



Criminal & Civil Justice Policy Council

Tuesday, February 16, 2010

8:00 AM

404 HOB

Council Actions

**Larry Cretul
Speaker**

**William Snyder
Chair**

COUNCIL MEETING REPORT
Criminal & Civil Justice Policy Council
2/16/2010 8:00:00AM

Location: 404 HOB

Summary:

Criminal & Civil Justice Policy Council

Tuesday February 16, 2010 08:00 am

| | | | |
|----------------|-----------------------------------|----------|---------|
| HB 89 | Favorable | Yeas: 14 | Nays: 0 |
| HB 437 | Favorable With Council Substitute | Yeas: 9 | Nays: 6 |
| PCB CCJP 10-04 | Favorable With Amendments (10) | Yeas: 14 | Nays: 0 |

Committee meeting was reported out: Tuesday, February 16, 2010 11:23:47AM

COUNCIL MEETING REPORT
Criminal & Civil Justice Policy Council
2/16/2010 8:00:00AM

Location: 404 HOB

Attendance:

| | <i>Present</i> | <i>Absent</i> | <i>Excused</i> |
|------------------------|----------------|---------------|----------------|
| William Snyder (Chair) | X | | |
| Sandra Adams | X | | |
| Kevin Ambler | | | X |
| Carl Domino | X | | |
| Eric Eisnaugle | X | | |
| Adam M. Fetterman | X | | |
| Luis Garcia | X | | |
| Audrey Gibson | X | | |
| Eduardo Gonzalez | X | | |
| Tom Grady | | | X |
| Doug Holder | X | | |
| Julio Robaina | X | | |
| Robert Schenck | X | | |
| Perry Thurston | X | | |
| James Waldman | X | | |
| Michael Weinstein | X | | |
| Totals: | 14 | 0 | 2 |

Committee meeting was reported out: Tuesday, February 16, 2010 11:23:47AM

COUNCIL MEETING REPORT
Criminal & Civil Justice Policy Council
2/16/2010 8:00:00AM

Location: 404 HOB

HB 89 : Pretrial Proceedings

Favorable

| | <i>Yea</i> | <i>Nay</i> | <i>No Vote</i> | <i>Absentee Yea</i> | <i>Absentee Nay</i> |
|--------------------------|------------|----------------------|----------------|-------------------------|-------------------------|
| Sandra Adams | X | | | | |
| Kevin Ambler | | | X | | |
| Carl Domino | X | | | | |
| Eric Eisnaugle | X | | | | |
| Adam M. Fetterman | X | | | | |
| Luis Garcia | X | | | | |
| Audrey Gibson | X | | | | |
| Eduardo Gonzalez | X | | | | |
| Tom Grady | | | | X | |
| Doug Holder | X | | | | |
| Julio Robaina | X | | | | |
| Robert Schenck | X | | | | |
| Perry Thurston | | | X | | |
| James Waldman | X | | | | |
| Michael Weinstein | X | | | | |
| Adam Hasner (Ex Officio) | X | | | | |
| William Snyder (Chair) | X | | | | |
| Total Yeas: 14 | | Total Nays: 0 | | | |

Appearances:

HB 89 Pretrial Proceedings
 Brian Pitts, Chair (General Public) - Opponent
 Justice 2 Jesus
 1119 Newton Ave S
 St. Petersburg FL 33705
 Phone: 727-897-9291

HB 89 Pretrial Proceedings
 Stehan Dembinsky, Chief of Police (General Public) - Proponent
 Florida Police Chiefs Assn
 3050 So. Atlantic Ave
 Daytona Beach Shores FL 32118
 Phone: 386-763-5333

HB 89 Pretrial Proceedings
 Ken Kopczynski (Lobbyist) - Proponent
 Florida Police Benevolent Assn
 300 E Brevard St
 Tallahassee FL 32301
 Phone: 850-222-3329

Committee meeting was reported out: Tuesday, February 16, 2010 11:23:47AM

COUNCIL MEETING REPORT
Criminal & Civil Justice Policy Council
2/16/2010 8:00:00AM

Location: 404 HOB

HB 437 : Contingency Fee Agreements Between the Department of Legal Affairs and Private Attorneys

Favorable With Council Substitute

| | Yea | Nay | No Vote | Absentee Yea | Absentee Nay |
|--------------------------|-----|----------------------|---------|-----------------|-----------------|
| Sandra Adams | X | | | | |
| Kevin Ambler | | | X | | |
| Carl Domino | X | | | | |
| Eric Eisnaugle | X | | | | |
| Adam M. Fetterman | | X | | | |
| Luis Garcia | | X | | | |
| Audrey Gibson | | X | | | |
| Eduardo Gonzalez | X | | | | |
| Tom Grady | | | | X | |
| Doug Holder | X | | | | |
| Julio Robaina | | X | | | |
| Robert Schenck | X | | | | |
| Perry Thurston | | X | | | |
| James Waldman | | X | | | |
| Michael Weinstein | X | | | | |
| Adam Hasner (Ex Officio) | X | | | | |
| William Snyder (Chair) | X | | | | |
| Total Yeas: 9 | | Total Nays: 6 | | | |

Appearances:

HB 437 Contingency Fee Agreements Between the Department of Legal Affairs and Private Attorneys
 Bill McCollum, Attorney General (State Employee) - Proponent
 Office of the Attorney General
 PL-01
 Tallahassee FL 32399
 Phone: 850-245-0155

HB 437 Contingency Fee Agreements Between the Department of Legal Affairs and Private Attorneys
 Bob Harris (Lobbyist) - Opponent
 Trial Lawyers Section of the Florida Bar
 Tallahassee FL 32308
 Phone: 850-222-0720

HB 437 Contingency Fee Agreements Between the Department of Legal Affairs and Private Attorneys
 Brian Pitts, Chair (General Public) - Opponent
 Justice 2 Jesus
 1119 Newton Ave S
 St. Petersburg FL 33705
 Phone: 727-897-9291

Committee meeting was reported out: Tuesday, February 16, 2010 11:23:47AM

Amendment No. 1

COUNCIL/COMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | — | (Y/N) |
| ADOPTED AS AMENDED | — | (Y/N) |
| ADOPTED W/O OBJECTION | — | (Y/N) |
| FAILED TO ADOPT | — | (Y/N) |
| WITHDRAWN | — | (Y/N) |
| OTHER | _____ | |

*Favorable
2-16-10*

Council/Committee hearing bill: Criminal & Civil Justice Policy
Council

Representative(s) Eisnaugle offered the following:

Amendment (with title amendment)

Remove line 117 and insert:

on the website for at least 365 days thereafter.

(7) By February 1 of each year, the Attorney General shall submit a report to the President of the Senate and the Speaker of the House of Representatives describing the use of contingency fee contracts with private attorneys in the preceding calendar year. At a minimum, the report shall:

(a) Identify all new contingency fee contracts entered into during the year and all previously executed contingency fee contracts that remain current during any part of the year, and for each contract describe:

1. The name of the private attorney, including the attorney's law firm name, with whom the department has contracted;

COUNCIL MEETING REPORT
Criminal & Civil Justice Policy Council
2/16/2010 8:00:00AM

Location: 404 HOB

PCB CCJP 10-04 : Background Screening

Favorable With Amendments (10)

| | <i>Yea</i> | <i>Nay</i> | <i>No Vote</i> | <i>Absentee Yea</i> | <i>Absentee Nay</i> |
|--------------------------|------------|----------------------|----------------|-------------------------|-------------------------|
| Sandra Adams | X | | | | |
| Kevin Ambler | | | X | | |
| Carl Domino | X | | | | |
| Eric Eisnaugle | X | | | | |
| Adam M. Fetterman | X | | | | |
| Luis Garcia | X | | | | |
| Audrey Gibson | X | | | | |
| Eduardo Gonzalez | X | | | | |
| Tom Grady | | | | X | |
| Doug Holder | X | | | | |
| Julio Robaina | X | | | | |
| Robert Schenck | X | | | | |
| Perry Thurston | X | | | | |
| James Waldman | X | | | | |
| Michael Weinstein | X | | | | |
| Adam Hasner (Ex Officio) | | | X | | |
| William Snyder (Chair) | X | | | | |
| Total Yeas: 14 | | Total Nays: 0 | | | |

Appearances:

PCB CCJP 10-04 Background Screening

Larry Sherberg (General Public) - Opponent
 Florida Assisted Living Association
 2144 Lincoln St
 Hollywood FL 33020
 Phone: 954-922-1995

PCB CCJP 10-04 Background Screening

Nathan Ray (Lobbyist) (State Employee) - Proponent
 Guardian ad Litem
 Tallahassee FL
 Phone: 850-922-7213

PCB CCJP 10-04 Background Screening

Janet Mabry (Lobbyist) - Information Only
 Florida Association of Child Care
 2866 Bay Heather Circle
 Gulf Breeze FL 32563
 Phone: 850-934-1629

PCB CCJP 10-04 Background Screening

Mary Ellen Early, Senior VP of Public Policy (Lobbyist) - Information Only
 Florida Association of Homes and Services for Aging
 1812 Riggins Rd
 Tallahassee FL 32308
 Phone: 850-671-3700

Committee meeting was reported out: Tuesday, February 16, 2010 11:23:47AM

COUNCIL MEETING REPORT
Criminal & Civil Justice Policy Council

2/16/2010 8:00:00AM

Location: 404 HOB

PCB CCJP 10-04 Background Screening

Joe Langford, President (General Public) - Information Only

Edge Information Management, Inc.

100 Rialto Place, Suite 800

Melbourne FL 32901

Phone: 321-722-3343 ext 3404

PCB CCJP 10-04 Background Screening

Terri Poore, Director of Public Affairs (Lobbyist) - Proponent

Florida Council Against Sexual Violence

1820 East Park Avenue

Tallahassee FL 32301

Phone: 850-297-2000

PCB CCJP 10-04 Background Screening

Peggy Rigsby, Director of Government Services (Lobbyist) - Information Only

Florida Health Care Association

307 W Park Ave

Tallahassee FL 32301

Phone: 850-224-3907

PCB CCJP 10-04 Background Screening

Alberta Granger, Assisted Living Specialist (General Public) - Information Only

Florida Assisted Living Association

1922 Miccosukee Rd

Tallahassee FL 32308

Phone: 850-383-1159

Committee meeting was reported out: Tuesday, February 16, 2010 11:23:47AM

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*favourable
2-16-10*

1 Council/Committee hearing PCB: Criminal & Civil Justice Policy
2 Council
3 Representative(s) Holder offered the following:

Amendment

Remove lines 186-218 and insert:

394.4572 Screening of mental health personnel.-

8 (1)(a) The department and the Agency for Health Care
9 Administration shall require level 2 background employment
10 screening pursuant to ch. 435 for mental health personnel ~~using~~
11 ~~the standards for level 2 screening set forth in chapter 435.~~
12 "Mental health personnel" includes all program directors,
13 professional clinicians, staff members, and volunteers working
14 in public or private mental health programs and facilities who
15 have direct contact with individuals held for examination or
16 admitted for mental health treatment ~~unmarried patients under~~
17 ~~the age of 18 years.~~ For purposes of this chapter, employment
18 screening of mental health personnel shall also include, but is

Amendment No. 1

19 not limited to, employment screening as provided under chapter
20 435 and s. 408.809.

21 (b) Students in the health care professions who are
22 interning in a mental health facility licensed under chapter
23 395, where the primary purpose of the facility is not the
24 treatment of minors, are exempt from the fingerprinting and
25 screening requirements, if ~~provided~~ they are under direct
26 supervision in the actual physical presence of a licensed health
27 care professional.

28 ~~(c) Mental health personnel working in a facility licensed~~
29 ~~under chapter 395 who have less than 15 hours per week of direct~~
30 ~~contact with patients or who are health care professionals~~
31 ~~licensed by the Agency for Health Care Administration or a board~~
32 ~~thereunder are exempt from the fingerprinting and screening~~
33 ~~requirements, except for persons working in mental health~~
34 ~~facilities where the primary purpose of the facility is the~~
35 ~~treatment of minors.~~

36 ~~(d)~~ A volunteer who assists on an intermittent basis for
37 less than 40 hours per month is exempt from the fingerprinting
38 and screening requirements, provided the volunteer is under
39 direct and constant supervision by persons who meet the
40 screening requirements of paragraph (a).
41

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*favorable
2-16-10*

1 Council/Committee hearing PCB: Criminal & Civil Justice Policy
2 Council

3 Representative(s) Holder offered the following:

4

5 **Amendment**

6 Remove lines 696-722 and insert:

7 (e) Any person, as required by authorizing statutes,
8 seeking employment with a licensee or provider who is expected
9 to, or whose responsibilities may require them to, provide
10 personal care or services directly to clients; and any person,
11 as required by authorizing statutes, contracting with a licensee
12 or provider whose responsibilities require them to provide
13 personal care or services directly to clients. Evidence of
14 contractor screening may be retained by the contractor's
15 employer or the licensee. The changes made by this act do not
16 require a person who is employed or contracts with a licensee on
17 or before June 30, 2010, to submit to rescreening until such
18 time as they are otherwise required to be rescreened pursuant to
19 law if that licensee has in its possession written evidence that

Amendment No. 2

20 the person has been screened and qualified according to
21 standards specified in s. 435.03 or s. 435.04.

22 (2) Every 5 years following his or her licensure,
23 employment or entry into a contract in a capacity that, pursuant
24 to s. 408.809(1), would require level 2 background screening
25 under ch. 435, each such person must submit to level 2
26 background rescreening as a condition of retaining such license
27 or continuing in such employment or contractual status. For any
28 such rescreening, the agency shall request the Department of Law
29 Enforcement to forward the person's fingerprints to the Federal
30 Bureau of Investigation for a national criminal history record
31 screening. If the fingerprints of such a person are not retained
32 by the Department of Law Enforcement under paragraph
33 943.05(2)(g), the person must file a complete set of
34 fingerprints with the agency. Upon submission of fingerprints
35 for this purpose, the agency shall request the Department of Law
36 Enforcement to forward the fingerprints to the Federal Bureau of
37 Investigation for a national criminal history record screening,
38 and the fingerprints may be retained by the Department of Law
39 Enforcement under paragraph 943.05(2)(g). The cost of the state
40 and national criminal history check required by level 2
41 screening may be borne by the licensee or the person
42 fingerprinted. Proof of compliance with level 2 screening
43 standards submitted within the previous 5 years to meet any
44 provider or professional licensure requirements of the agency,
45 the Department of Health, the Agency for Persons with
46 Disabilities, or the Department of Children and Family Services,
47 or the Department of Financial Services for an applicant for a

COUNCIL/COMMITTEE AMENDMENT

PCB Name: PCB CCJP 10-04 (2010)

Amendment No. 2

48 certificate of authority to operate a continuing care retirement
49 community under chapter 651, satisfies the requirements of this
50 section, provided that such proof is accompanied, under penalty
51 of perjury, by an affidavit of compliance with the provisions of
52 chapter 435 and this section using forms provided by the agency.
53 ~~Proof of compliance with the background screening requirements~~
54 ~~of the Department of Financial Services submitted within the~~
55 ~~previous 5 years for an applicant for a certificate of authority~~
56 ~~to operate a continuing care retirement community under chapter~~
57 ~~651 satisfies the Department of Law Enforcement and Federal~~
58 ~~Bureau of Investigation portions of a level 2 background check.~~

Amendment No. 3

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*Favorable
2-16-10*

1 Council/Committee hearing PCB: Criminal & Civil Justice Policy
2 Council

3 Representative(s) Holder offered the following:

4

5 **Amendment**

6 Remove lines 814-816 and insert:

7 costs. The Florida Department of Law Enforcement shall charge
8 the agency for screening pursuant to s. 943.053(3). The agency
9 shall

Amendment No. 4

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*Favorable
2.16.10*

1 Council/Committee hearing PCB: Criminal & Civil Justice Policy
2 Council
3 Representative(s) Holder offered the following:
4

5 **Amendment (with title amendment)**

6 Remove lines 1215-1230 and insert:

7 435.01 Applicability of this chapter; rulemaking.-

8 (1) (a) Unless otherwise provided by law, whenever a
9 background screening for employment or a background security
10 check conducted pursuant to this chapter is required by law for
11 employment, unless otherwise provided by law, the provisions of
12 this chapter shall apply.

13 (b) Unless expressly provided otherwise, a reference in
14 any section of the Florida Statutes to ch. 435 or to any section
15 or sections or portion of a section of ch. 435 includes, and
16 shall be understood as including, all subsequent amendments to
17 ch. 435 or to the referenced section or sections or portions of
18 a section. The purpose of this chapter is to facilitate uniform
19 background screening and, to this end, a reference to this

Amendment No. 4

20 chapter, or to any section or subdivision within this chapter,
21 constitutes a general reference under the doctrine of
22 incorporation by reference.

23 (2) Agencies may adopt rules, pursuant to ch. 120,
24 necessary to implement the provisions of this chapter.

25
26
27

28 -----

29 **T I T L E A M E N D M E N T**

30 Remove line 60 and insert:
31 provisions related to the applicability of the chapter;
32 providing for rulemaking;

Amendment No. 5

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*Jarrable
2.16.10*

1 Council/Committee hearing PCB: Criminal & Civil Justice Policy
2 Council

3 Representative(s) Holder offered the following:

4

5 **Amendment**

6 Remove lines 1357-1375 and insert:

7 through the Florida Department of Law Enforcement, and national
8 ~~federal~~ criminal records checks through the Federal Bureau of
9 Investigation, and may include local criminal records checks
10 through local law enforcement agencies. *

11 (b) Fingerprints submitted pursuant to this section on or
12 after July 1, 2012, must be submitted electronically by, or on
13 the behalf of, the employee or employer to the Florida
14 Department of Law Enforcement.

15 (c) An agency may contract with one or more vendors to
16 perform all or part of the electronic fingerprinting pursuant to
17 this section. Such contracts must ensure that the owners and
18 personnel of the vendor performing the electronic fingerprinting

COUNCIL/COMMITTEE AMENDMENT

PCB Name: PCB CCJP 10-04 (2010)

Amendment No. 5

19 are qualified and will ensure the integrity and security of all
20 personal information.

21 (d) An agency may require, by rule adopted pursuant to ch.
22 120, that fingerprints submitted pursuant to this section must
23 be submitted electronically by, or on the behalf of, the
24 employee or employer to the Florida Department of Law
25 Enforcement on a date sooner than July 1, 2012.

Amendment No. 6

COUNCIL/COMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | ___ | (Y/N) |
| ADOPTED AS AMENDED | ___ | (Y/N) |
| ADOPTED W/O OBJECTION | ___ | (Y/N) |
| FAILED TO ADOPT | ___ | (Y/N) |
| WITHDRAWN | ___ | (Y/N) |
| OTHER | _____ | |

*Favorable
2.16.10*

1 Council/Committee hearing PCB: Criminal & Civil Justice Policy
2 Council
3 Representative(s) Holder offered the following:

4
5 **Amendment**

6 Remove line 1614 and insert:
7 arrest is resolved in such a way that the employer determines
8 that the employee is still eligible for employment under this
9 chapter.

Amendment No. 7

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*Favorable
2-16-10*

1 Council/Committee hearing PCB: Criminal & Civil Justice Policy
2 Council

3 Representative(s) Holder offered the following:

4
5

Amendment

6 Remove lines 1753-1786 and insert:

7 (h)1. Each agency or qualified entity that officially
8 requests retention of fingerprints or for which retention is
9 otherwise required ~~As authorized by law, search all arrest~~
10 fingerprint submissions ~~cards~~ received under s. 943.051 against
11 the fingerprints retained in the statewide automated fingerprint
12 identification system under paragraph (g). Any arrest record
13 that is identified with the retained fingerprints of a person
14 subject to background screening as provided in paragraph (g)
15 shall be reported to the appropriate agency or qualified entity.

16 2. To Agencies may participate in this search process,
17 agencies or qualified entities must notify each person
18 fingerprinted that his or her fingerprints will be retained, pay
19 by payment of an annual fee to the department, and inform by

COUNCIL/COMMITTEE AMENDMENT

PCB Name: PCB CCJP 10-04 (2010)

Amendment No. 7

20 ~~informing~~ the department of any change in the affiliation,
21 employment, or contractual status ~~or place of affiliation,~~
22 ~~employment, or contracting~~ of each person the persons whose
23 fingerprints are retained under paragraph (g), when such change
24 removes or eliminates the agency or qualified entity's basis or
25 need for receiving reports of any arrest of that person, so that
26 the agency or qualified entity will not be obligated to pay the
27 upcoming annual fee for the retention and searching of that
28 person's fingerprints to the department. The department shall
29 adopt a rule setting the amount of the annual fee to be imposed
30 upon each participating agency or qualified entity for
31 performing these searches and establishing the procedures for
32 the retention of fingerprints and the dissemination of search
33 results. The fee may be borne by the agency, qualified entity,
34 or person subject to fingerprint retention or as otherwise
35 provided by law. ~~Fees may be waived or reduced by the executive~~
36 ~~director for good cause shown.~~ Consistent with the recognition
37 of criminal justice agencies expressed in s. 943.053(3), these
38 services will be provided to criminal justice agencies for
39 criminal justice purposes free of charge.

40 3. Agencies that participate in the fingerprint retention
41 and search process may adopt rules pursuant to ch. 120 that
42 require employers to keep the agency informed of any change in
43 the affiliation, employment, or contractual status of each
44 person whose fingerprints are retained under paragraph (g), when
45 such change removes or eliminates the agency's basis or need for
46 receiving reports of any arrest of that person, so that the
47 agency will not be obligated to pay the upcoming annual fee for

Amendment No. 7

48 | the retention and searching of that person's fingerprints to the
49 | department.

50

Amendment No. 8

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*amenable
2-16-10*

1 Council/Committee hearing PCB: Criminal & Civil Justice Policy
2 Council
3 Representative(s) Holder offered the following:

4
5 **Amendment**

6 Remove line 1916 and insert:

7 2. A national ~~federal~~ criminal records check by the
8 Federal Bureau

Amendment No. 9

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*Jamable
2-16-10*

1 Council/Committee hearing PCB: Criminal & Civil Justice Policy
2 Council

3 Representative(s) Holder offered the following:

4

5 **Amendment**

6 Remove line 1991 and insert:

7 rescreened pursuant to law, at which time they must meet

Amendment No. 10

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*favorable
2-16-10*

1 Council/Committee hearing PCB: Criminal & Civil Justice Policy
2 Council
3 Representative(s) Holder offered the following:

4
5 **Amendment (with title amendment)**

6 Between lines 92 and 93, insert:

7 Section 1. Subsection (1) of section 39.821, Florida
8 Statutes, is amended to read:

9 39.821 Qualifications of guardians ad litem.—

10 (1) Because of the special trust or responsibility placed
11 in a guardian ad litem, the Guardian Ad Litem Program may use
12 any private funds collected by the program, or any state funds
13 so designated, to conduct a security background investigation
14 before certifying a volunteer to serve. A security background
15 investigation must include, but need not be limited to,
16 employment history checks, checks of references, local criminal
17 records checks through local law enforcement agencies, and
18 statewide criminal records checks through the Department of Law
19 Enforcement. Upon request, an employer shall furnish a copy of

COUNCIL/COMMITTEE AMENDMENT

PCB Name: PCB CCJP 10-04 (2010)

Amendment No. 10

20 the personnel record for the employee or former employee who is
21 the subject of a security background investigation conducted
22 under this section. The information contained in the personnel
23 record may include, but need not be limited to, disciplinary
24 matters and the reason why the employee was terminated from
25 employment. An employer who releases a personnel record for
26 purposes of a security background investigation is presumed to
27 have acted in good faith and is not liable for information
28 contained in the record without a showing that the employer
29 maliciously falsified the record. A security background
30 investigation conducted under this section must ensure that a
31 person is not certified as a guardian ad litem if the person has
32 been convicted of, regardless of adjudication, or entered a plea
33 of nolo contendere or guilty to, any offense prohibited under s.
34 435.04. All applicants certified after July 1, 2010, must
35 undergo a level 2 background screening pursuant to ch. 435 prior
36 to being certified ~~the provisions of the Florida Statutes~~
37 ~~specified in s. 435.04(2) or under any similar law in another~~
38 ~~jurisdiction. Before certifying an applicant to serve as a~~
39 ~~guardian ad litem, the Guardian Ad Litem Program may request a~~
40 ~~federal criminal records check of the applicant through the~~
41 ~~Federal Bureau of Investigation.~~ In analyzing and evaluating the
42 information obtained in the security background investigation,
43 the program must give particular emphasis to past activities
44 involving children, including, but not limited to, child-related
45 criminal offenses or child abuse. The program has the sole
46 discretion in determining whether to certify a person based on
47 his or her security background investigation. The information

Amendment No. 10

48 collected pursuant to the security background investigation is
49 confidential and exempt from s. 119.07(1).

50

51

52

53

T I T L E A M E N D M E N T

54

Remove line 3 and insert:

55

39.821, F.S.; revising background screening requirements for the

56

Guardian ad Litem Program; amending s. 215.5586, F.S.; removing

57

reference to chapter 435, F.S.,