

1989

## Session Law 89-141

Florida Senate & House of Representatives

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**S 272 GENERAL BILL by Weinstock (Identical H 642)**

**Risk Assessment Information/Council:** revises membership of Risk Assessment Information System Coordinating Council; authorizes D.O.E. to provide additional support to council; provides additional duties; authorizes entities represented on council & their designees to share information notwithstanding confidentiality, privacy, & nondisclosure requirements arising from state law, etc. Amends 282.502. Effective Date: 06/27/89.

02/16/89 SENATE Prefiled  
03/24/89 SENATE Referred to Education; Governmental Operations; Appropriations  
04/04/89 SENATE Introduced, referred to Education; Governmental Operations; Appropriations -SJ 31  
04/10/89 SENATE On Committee agenda—Education, 04/12/89, 3:45 pm, Room-A-(LL-37)  
04/12/89 SENATE Comm. Report: Favorable by Education -SJ 124  
04/13/89 SENATE Now in Governmental Operations -SJ 124  
04/19/89 SENATE On Committee agenda—Governmental Operations, 04/26/89, 8:30 am, Room-H-(428)  
04/26/89 SENATE Comm. Report: Favorable by Governmental Operations -SJ 210  
04/27/89 SENATE Now in Appropriations -SJ 210  
05/03/89 SENATE Extension of time granted Committee Appropriations  
05/18/89 SENATE Extension of time granted Committee Appropriations  
05/24/89 SENATE On Committee agenda—Appropriations, 05/26/89, 8:00 am, Room-A-(LL-37) -SJ 437  
05/26/89 SENATE Comm. Report: Favorable by Appropriations, placed on Calendar -SJ 478  
06/01/89 SENATE Placed on Consent Calendar -SJ 686; Passed; YEAS 35 NAYS 0 -SJ 779  
06/01/89 HOUSE In Messages  
06/02/89 HOUSE Received, placed on Calendar; Read second time; Read third time; Passed; YEAS 111 NAYS 0 -HJ 1377  
06/03/89 Ordered enrolled -SJ 1406  
06/12/89 Signed by Officers and presented to Governor  
06/27/89 Approved by Governor; Chapter No. 89-141

**NOTES:** Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Harkey</u>	<u>O'Farrell</u>	1. <u>ED</u>	<u>Favorable</u>
2. <u>Kane</u>	<u>Stengle</u>	2. <u>GO</u>	<u>Favorable</u>
3. <u>Hickam</u>	<u>Smith</u>	3. <u>AP</u>	<u>Favorable</u>
4. _____	_____	4. _____	_____

SUBJECT:

Risk Assessment Information  
System Coordinating Council

BILL NO. AND SPONSOR:

SB 272 by  
Senator Weinstock

I. SUMMARY:

A. Present Situation:

The Risk Assessment Information System Coordinating Council was mandated in 1987 by ch. 87-243, L.O.F., the Crime Prevention and Control Act. The Legislation found that there was a need to provide for the sharing of information about individuals who interact with the educational, social service, and criminal justice systems of the state in order to improve the management and operation of the state agencies associated with those systems.

Section 282.502, F.S., 1988 Supp., requires the Department of Education to establish the council and provides for membership on the council of the following individuals or their designees: a member of the House of Representatives, a member of the Senate, the Executive Director of the Department of Law Enforcement, the State Courts Administrator, the Secretary of the Department of Corrections, the Chairman of the Parole Commission, the Secretary of the Department of Health and Rehabilitative Services, the Secretary of the Department of Labor and Employment Security, the Commissioner of the Department of Education, a representative of the Attorney General, a representative of the state attorneys, and a representative of the public defenders. The Director of the Division of Communications of the Department of General Services and the Executive Administrator of the Information Resource Commission serve as nonvoting members.

The law directs the council to develop a list of data elements related to criminal justice that are maintained by the departments and other agencies represented on the council. The list of data elements, a list of custodians, and a list of the legal and systemic barriers to the sharing of the information were presented to the Legislature on March 1, 1988, as the law required.

On March 1, 1989, the council published a subset of the data elements from its 1988 report, along with standard definitions and formats, to be used by all the agencies represented on the council. Using the data elements, the council will develop a population-at-risk profile that agencies will use to identify and track from an early age individuals who are probable candidates for entering the criminal justice system. The law states that the purpose of tracking the individuals is to enable the agencies to provide educational and human resources to direct the targeted individuals away from the criminal justice system.

The council contracted with the Florida State University School of Criminology for a review of the literature on predictors of criminality, to assist in selecting certain demographic characteristics as predictors of crime. The study,

*Population-at-Risk Profile Study of Delinquency*, dated March 1988, revealed that researchers who have tried to identify reliable predictors of criminality have not been successful. A high proportion of false negative and false positive predictions have resulted when researchers have tried to predict criminality on the basis of selected variables.

The School of Criminology also reviewed the literature for correlates of criminal behavior, and advised the council that the correlates are factors that are associated with delinquency, but which are not predictors of it. Using a list of correlates, the council plans to construct a profile of the population that is at risk of entering the criminal justice system.

In order to further refine the data elements from its 1989 list, the council will conduct a research project. A random sample of students from the Duval County schools will be compared with a group of juvenile offenders from the Serious Habitual Offender/Drug Involved (SHO/DI) program in Duval County. The data elements found to be most correlated with criminal behavior will be used to construct the population-at-risk profile. The Department of Education plans to track children who fit the profile, and to discover which methods of intervention operate best to deter children from crime.

The council staff is comprised of one program specialist experienced in criminal justice research and policy, one research assistant, and a student assistant. Established within the Department of Education, the council and its staff draw on the resources of the department, such as the General Counsel's Office, management information systems, and other components of the department as well.

The council staff predicts that the information system that is planned will be operational in 1991. Based upon the profile, the system will screen for individuals determined to be at risk of entering the criminal justice system. The background data will not be available to persons who are acquainted with the children at the local level. It is probable that the individual children will be designated as "at risk" to those who are acquainted with them at the local level, so that resources can be directed to them. Currently, the system will be attempting to identify schools and neighborhoods that are at risk, according to council staff. The council will not determine what methods of intervention will be employed.

The provisions of 20 U.S.C.S. 1232g(b) (1988), popularly known as the Buckley Amendment, prohibit agencies and institutions from permitting the release of educational records or certain personally identifiable student information without written consent of the parents to most individuals and agencies with some exceptions. The penalty for releasing such information is the loss of federal funds to the institution releasing the information. One exception is for the purpose of conducting studies for or on behalf of educational institutions, for purposes such as administering aid programs.

The following statutes govern the records and information systems the council desires to have access to in performing its functions:

- (1) Section 39.12, F.S., 1988 Supp., makes records of juvenile delinquency cases confidential.
- (2) Section 39.411, F.S., makes records of juvenile dependency cases confidential.
- (3) Section 228.093, F.S., 1988 Supp., protects the confidentiality of student records and requires permission of the parent or student before certain information is disclosed.
- (4) Section 393.13, F.S., "The Bill of Rights of Retarded Persons," provides mentally retarded clients of the Department

of Health and Rehabilitative Services the right to privacy regarding their mail, telephone conversations, and visits, and protects the confidentiality of the central record the department keeps on each client.

(5) Section 394.459, F.S., 1988 Supp., protects the privacy of mentally ill patients' mail, and affords the confidentiality to their clinical records.

(6) Section 409.355, F.S., makes public assistance rolls a matter of public record and prohibits anyone from authorizing their use for commercial or political purposes.

(7) Section 413.22, F.S., requires the Division of Vocational Rehabilitation of the Department of Labor and Employment Security to prepare regulations governing the protection of records and confidential information.

(8) Section 413.341, F.S., 1988 Supp., makes vocational rehabilitation clients' and applicants' records confidential.

(9) Section 415.51, F.S., 1988 Supp., protects the confidentiality of reports and records in cases of child abuse and neglect.

(10) Section 415.608, F.S., protects the confidentiality of information received by the Department of Health and Rehabilitative Services or the domestic violence center.

(11) Section 455.241, F.S., 1988 Supp., protects the medical and psychiatric records of patients, and prohibits the Department of Professional Regulation from releasing personally-identifiable patient records that were used in its investigations.

(12) Section 943.045, F.S., provides definitions relating to criminal justice information used by the Department of Law Enforcement.

(13) Section 943.05, F.S., establishes the Division of Criminal Justice Information System, which includes the statewide automated fingerprint identification system.

(14) Section 943.051, F.S., establishes the duties of the Division of Criminal Justice Information System, and requires the system to collect, process, maintain, and disseminate information and records with due regard to the privacy interests of individuals.

(15) Section 943.0525, F.S., establishes conditions for state and local agency participation in the criminal justice information system.

(16) Section 943.054, F.S., establishes the conditions for exchange of federal criminal history information, and prohibits dissemination outside of the receiving department or related agencies.

(17) Section 943.057, F.S., permits the Department of Law Enforcement to provide access to criminal justice information for research or statistical purposes, but the department is not required to release confidential information.

(18) Section 945.10, F.S., 1988 Supp., makes presentence investigation reports confidential.

(19) Section 959.225, F.S., protects the confidentiality of the records of children who are committed to or supervised by the Department of Health and Rehabilitative Services.

The council is scheduled for repeal on October 1, 1990, and is scheduled for legislative review prior to that date pursuant to the Sundown Act, s. 11.611, F.S.

**B. Effect of Proposed Changes:**

One school board member would be added to the membership of the council to serve as a representative of local school boards. The Department of Education would be authorized to enter into contracts with the State University System or private contractors to carry out its projects.

Additional tasks would be assigned to the council and would be statutorily scheduled for completion in 1990 and 1991. By March 1, 1990, the council would be required to develop a population-at risk profile, an identification and tracking

system to identify persons who are probable candidates for entering the criminal justice system, and guidelines for enhancement programs to be provided to children who are at risk of becoming involved in the criminal justice system, as identified by the profile. By March 1, 1991, the council would be required to develop an evaluation component for the profile, the tracking system, and the enhancement programs.

Beginning March 1, 1991, the council's annual report to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives would be required to contain an analysis of the profile, a status report of the screening, tracking, and communication systems, and an evaluation of the enhancement programs provided.

The law would provide for the exchange of confidential and other restricted access information between enumerated agencies, which would include departments of Education, Health and Rehabilitative Services, Law Enforcement, Labor and Employment Security, and Corrections, as well as the Parole Commission and the Office of the State Courts Administrator.

Agencies would be permitted to share certain information notwithstanding any confidentiality provisions of s. 39.12, F.S., 1988 Supp.; s. 39.411, F.S.; s. 228.093, F.S., 1988 Supp.; s. 393.13, F.S.; s. 394.459, F.S., 1988 Supp.; s. 409.355, F.S.; s. 413.22, F.S.; s. 413.341, F.S., 1988 Supp.; s. 415.51, F.S., 1988 Supp.; s. 415.608, F.S.; s. 455.241, F.S., 1988 Supp.; s. 943.045, F.S.; s. 943.05, F.S.; s. 943.051, F.S.; s. 943.0525, F.S.; s. 943.054, F.S.; s. 943.057, F.S.; s. 945.10, F.S., 1988 Supp.; and s. 959.225, F.S.

The enumerated laws subject to the exception for agency sharing of information would retain confidentiality requirements "for all other purposes." Agencies would not be permitted to disclose in aggregate form information that would identify particular individuals.

It would be expressly provided that the Department of Law Enforcement would not be required to disclose active criminal intelligence information or active criminal investigation information, and the Department of Health and Rehabilitative Services would not be required to disclose the identity of persons who have reported instances of child abuse or neglect.

## II. ECONOMIC IMPACT AND FISCAL NOTE:

### A. Public:

None.

### B. Government:

The Department of Education estimates a cost of \$170,000 for the council's operation for FY 1989-90, and \$167,000 for FY 1990-91.

The Florida Department of Law Enforcement estimates a start-up cost of \$10,000, and a recurring annual cost of \$4,000 after the initial year.

The Office of the State Courts Administrator and the Department of Health and Rehabilitative Services estimate that their costs would be minimal.

The Department of Corrections estimates a cost of \$1,600 for initial programming.

The Department of Labor estimates a start up cost of \$5,000 and minimal costs after the first year.

The Department of Education has planned the research project and tracking system to be in compliance with the Buckley Amendment. The scope of the project is broad, however, and it should be noted that any violations of the Buckley Amendment would subject the state to loss of federal funds.

III. COMMENTS:

Staff of the Department of Education explains that the prohibition of release of information in the aggregate is intended to prohibit the release of a dossier of information on any one student compiled from information gathered from all agencies. In this case, the terminology may be more precise as "aggregated information." Additionally, the law would not specify to whom such aggregated information could not be released, whether to local school districts, or to any agency participating in the sharing of information.

According to the staff of the council, educational research into such questions as the effects of adult expectations on children's behavior, the effects of labeling on students' achievement, and the effects of ethnic, socioeconomic, and sexual stereotyping on children's performance, which are subjects which have been extensively treated in educational literature, have not been a primary focus of the research project.

Currently, while the project is in the planning stages, the Department of Education is probably in compliance with the federal law prohibiting release of information from student records without prior parental consent, because of the exception provided for conducting studies for certain purposes. When the project proceeds past the research stage, however, if student record information flows from the Department of Education to other agencies without parental consent, the department could be in danger of violating federal law, which could result in the loss of federal funds to the state.

IV. AMENDMENTS:

None.

STORAGE NAME: H642.yo.F  
DATE: July 10, 1989

\*AS PASSED BY THE 1989 LEGISLATURE\*

HOUSE OF REPRESENTATIVES  
COMMITTEE ON CHILDREN AND YOUTH  
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 642 (Passed as SB 272)

RELATING TO: Risk Assessment Information System Coordinating Council

SPONSOR(S): Rep. Canady

EFFECTIVE DATE: Upon becoming a law

DATE BECAME LAW: June 27, 1989

CHAPTER NUMBER: 89-141, Laws of Florida

COMPANION BILL(S): Identical to SB 272

OTHER COMMITTEES OF REFERENCE: (1) Appropriations

(2) \_\_\_\_\_

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I. SUMMARY:

A. PRESENT SITUATION:

The Risk Assessment Information System Coordinating Council (RAISCC) was created in s. 228.502, F.S., in 1987 by the passage of the Crime Prevention and Control Act. The purpose of this council is to enhance the ability of state agencies to communicate with each other regarding individuals interacting among various agencies and to promote sharing of information among agencies. The council is charged with identifying barriers to the sharing of information, developing a plan for sharing information, and developing a profile of a population-at-risk of the entering the criminal justice system. The membership represents the following individuals or organizations: Department of Education, Department of Health and Rehabilitative Services, Department of Corrections, Office of the State Courts Administrator, Department of Labor and Employment Security, Department of Law Enforcement, Department of General Services, Information Resource Commission, state attorneys, and public defenders.

On March 1, 1988, a list of data elements, a list of custodians, and a list of the legal and systemic barriers to the sharing of information were presented to the Legislature as required by the statute.

On March 1, 1989, the council published a subset of the data elements from its 1988 report along with standard definitions and formats, to be used by all the agencies represented on the council. Using the data elements, the council will develop a population-at-risk profile.



In order to further refine the data elements from the 1989 list, the council will conduct a research project by selecting a random sample of students from the Duval County schools for comparison with a group of juvenile offenders from the SHO/DI program in Jacksonville. The data elements found to be most correlated with future delinquent behavior will be used to construct the profile.

B. EFFECT OF PROPOSED CHANGES:

HB 642 amends s. 282.502, F.S., the Risk Assessment Information System Coordinating Council, to revise the membership and add provisions to enable the council to complete its statutory duties.

C. SECTION-BY-SECTION ANALYSIS:

Section 1:

This bill adds a school board member, selected by the school board members, to the council.

The Department of Education, on behalf of the council, may enter into contracts with, and provide grants to, the State University System or private contractors to develop products necessary to meet the requirements of this act.

This legislation provides specific direction for the council to complete its duties as originally put forth by requiring: the development of the population-at-risk profile by March 1, 1990, the development of the identification and tracking process described in the act by March 1, 1990, and the development of guidelines for implementing enhancement programs for children who are at-risk of becoming involved in the criminal justice system. The council will also develop an evaluation component for the profile, screening and tracking system, and the enhancement programs.

Beginning March 1, 1991, the council's annual report will have to contain an analysis of the profile, tracking system, and enhancement programs.

This bill establishes guidelines and criteria for the Departments of Education, Health and Rehabilitative Services, Law Enforcement, Labor and Employment Security, Corrections, Parole Commission, and the Office of the State Courts Administrator to use when sharing information. The provisions of this bill will permit agencies to share information, notwithstanding existing provisions to the contrary, for the purposes of this act.

The Department of Law Enforcement is not required to disclose active criminal intelligence information or active criminal

investigation information. HRS would not be required to disclose the identity of persons who have reported instances of child abuse or neglect.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

See fiscal comments.

2. Recurring or Annualized Continuation Effects:

See fiscal comments.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

The following fiscal impact will occur independent of the passage of this legislation. The impact for DOE is part of the continuation budget for RAISCC office.

	<u>FY 89-90</u>
DOE	\$170,000
FDLE	10,000
DOC	1,600
DLES	<u>\$ 5,000</u>
TOTAL	\$186,600

OSCA and HRS indicate that start-up costs will be minimal.

	<u>FY 90-91</u>
DOE	\$167,000
FDLE	<u>4,000</u>
TOTAL	\$171,000

HRS, OSCA, DOC, and DLES indicate that annualized costs would be minimal. None.

<u>TOTAL</u>	
FY 89-90	\$186,600
FY 90-91	\$171,000

III. LONG RANGE CONSEQUENCES:

This legislation is consistent with the State Comprehensive Plan goal, s. 187.201(2), F.S., in its attempt to promote coordination between agencies providing services to children.

IV. COMMENTS:

HB 642 is also consistent with the Children and Youth Committee's mission statement and the House Policy statement as it relates to the facilitation of interagency coordination on services to children, especially the sharing of information.

STORAGE NAME: H642.yo.F

DATE: June 21, 1989

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V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

*Karen E Mann*

\_\_\_\_\_  
Karen Mann

Staff Director:

*Richard Herring*

\_\_\_\_\_  
Richard Herring

SECOND COMMITTEE OF REFERENCE:

Prepared by:

\_\_\_\_\_

Staff Director:

\_\_\_\_\_

APPROPRIATIONS:

Prepared by:

\_\_\_\_\_

Staff Director:

\_\_\_\_\_