

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal and Civil Justice Appropriations Committee

BILL: PCS/SB 1394 (798506)

INTRODUCER: Criminal and Civil Justice Appropriations Committee

SUBJECT: Conforming Bill -- Corrections

DATE: February 23, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Butler	Sadberry	JA	Pre-meeting
2.			WPSC	
3.			RC	
4.				
5.				
6.				

I. Summary:

The bill expands the scope and duties of the Correctional Policy Advisory Council (CPAC) to include the evaluation of sentencing policy and practices. This expansion includes an examination of the Criminal Punishment Code, the degree and offense severity level ranking of offenses, mandatory sentences, enhanced penalties, felony and misdemeanor reclassifications, and gain-time and early release mechanisms.

The bill provides that the Secretary of the Department of Corrections shall organize an initial meeting of the council as soon as practicable whether or not all of the appointments are current and available if the council has not convened at least once within 60 days after the effective date of this act.

The bill also requires the CPAC to provide in its reports to the Legislature and Governor findings and recommendations related to a list of eight questions and directs the CPAC to give priority to answering these questions. Finally, the bill extends by one year the duration of the CPAC (from July 1, 2011 to July 1, 2012).

This bill substantially amends the following section of the Florida Statutes: 921.0019.

II. Present Situation:

Senate Bill 2000 was enacted as a conforming bill to the 2008 General Appropriations Act. This new law created s. 921.0019, F.S., and the Correctional Policy Advisory Council within the Legislature. The statute establishes the council to serve in an advisory capacity to the Legislature and the Governor. The purpose of the council is to evaluate and to make findings and

recommendations concerning correctional policies, justice reinvestment initiatives, and laws affecting corrections. The recommendations must be consistent with the goals of protecting the public and providing for the most cost-effective and efficient use of public resources without compromising public safety.

In 2008, the members of the council were appointed by the President of the Senate, the Speaker of the House of Representatives, the Governor, and the Attorney General. However, the council has no earmarked appropriations or staff support. Consequently, the council has not yet met. Section 921.0019(4)(e), F.S., specifies that administrative staff support is to be provided by the Office of Legislative Services and technical and substantive staff support by the Office of Economic and Demographic Research. It provides for a staff consisting of an executive director and any other staff member determined to be necessary for the completion of the council's duties, subject to appropriations.

The council is composed of the following 10 members:

- Two from the Senate
- Two from the House of Representatives
- One representative of a victim advocacy profession
- The Attorney General
- Secretary of the Department of Corrections
- One state attorney
- One public defender
- One private attorney

The chair of the council must appoint members to serve in a Justice Reinvestment Subcommittee and designate ex officio members from state or local agencies to serve as technical assistance advisors to the subcommittee. The subcommittee is tasked with reviewing the effectiveness of correctional policies, including but not limited to review of the availability of sanction options for low level drug and property offenders; the effectiveness of mental health and substance abuse diversion programs; the effectiveness of prison re-entry practices; the feasibility of implementing a progressive sanctions system for probationers; the impact of jail overcrowding on the effectiveness of local alternative programs and sanctions; the effectiveness of supervision strategies; and the delivery of supervision and programs in neighborhoods with a high proportion of supervised offenders.

The chair of the council must also develop a technical assistance agreement with the Justice Center of the Council of State Governments to work with the Justice Reinvestment Subcommittee to accomplish the review of the effectiveness of correctional policies. The agreement includes, but is not be limited to, procedures for the Justice Center of the Council of State Governments to access the data collection, analysis and research capabilities of the agencies and offices specified as providing necessary data collection, analysis, and research. The Justice Center typically assists states by analyzing the prison population and spending in the communities to which people in prison often return; providing policymakers with options to generate savings and increase public safety (such as focusing supervision resources where they can have the greatest impact); determining how much the state will save, and avoid spending, by

adopting some or all of the options identified; and suggesting performance measures and projected outcomes.

The council must meet at least quarterly, although other meetings may be called by the chair upon giving 7 days' notice to the public. The council is authorized to take public testimony. Council members serve without compensation, but are entitled to per diem and travel expenses, which are paid by the appointing entity.

Upon request of the chair of the council or the executive director, the Office of Program Policy Analysis and Government Accountability, the Department of Corrections and any other state agency or department, and the Office of the State Courts Administrator must assist the council in providing necessary data collection, analysis, and research.

On or before January 15 of each year, the council must provide a report of its findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court. The council may provide the Legislature, the Governor, and the Supreme Court with additional reports of findings and recommendations at any time it deems appropriate. The council may also integrate the recommendations of the Justice Reinvestment Subcommittee in its report or may issue a separate report reflecting the findings of the subcommittee.

The council is set to be abolished on July 1, 2011.

III. Effect of Proposed Changes:

The bill amends s. 921.0019, F.S., to expand the scope and duties of the Correctional Policy Advisory Council (CPAC) to include the evaluation of sentencing policy and practices. This expansion includes an examination of the Criminal Punishment Code, the degree and offense severity level ranking of offenses, mandatory sentences, enhanced penalties, felony and misdemeanor reclassifications, and gain-time and early release mechanisms.

The bill provides that in the event the council has not convened at least once within 60 days after the effective date of this act, the Secretary of the Department of Corrections shall organize an initial meeting of the council as soon as practicable whether or not all of the appointments are current and available.

Under current law the CPAC is not required to respond to specific questions. The bill, however, does require the CPAC to contain in its reports to the Legislature and Governor findings and recommendations related to the following eight questions and directs the CPAC to give priority to answering these questions:

- (1) Should the Legislature repeal any laws providing for a mandatory minimum sentence or modify such laws to provide for presumptive mandatory minimum sentences or exceptions to mandatory sentences in some circumstances?
- (2) Do mandatory sentencing laws conflict with or undermine the purpose of the Criminal Punishment Code?

- (3) Are particular criminal acts punished as more than one specific offense and, if so, has this resulted in duplication, confusion, or inconsistent penalties?
- (4) Are the penalties for particular felony or misdemeanor offenses disproportionate to those for other felonies or misdemeanor offenses of a similar nature or severity?
- (5) Do current enhanced penalties or felony and misdemeanor reclassifications for repeat offenders result in duplication, confusion, or inconsistent penalties?
- (6) Should the Legislature preclude the courts from sentencing to prison defendants who are convicted of third-degree felonies and who score fewer than 44 total sentence points?
- (7) Should the Legislature change the current "Truth in Sentencing" gain-time restrictions specified in s. 944.275(4)(b)3., F.S., to more closely align with the federal minimum requirements?
- (8) Should the Legislature authorize correctional probation officers to apply a continuum of administrative sanctions for technical probation violations that do not affect public safety?

Finally, the bill extends by one year the duration of the CPAC (from July 1, 2011 to July 1, 2012).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The expanded duties and extended life of the CPAC may result in a small fiscal impact depending on what is appropriated for this purpose.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.