eligibility for prearrest, postarrest, or teen court~~ diversion programs;

b. ~~when the record is sought as part of~~ A criminal investigation; or

c. Making a prosecutorial decision under s. 985.15 ~~when the subject of the record is a candidate for employment with a criminal justice agency. For all other purposes, a person whose record is expunged under this section may lawfully deny or fail to acknowledge the arrest and the charge covered by the expunged record.~~

2. Records maintained by local criminal justice agencies in the county in which the arrest occurred that are eligible for expunction pursuant to this section shall be sealed as the term is used in s. 943.059.

~~(b) As used in this section, the term “nonviolent misdemeanor” includes simple assault or battery when prearrest or postarrest diversion expunction is approved in writing by the state attorney for the county in which the arrest occurred.~~

(3) The department shall expunge the nonjudicial arrest record of a minor who has successfully completed a ~~prearrest or postarrest~~ diversion program if that minor:

(a) Submits an application for ~~prearrest or postarrest~~ diversion expunction, on a form prescribed by the department, signed by the minor’s parent or legal guardian, or by the minor if he or she has reached the age of majority at the time of applying.

(b) Submits to the department, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that he or she has successfully completed that county’s ~~prearrest or postarrest~~ diversion program, that his or her participation in the program was based on an arrest for a ~~nonviolent~~ misdemeanor, and that he or she has not otherwise been charged by the state attorney with, or found to have committed, any criminal offense or comparable ordinance violation.

~~(c) Participated in a prearrest or postarrest diversion program that expressly authorizes or permits such expunction.~~

~~(d) Participated in a prearrest or postarrest diversion program based on an arrest for a nonviolent misdemeanor that would not qualify as an act of domestic violence as that term is defined in s. 741.28.~~

~~(c)(e)~~ Has never been, before filing the application for expunction, charged by the state attorney with, or found to have committed, any criminal offense or comparable ordinance violation.

~~(4) The department is authorized to charge a \$75 processing fee for each request received for prearrest or postarrest diversion program expunction, for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.~~

(4)(5) Expunction or sealing granted under this section does not prevent the minor who receives such relief from petitioning for the expunction or sealing of a later criminal history record as provided for in ss. 943.0583, 943.0585, and 943.059, if the minor is otherwise eligible under those sections.

Section 7. Section 943.687, Florida Statutes, is created to read:

943.687 Criminal justice data transparency.—In order to facilitate the availability of comparable and uniform criminal justice data, the department shall:

(1) Collect, compile, maintain, and manage the data submitted by local and state entities pursuant to s. 900.05 and coordinate related activities to collect and submit data. The department shall 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. The unique identifier shall be randomly created and may not include any portion of the person's social security number or date of birth.

(2) Promote criminal justice data sharing by making such data received under s. 900.05 comparable, transferable, and readily usable.

(3) Create and maintain an Internet-based database of criminal justice data received under s. 900.05 in a modern, open, electronic format that is machine-readable and readily accessible through an application program interface. The database shall allow the public to search, at a minimum, by each data element, county, judicial circuit, or unique identifier. The department may not require a license or charge a fee to access or receive information from the database.

(4) Develop written agreements with local, state, and federal agencies to facilitate criminal justice data sharing.

(5) Establish by rule:

(a) Requirements for the entities subject to the requirements of s. 900.05 to submit data through an application program interface.

(b) A data catalog defining data objects, describing data fields, and detailing the meaning of and options for each data element reported pursuant to s. 900.05.

(c) How data collected pursuant to s. 900.05 is compiled, processed, structured, used, or shared. The rule shall provide for tagging all information associated with each case number and unique identifier.

(d) Requirements for implementing and monitoring the Internet-based database under subsection (3).

(e) How information contained in the Internet-based database under subsection (3) is accessed by the public.

(6) Consult with local, state, and federal criminal justice agencies and other public and private users of the database under subsection (3) on the data elements collected under s. 900.05, the use of such data, and adding data elements to be collected.

(7) Monitor data collection procedures and test data quality to facilitate the dissemination of accurate, valid, reliable, and complete criminal justice data.

(8) Develop methods for archiving data, retrieving archived data, and data editing and verification.

Section 8. Section 945.041, Florida Statutes, is created to read:

945.041 Reports.—The department shall publish on its website and make available to the public the following information, updated on a quarterly basis:

(1) Inmate admissions by offense type. Burglary of dwelling offenses under s. 810.02(2), (3)(a), and (3)(b) shall be reported as a separate category from all other property crimes.

(2) The recidivism rate. As used in this subsection, the term “recidivism” means an inmate’s rearrest, reconviction, reincarceration, or probation revocation in the state within a 3-year time period following the inmate’s release from incarceration.

Section 9. Section 985.12, Florida Statutes, is amended to read:

985.12 Civil citation or similar prearrest diversion programs.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that the creation and implementation of civil citation or similar prearrest diversion programs at the judicial circuit level promotes public safety, aids interagency cooperation, and provides the greatest chance of success for civil citation and similar prearrest diversion programs. The Legislature further finds that the widespread use of civil citation and similar prearrest diversion programs has a positive effect on the criminal justice system and contributes to an overall reduction in the crime rate and recidivism in the state. The Legislature encourages but does not mandate that counties, municipalities, and public or private educational institutions participate in a civil citation or similar prearrest diversion program created by their judicial circuit under this section. There is established a juvenile civil citation process for the purpose of providing an efficient and innovative alternative to custody by the Department of Juvenile Justice for children who commit nonserious delinquent acts and to ensure swift and appropriate consequences. The department shall encourage and assist in the implementation and

improvement of civil citation programs or other similar diversion programs around the state.

(2) JUDICIAL CIRCUIT CIVIL CITATION OR SIMILAR PREARREST DIVERSION PROGRAM DEVELOPMENT, IMPLEMENTATION AND OPERATION.—

(a) A The civil citation or similar prearrest diversion program for misdemeanor offenses shall be established in each judicial circuit in the state. The at the local level with the concurrence of the chief judge of the circuit, state attorney and, public defender of each circuit, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit shall create a civil citation or similar prearrest diversion program and develop its policies and procedures. In developing the program’s policies and procedures, input from other interested stakeholders may be solicited. The department shall annually develop and provide guidelines on best practice models for civil citation or similar prearrest diversion programs to the judicial circuits as a resource.

(b) Each judicial circuit’s civil citation or similar prearrest diversion program must specify:

1. The misdemeanor offenses that qualify a juvenile for participation in the program;
2. The eligibility criteria for the program;
3. The program’s implementation and operation;
4. The program’s requirements, including, but not limited to, the completion of community service hours, payment of restitution, if applicable, and intervention services indicated by a needs assessment of the juvenile, approved by the department, such as family counseling, urinalysis monitoring, and substance abuse and mental health treatment services; and
5. A program fee, if any, to be paid by a juvenile participating in the program. If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.

(c) The state attorney of each circuit shall operate a civil citation or similar prearrest diversion program in each circuit. A sheriff, police department, county, municipality, or public or private educational institution may continue to operate an independent civil citation or similar prearrest diversion program that is in operation as of October 1, 2018, if the independent program is reviewed by the state attorney of the applicable circuit and he or she determines that the independent program is substantially similar to the civil citation or similar prearrest diversion program developed by the circuit. If the state attorney determines that the independent program is not substantially similar to the civil citation or similar prearrest diversion program developed by the circuit, the operator of

the independent diversion program may revise the program and the state attorney may conduct an additional review of the independent program.

(d) A judicial circuit may model an existing sheriff, police department, county, municipality, or public or private educational institution's independent civil citation or similar prearrest diversion program in developing the civil citation or similar prearrest diversion program for the circuit.

(e) If a juvenile does not successfully complete the civil citation or similar prearrest diversion program, the arresting law enforcement officer shall determine if there is good cause to arrest the juvenile for the original misdemeanor offense and refer the case to the state attorney to determine if prosecution is appropriate or allow the juvenile to continue in the program and the head of each local law enforcement agency involved. The program may be operated by an entity such as a law enforcement agency, the department, a juvenile assessment center, the county or municipality, or another entity selected by the county or municipality. An entity operating the civil citation or similar diversion program must do so in consultation and agreement with the state attorney and local law enforcement agencies. Under such a juvenile civil citation or similar diversion program, a law enforcement officer, upon making contact with a juvenile who admits having committed a misdemeanor, may choose to issue a simple warning or inform the child's guardian or parent of the child's infraction, or may issue a civil citation or require participation in a similar diversion program, and assess up to 50 community service hours, and require participation in intervention services as indicated by an assessment of the needs of the juvenile, including family counseling, urinalysis monitoring, and substance abuse and mental health treatment services.

(f) A copy of each civil citation or similar prearrest diversion program notice issued under this section shall be provided to the department, and the department shall enter appropriate information into the juvenile offender information system. Use of the civil citation or similar diversion program is not limited to first-time misdemeanors and may be used in up to two subsequent misdemeanors. If an arrest is made, a law enforcement officer must provide written documentation as to why an arrest was warranted.

(g) At the conclusion of a juvenile's civil citation program or similar prearrest diversion program, the state attorney or operator of the independent program agency operating the program shall report the outcome to the department. The issuance of a civil citation or similar prearrest diversion program notice is not considered a referral to the department.

(2) The department shall develop guidelines for the civil citation program which include intervention services that are based upon proven civil citation or similar diversion programs within the state.

(h)(3) Upon issuing such a civil citation or similar prearrest diversion program notice, the law enforcement officer shall send a copy of to the civil citation or similar prearrest diversion program notice to county sheriff, state

attorney, the appropriate intake office of the department, or the community service performance monitor designated by the department, the parent or guardian of the child, and to the victim.

~~(4) The child shall report to the community service performance monitor within 7 working days after the date of issuance of the citation. The work assignment shall be accomplished at a rate of not less than 5 hours per week. The monitor shall advise the intake office immediately upon reporting by the child to the monitor, that the child has in fact reported and the expected date upon which completion of the work assignment will be accomplished.~~

~~(5) If the child fails to report timely for a work assignment, complete a work assignment, or comply with assigned intervention services within the prescribed time, or if the juvenile commits a subsequent misdemeanor, the law enforcement officer shall issue a report alleging the child has committed a delinquent act, at which point a juvenile probation officer shall process the original delinquent act as a referral to the department and refer the report to the state attorney for review.~~

~~(6) At the time of issuance of the citation by the law enforcement officer, such officer shall advise the child that the child has the option to refuse the citation and to be referred to the intake office of the department. That option may be exercised at any time before completion of the work assignment.~~

Section 10. Subsection (3) of section 985.125, Florida Statutes, is amended to read:

985.125 Prearrest or postarrest diversion programs.—

~~(3) The prearrest or postarrest diversion program may, upon agreement of the agencies that establish the program, provide for the expunction of the nonjudicial arrest record of a minor who successfully completes such a program pursuant to s. 943.0582.~~

Section 11. Paragraphs (f), (g), (h), (i), and (j) of subsection (1) of section 985.145, Florida Statutes, are redesignated as paragraphs (g), (h), (i), (j), and (k), respectively, and a new paragraph (f) is added to that subsection, to read:

985.145 Responsibilities of the department during intake; screenings and assessments.—

(1) The department shall serve as the primary case manager for the purpose of managing, coordinating, and monitoring the services provided to the child. Each program administrator within the Department of Children and Families shall cooperate with the primary case manager in carrying out the duties and responsibilities described in this section. In addition to duties specified in other sections and through departmental rules, the department shall be responsible for the following:

(f) *Prevention web.*—For a child with a first-time misdemeanor offense, the department shall enter all related information into the Juvenile Justice

Information System Prevention Web until such time as formal charges are filed. If formal charges are not filed, the information shall remain in the Juvenile Justice Information System Prevention Web until removed pursuant to department policies.

Section 12. Section 985.126, Florida Statutes, is created to read:

985.126 Diversion programs; data collection; denial of participation or expunged record.—

(1) As used in this section, the term “diversion program” has the same meaning as provided in s. 943.0582.

(2) Upon issuance of documentation requiring a minor to participate in a diversion program, before or without an arrest, the issuing law enforcement officer shall send a copy of such documentation to the entity designated to operate the diversion program and to the department, which shall enter such information into the Juvenile Justice Information System Prevention Web.

(3)(a) Beginning October 1, 2018, each diversion program shall submit data to the department which identifies for each minor participating in the diversion program:

1. The race, ethnicity, gender, and age of that minor.
2. The offense committed, including the specific law establishing the offense.
3. The judicial circuit and county in which the offense was committed and the law enforcement agency that had contact with the minor for the offense.
4. Other demographic information necessary to properly register a case into the Juvenile Justice Information System Prevention Web, as specified by the department.

(b) Beginning October 1, 2018, each law enforcement agency shall submit to the department data that identifies for each minor who was eligible for a diversion program, but was instead referred to the department, provided a notice to appear, or arrested:

1. The data required pursuant to paragraph (a).
2. Whether the minor was offered the opportunity to participate in a diversion program. If the minor was:
 - a. Not offered such opportunity, the reason such offer was not made.
 - b. Offered such opportunity, whether the minor or his or her parent or legal guardian declined to participate in the diversion program.

(c) The data required pursuant to paragraph (a) shall be submitted to the department quarterly.

(d) The data required pursuant to paragraph (b) shall be submitted on or with the arrest affidavit or notice to appear.

(4) Beginning January 1, 2019, the department shall compile and semiannually publish the data required by subsection (3) on the department's website in a format that is, at a minimum, sortable by judicial circuit, county, law enforcement agency, race, ethnicity, gender, age, and offense committed.

(5) A minor who successfully completes a diversion program for a first-time misdemeanor offense may lawfully deny or fail to acknowledge his or her participation in the program and an expunction of a nonjudicial arrest record under s. 943.0582, unless the inquiry is made by a criminal justice agency, as defined in s. 943.045, for a purpose described in s. 943.0582(2)(b) 1.

(6) The department shall adopt rules to implement this section.

Section 13. A pilot project is established in the Sixth Judicial Circuit for the purpose of improving criminal justice data transparency and ensuring data submitted under s. 900.05, Florida Statutes, is accurate, valid, reliable, and structured. The clerk of court, the state attorney, the public defender, or a sheriff in the circuit may enter into a memorandum of understanding with a national, nonpartisan, not-for-profit entity which provides data and measurement for county-level criminal justice systems to establish the duties and responsibilities of a data fellow, completely funded by the entity, to be embedded with the office or agency. The data fellow will assist with data extraction, validation, and quality and publish such data consistent with the terms of the memorandum. The data fellow will assist the office or agency in compiling and reporting data pursuant to s. 900.05, Florida Statutes, in compliance with rules established by the Department of Law Enforcement. The pilot project shall expire pursuant to the terms outlined in the memorandum.

Section 14. For the 2018-2019 fiscal year, nine full-time equivalent positions with an associated total salary rate of 476,163 are authorized and the recurring sum of \$665,884 and the nonrecurring sum of \$1,084,116 are appropriated from the General Revenue Fund to the Department of Law Enforcement for the purposes of implementing ss. 900.05(4) and 943.687, Florida Statutes, transitioning to incident-based crime reporting, and collecting and submitting crime statistics that meet the requirements of the Federal Bureau of Investigation under the National Incident-Based Reporting System.

Section 15. This act shall take effect July 1, 2018.

Approved by the Governor March 30, 2018.

Filed in Office Secretary of State March 30, 2018.