



Criminal Justice Subcommittee

Wednesday, October 11, 2017

1:00 PM – 3:00 PM

404 HOB

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Criminal Justice Subcommittee

Start Date and Time: Wednesday, October 11, 2017 01:00 pm
End Date and Time: Wednesday, October 11, 2017 03:00 pm
Location: Sumner Hall (404 HOB)
Duration: 2.00 hrs

Overview of Legislation From the 2017 Session and Implementation Updates, including:

- Autism Awareness Training for Law Enforcement Officers, by the Florida Department of Law Enforcement (FDLE) (HB 39)
- Issues Involving the Department of Legal Affairs, by the Department of Legal Affairs (HB 1379)
- Eyewitness Identification, by FDLE (SB 312)
- Probation and Community Control, by the Department of Corrections (HB 7091)

NOTICE FINALIZED on 10/04/2017 4:15PM by Ellerkamp.Donna

Department of
Corrections
HB 7091 (2017) update



Florida Department of Corrections

Update on House Bill 7091

Passed During the 2017 Regular Legislative Session



Mobley v. State

House Bill 7091 Probation and Community Control amended s. 948.06, Florida Statutes, to address the recent court decision in ***Mobley v. State, 197 So.3d 572 (4th DCA 2016)***, where the court held that under current statute, a warrant issued under s. 901.02, F.S., does not toll (or stop) an offender's supervision sentence unless the warrant was for a new crime, not just a violation of the conditions of supervision.

This meant that a technical violation (any condition ordered by the court other than an arrest for a new crime) did not stop the period of supervision. Potentially, the probation sentence could expire prior to the resolution of a technical violation.

Example: A private citizen or business already victimized by the crime may not be able to collect the full amount of restitution ordered by the court because the offender could potentially terminate supervision prior to completion of their probation sentence.



Mobley v. State

HB 7091 amended s. 948.06, F.S., to remove the requirement that a warrant for a violation of probation be issued under s. 901.02, F.S.

The legislation made clear that a warrant tolling supervision may be issued for any violation of the terms and conditions of the supervision (including a technical violation). As a result, any warrant for a violation of probation, including a technical violation, will result in the offender's probationary term being tolled. Tolling upon issuance of a notice to appear was also provided.



Mobley v. State

Implementation:

- Communication to Community Corrections staff
- Memorandum and policy/procedure updates
- Communication with local Criminal Justice Partners (Judiciary, State Attorneys, Public Defenders, etc.)
- Notification to agencies responsible for the supervision of misdemeanor cases



Additional Updates

HB 7091 also revised ch. 948, F.S., relating to probation and community control.

- Clarified and updated terminology so that it is used consistently in order to effectively and efficiently supervise those placed on supervision
- Amended provisions so they are in-line with current practices related to Community Corrections

Department of
Corrections
HB 1201 (2017) update



Update on Legislation from 2017 Regular Session

HB 1201 Department of Corrections

Primary Components of Implementation:

- The additions to s. 943.04, F.S., authorize the Florida Department of Law Enforcement (FDLE) to request an inmate's protected health records, medical records, and mental health records when investigating an injury or death to an inmate in the custody of the Florida Department of Corrections (FDC or Department).
 - FDLE created and is utilizing a standard request form when requesting medical or psychological records from the Department.
- The revisions to s. 944.151, F.S., clarified and updated criminal procedure and corrections language to conform to existing practices with the inspection of safe operations and security of Department institutions and facilities. The revisions also strengthened the composition of the Department's Security Review Committee.
 - Correctional security enhancements implemented by the Department were codified in statute. For example, security audits within institutions were expanded to include areas of confinement, arsenal, key and lock, and the entrance and exit of facilities.
- Section 944.17, F.S., authorized the Department to receive electronic commitment documents, rather than paper. A commitment is required to lawfully receive a prisoner into FDC custody.
 - The Department is working with the clerks of court to enable receipt of commitment documents via e-portal if they choose to participate in electronic submittal. Note, the statute provides for electronic receipt at the Department's discretion.
- The revisions to s. 944.275, F.S., removed language that prohibited the credit of gain-time for certain educational achievement awards to inmates with 85% sentences. All inmates must still serve a minimum of 85% of their sentence.
 - The Department rule as written authorized the award to inmates who are "otherwise eligible" and did not specifically preclude 85% inmates. Therefore, no modifications are needed to Department rule or policy.

- The changes to s. 944.597, F.S., aligned the Department's inmate transport policy with the statutory standards used for the transport of inmates in the custody of other law enforcement agencies.
 - Revisions to Rule 33-603.201, Transfer of Inmates is in the rulemaking process.
 - Future solicitation contracts for inmate transport will incorporate the additions to s. 944.597, F.S.

- The revisions to s. 945.36, F.S., allows contracted employees at Community Correctional Centers to perform urine screen drug testing.
 - Certification and training is underway for Community Correctional Center contracted staff.

- The bill aligned s. 958.11, F.S., with Federal Prison Rape Elimination Act (PREA) guidelines regarding the housing of specified age groups of Youthful Offender inmates.
 - Procedure 601.211, Designation of Youthful Offenders, Young Adult Offenders and Youthful Offender Facilities is currently in the Department's procedural review process to codify the legislative changes.
 - The Department continues to house Youthful Offenders appropriately in compliance with PREA and to regularly inspect the Department's institutions and facilities for safety and security deficiencies.

Department of
Corrections
HB 1203 (2017) update



Update on Legislation from 2017 Regular Session

HB 1203 Public Records/Department of Corrections/Health Information

Primary Components of Implementation:

- The revisions to s. 945.10, F.S., Confidential Information, authorize the Florida Department of Corrections (FDC or Department) to share limited inmate and offender medical and mental health records or protected health information to other governmental agencies for legitimate state purposes. This includes protected health information as defined in 45 C.F.R. s. 160.10, the Health Insurance Portability and Accountability (HIPAA) Privacy Rule. The bill also expands the entities to which FDC can disclose information if specified requirements are met.
 - FDC developed guidelines and the necessary forms for implementation.
 - Incorporated guidelines into FDC's Office of Inspector General (OIG) directive for inmate records
 - Forms were distributed to all inspectors within the Department's OIG
- Drafting amendments to the following Rules:
 - 33-401.701 F.A.C., Medical and Substance Abuse Clinical Files
 - 33-601.901 F.A.C., Confidential Records
- Drafting amendments to Procedure 102.008, Public Records Requests:
 - Form DC1-201, Invoice for Production of Records is being amended
- Reviewing the following Procedures for possible amendment:
 - Procedure 102.003, Subpoenas, Discovery Requests, and Notice of Taking Deposition
 - Procedure 507.401, Substance Abuse Clinical Records
- Amending the following Health Services Bulletin:
 - 15.12.03, Appendix A, relating to the release of health information in compliance with HIPAA