

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 1, 1998 Revised: _____

Subject: Juvenile Justice

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Dugger</u>	<u>Miller</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CF</u>	_____
3.	_____	_____	<u>WM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The CS/SB 2288 allows the Department of Juvenile Justice (DJJ) to re-release the criminal history information on juveniles under its care or on employees responsible for these juveniles that it receives from the Florida Department of Law Enforcement (FDLE) to a private provider under direct contract with DJJ to operate a juvenile assessment center, detention facility, or a treatment program.

Throughout the CS, "intake counselors" and "case managers" are renamed "juvenile probation officers." According to the DJJ, this change more appropriately reflects the current duties and responsibilities of these positions.

The CS codifies the current practices of juvenile assessment centers (JACs) and more clearly defines the role of juvenile assessment centers. In addition, it provides guidelines for the operation of JACs by authorizing participating agencies to govern JACs through an advisory committee and interagency agreements. Each state agency participating in a JAC will have operational oversight over only those individual service components located at the JAC for which the agency has statutory authority.

The CS/SB 2288 transfers the third-degree felony juvenile escape provision from the chapter relating to the state correctional system to the juvenile delinquency chapter. In addition, the CS reinserts the provision that was inadvertently deleted during last session which expressly provides that the escape statute applies to maximum-risk programs as defined in s. 985.03(45), F.S.

The CS also provides that a youth who has been committed to the DJJ and is waiting dispositional placement may be held in secure detention during the currently authorized 5-day period if such youth meets detention criteria under s. 985.215, F.S.

Under CS/SB 2288, delinquent youths who are held in contempt of court can no longer be placed in a secure residential commitment program as a temporary sanction. Instead, they will continue to be placed in secure detention for five days for a first offense and 15 days for any subsequent contempt offense.

The current sunset date of July 1, 1998, for juvenile assignment centers is extended until July 1, 2002, under the CS.

The CS removes the requirement that the DJJ Inspector General is responsible for ensuring the reliability and validity of the department's annual *Quality Assurance Report*.

The time period that a district board member can serve on a district juvenile justice board is increased from two consecutive 2-year terms to three consecutive 2-year terms under the CS.

The CS/SB 2288 also clarifies that the county juvenile justice councils must enter into an interagency agreement with the local law enforcement agencies, the local school authorities, local representatives of the Department of Children and Family Services (DCF), and the DJJ.

Under the CS, the DJJ is required to consider the applications for a juvenile justice partnership grant that would provide for the participation and cooperation of only the agencies or programs that are needed to implement the project or program for which the applicant is applying.

This CS substantially amends the following sections of the Florida Statutes: 943.053, 984.03, 985.03, 985.207, 985.208, 985.209, 985.21, 985.211, 985.215, 985.216, 985.226, 985.23, 985.231, 985.301, 985.304, 985.307, 985.31, 985.311, 944.401, 985.406, 985.412, 985.413, 985.414, and 985.415.

II. Present Situation:

Dissemination of Criminal Justice Information-- Under s. 943.053, F.S., the FDLE is authorized to release criminal history information, including information pertaining to juveniles, to other criminal justice agencies to be used for criminal justice purposes. This dissemination of information to criminal justice agencies, which includes the DJJ, is free of charge. Persons who do not qualify as a criminal justice agency must pay a fee, as established by FDLE rule, for the dissemination of criminal history records. According to FDLE, the cost of a criminal history record is currently \$15.

Private providers who contract with the DJJ to provide residential services to juveniles are currently required to obtain criminal justice information relating to the juveniles under their care or to the employees responsible for these juveniles through FDLE, after paying the current fee. The DJJ is prohibited under its user agreement with FDLE pursuant to s. 943.0525, F.S., from "re-releasing" the criminal history information that it has obtained from FDLE to these private providers. This situation is particularly troublesome, according to the FDLE and the DJJ, when private providers want to obtain large volumes of criminal history information on juveniles in their

programs in an effort to research recidivism rates and conduct program effectiveness studies because the fee is cost prohibitive.

Intake Counselors or Case Managers--Section 985.03, F.S., defines a “case manager” or “intake counselor” as the DJJ’s authorized agent for performing intake or case management functions. The DJJ’s general statutory authority for providing intake and case management of a child alleged to be delinquent is found in s. 985.21, F.S. Similar intake authority for children-in-need-of-services or families-in-need-of-services (CINS/FINS) is found in s. 984.10, F.S.

A case manager or intake counselor is generally responsible for the following:

- ▶ Ensuring that a risk assessment instrument which evaluates a youth’s detention eligibility has been accurately completed and that appropriate recommendations have been made to the court;
- ▶ Performing the preliminary screening and making referrals and recommendations for comprehensive assessment if the youth needs substance abuse treatment, mental health services, retardation services, or other special treatment;
- ▶ Coordinating the multi-disciplinary assessment when required, which includes the classification and placement process that determines the child’s priority needs, risk classification, and treatment plan; and
- ▶ Making recommendations for services and facilitating the delivery of services to the youth, including any mental health services, educational services, family counseling services, family assistance services, and substance abuse services.

In short, a delinquency case manager coordinates, manages, and monitors the services provided to the youth. This includes performing intake services, as well as providing supervision for delinquent youth on community control. Supervision duties involve making arrangements for and monitoring community service, which frequently includes monitoring victim restitution payments. s. 985.21, F.S. According to the department, there are 990 career service positions for delinquency case managers and senior delinquency case managers state-wide.

Juvenile Assessment Centers-- The statutory provision authorizing juvenile justice assessment centers (JACs) in s. 39.0471, F.S., was created in 1994 by ch. 94-209, L.O.F., as part of the 1994 Juvenile Justice Reform Act which created the department. This section has recently been transferred into the new juvenile delinquency chapter as s. 985.209, F.S., pursuant to ch. 97-238, L.O.F. It requires the DJJ to work cooperatively with substance abuse facilities, mental health providers, law enforcement agencies, schools, health services providers, and other entities involved with children to establish a JAC in each service district. According to the department, there are 15 operational assessment centers in Florida today. Three more assessment centers are currently being developed.

One of the statutorily mandated responsibilities for assessment centers is to provide central intake and screening for youths referred to the DJJ, which includes delinquent juveniles and CINS/FINS. Specifically, each assessment center is required to provide services needed to facilitate the initial screening of these youths, including intake and needs assessment, substance abuse screening, physical and mental health screening, and diagnostic testing, as appropriate. The entities involved in the JAC are responsible for making the resources for provided services available at the same level to which they are available to the public under s. 985.209, F.S.

The respective JACs operate independently of each other, looking instead to locally identified needs, services, resources, and local participation. The statute does not provide specific guidelines for the operation or funding of the JACs. According to the DJJ, all entities participating in the development and ongoing operation of a JAC are required by policy to enter into an interagency agreement, which includes establishing a steering committee among the participating entities.

Escapes from Secure Detention or Residential Commitment Facility-- It is currently a third degree felony for a juvenile to escape from a secure detention facility or a residential commitment facility as defined in s. 39.01(59), F.S., or to escape while being transported to or from such facilities under s. 944.401, F.S. (formerly s. 39.061, F.S.). Section 39.061, F.S., was renumbered as s. 944.401, F.S., by ch. 97-238, L.O.F. However, ch. 944, F.S., relates to the state correctional system, not the juvenile justice system.

In addition, s. 39.01(59), F.S., was recently transferred into the new juvenile delinquency chapter as s. 985.03(45), F.S., pursuant to ch. 97-238, L.O.F. Before the transfer, this section expressly provided that the escape statute applied to low-risk residential programs, moderate-risk residential programs, high-risk residential programs, and maximum-risk residential programs. This provision was apparently inadvertently deleted for maximum-risk residential programs during the transfer.

Detention-- Section 985.215, F.S., provides criteria for determining whether a youth taken into custody can be held in detention. To be detained, a youth must meet the statutory criteria, as well as reach a certain score on the risk assessment instrument, which is completed by an intake counselor. If a youth scores as a high risk to public safety, he or she may be placed in secure detention. If he or she scores as a low risk, he or she may be placed in nonsecure or home detention, or he or she may be released.

The following youths are eligible to be held in detention under the statutory criteria:

- ▶ A youth alleged to be an escapee or absconder from commitment or community control;
- ▶ A youth wanted in another jurisdiction for a felony offense;
- ▶ A youth requesting to be detained for his protection;
- ▶ A youth charged with committing domestic violence;

- ▶ A youth charged with a capital felony, a life felony, a first degree felony, a second degree felony that does not involve a drug violation, or a violent third degree felony, including any such offense involving the use or possession of a firearm; or
- ▶ The youth is charged with a second or third degree felony drug offense or a non-violent third degree felony *and* the youth meets one of five additional qualifiers (has a record of failing to appear, has a record of prior violations, has been released pending commitment placement, has a record of violence, or is found to possess a firearm).

If a youth is detained, he or she must be given a detention hearing before the judge within 24 hours. At this time, the judge may order the youth to be held for up to 21 days pending an adjudicatory hearing on the charge. The purpose of the initial detention hearing is to determine the existence of probable cause and the need for continued detention. The adjudicatory hearing (trial) must be commenced within 21 days.

Following an entry of an adjudication order, the youth may remain in detention for up to 15 additional days, unless the court grants a continuance for cause upon motion of the youth or state. The 21-day and 15-day time limits do not include periods of delay resulting from a continuance granted for cause. If a continuance is granted, the court must hold a hearing every 72 hours to determine the need for further detention and further continuance of the proceedings.

Under s. 985.215(10), F.S., a youth who has been committed to the department and is waiting dispositional placement must be removed from detention care (which includes home, nonsecure, and secure detention) within five days, except that a youth who has been committed to either a low or moderate-risk residential program can be held for a specific time period if the department obtains a court order authorizing continued detention care. However, a youth committed to either a low or moderate-risk residential program cannot be held in secure detention care beyond 15 days. *J.M., A Child v. State*, 23 Fla.L.W. 223 (Fla. 5th DCA January 14, 1998) (holding that the statute requires that a youth be placed within five days, unless the department requests and gets a court order approving the extension).

The youths awaiting placement in a low or moderate-risk residential program can also be held in home detention with electronic monitoring for an unlimited time period. If a youth violates the conditions of home detention, nonsecure detention, or the electronic monitoring agreement while awaiting placement in a low or moderate-risk residential program, he or she may be held in a secure detention facility for five days. An additional five days may be imposed if there is a subsequent violation.

Youths awaiting placement in either a high or maximum-risk commitment program, on the other hand, are required to be held in detention care or in a juvenile assignment center until placement is completed.

Punishment for Contempt of Court--Under s. 985.216, F.S., a delinquent youth who has been held in direct or indirect contempt of court may be placed in a secure detention facility for five

days for a first offense or 15 days for a second or subsequent offense, or in a secure residential commitment facility. According to the DJJ, placement in a secure residential commitment facility for such a short time period presents a problem because these residential facilities are not designed to accommodate such short-term placements.

Disposition in Delinquency Cases-- Section 985.231, F.S., prescribes the court's powers of disposition in juvenile cases. In addition to being able to order a youth who has been adjudicated delinquent into a commitment program, the court is also authorized to place such a youth in a community control program or an aftercare program under the supervision of the department or any other person or agency specifically authorized and appointed by the court. The community control program must include a sanction such as restitution, community service, a curfew, revocation or suspension of the driver's license of the youth, or some other nonresidential punishment appropriate to the offense.

If a youth violates the conditions of a community control program or an aftercare program, he or she can be brought before the court on a petition alleging a violation. The court, after holding a hearing within 24 hours after a youth has been taken into custody for violating community control or aftercare and after determining that the youth has, in fact, violated community control or aftercare, can order any of the following dispositions:

- ▶ Place the youth in a consequence unit for up to five days for a first violation and up to 15 days for a second or subsequent violation;
- ▶ Place the youth on home detention with electronic monitoring, if a consequence unit is unavailable;
- ▶ Modify or continue the community control or aftercare program; or
- ▶ Revoke community control or aftercare and commit the youth to the department.

A consequence unit is intended to be a secure facility, similar to secure detention, except that it is specifically designated for youths who have been taken into custody for violating community control or aftercare or who have been found by the court to have violated the conditions of community control or aftercare. According to the department, several juvenile justice partners are considering day treatment consequence units as an alternative to secure residential units, but they want to be able to use electronic monitoring devices when the youths are not in the day treatment unit.

Juvenile Assignment Centers-- The 1995 Legislature authorized the DJJ, contingent upon specific appropriation, to establish juvenile assignment centers for committed youths who have been ordered by the court to be placed in a moderate-risk, high-risk, or maximum-risk residential commitment program. These centers are physically secure residential facilities, to be located in each department region to serve youths in that region who are awaiting placement in one of the

previously specified commitment programs. s. 985.307, F.S. Currently, there is one operational assignment center.

The statute provides the following purposes for assignment centers:

- ▶ To ensure public safety by providing a secure residential facility to hold and process juveniles awaiting placement in commitment programs;
- ▶ To review assessments completed at local juvenile assessment centers and avoid duplication of assessment efforts;
- ▶ To determine appropriate treatment needs, programming, and placement decisions; and
- ▶ To examine a juvenile's need for aftercare and independent living upon release from a commitment program.

Section 985.307(6), F.S., provides a sunset date of July 1, 1998, unless reenacted by the Legislature. If this section is not reenacted, the existing center will be converted into a high-level or maximum-level residential commitment program, if funds are available.

Quality Assurance Program-- In 1994, when the Legislature created the DJJ, it mandated the establishment of a quality assurance review for the juvenile justice system as a way to monitor programs. s. 985.412, F.S. Specifically, the statute requires the DJJ to produce a *Quality Assurance Report* containing at least the following for each specific program component:

- ▶ A comprehensive description of the population served by the program;
- ▶ A specific description of the services provided by the program;
- ▶ Cost;
- ▶ A comparison of expenditures to federal and state funding;
- ▶ Immediate and long-range concerns; and
- ▶ Recommendations to maintain, expand, improve, modify, or eliminate each program component so that changes in services lead to enhancement in program quality.

The DJJ has developed and continues to revise minimum standards for each program model and performs on-site program reviews using a peer review process. The *1997 Quality Assurance Report* contains reviews of over 450 programs and services, including intervention, prevention, detention, commitment, and aftercare, that were most recently examined by peer review teams. These teams look at such standards and key indicators as program management, behavior management, admission and orientation, food services, habilitation planning, security, emergency

procedures, education, health, training and staff development, as well as many others. The results are then used to improve overall program quality.

The performance rating system used in the report includes categories of poor, below satisfactory, satisfactory/marginal, satisfactory, satisfactory/high, and superior. According to the DJJ, a program receiving a superior rating means that it is exceptional. Satisfactory ratings are considered by the department to indicate that the program has met all of the department's expectations and is operating at an acceptable performance level. A marginal satisfactory rating indicates to the department that the program has at least met the department's expectations for that program type; however, substantial improvements are expected to be made in the performance of that program. If a program receives a marginal rating, then performance improvement plans are developed and monitored by the department.

Programs receiving a poor or below satisfactory performance rating are seen as not being able to meet the mandated minimum standards of quality. These programs are reviewed again later in the year to see whether they have improved enough to meet the minimum thresholds. If they do not, the DJJ is required to cancel their contract, unless extenuating circumstances can be shown.

The statute currently requires the department's inspector general to ensure the reliability and validity of the information in the report. s. 985.412(1)(c), F.S. However, the DJJ states that because administratively the Bureau of Quality Assurance has moved from the Office of the Inspector General to the Assistant Secretary for Executive Services, who also has oversight of the Bureau of Data and Research, it is more efficient and effective to have the Bureau of Data and Research verify the data.

District Juvenile Justice Boards-- District juvenile justice boards are authorized to formulate juvenile justice plans aimed at crime intervention and prevention. Boards perform the following duties and responsibilities under s. 985.413, F.S.:

- ▶ Advise juvenile justice entities and agencies and other organizations with an interest in juvenile welfare;
- ▶ Develop district interagency cooperation and information sharing agreements;
- ▶ Coordinate board efforts with those of the Governor's Juvenile Justice and Delinquency Prevention Advisory Committee and other public and private entities;
- ▶ Develop funding sources external to the DJJ;
- ▶ Provide reports on juvenile justice matters;
- ▶ Monitor and make recommendations for the judicial administrative plan;

- ▶ Educate the community and assist with the community juvenile justice partnership grant program;
- ▶ Assist in information collection and gathering; and
- ▶ Assist in the decision making process for future juvenile justice legislation.

The boards are composed of 12 members who are appointed by juvenile justice councils from the respective counties. Board members are limited to serving two consecutive 2-year terms under s. 985.413, F.S. According to the DJJ, this restriction, especially in the rural areas, makes it difficult to recruit and retain new members.

County Juvenile Justice Councils-- County juvenile justice councils encourage the initiation and support of interagency cooperation and collaboration in addressing juvenile crime. s. 985.414, F.S. They fulfill those duties by developing county juvenile justice plans and interagency agreements to achieve the goals of the county plan. They use public and private grants to administer the county plan, assist local organizations in efforts to curtail juvenile crime, and develop an annual report. The council also designates a county representative to the district board.

The county juvenile justice councils are required to have a written interagency agreement specifying the contributions of each agency in achieving the goals of the county juvenile justice plan and their commitment to sharing information in order to meet the goals of the agreement. However, s. 985.414, F.S., does not specify which agencies should be included in the written interagency agreement.

Community Juvenile Justice Partnership Grants-- Section 985.415, F.S., requires all agencies applying for a Community Juvenile Justice Partnership Grant to enter into a written interagency agreement with local school authorities, local law enforcement agencies, and local representatives of the DJJ and the DCF, regardless of whether all these agencies are involved in the implementation of the project which forms the basis for the grant application.

III. Effect of Proposed Changes:

Dissemination of Criminal Justice Information-- The CS/SB 2288 allows the DJJ to re-release the Florida criminal history information on juveniles under its care or on employees responsible for these juveniles that it receives from FDLE to a private provider under direct contract with the DJJ to operate a juvenile assessment center, detention facility, or a treatment program. The CS also allows dissemination of this information on other persons having access to a contracted juvenile assessment center, detention facility, or a treatment program. The DJJ is authorized to charge a nominal fee under ch. 119, F.S.

Under the CS, a sealed criminal history record received by a private entity remains confidential and any information received under this new section may only be used for the criminal justice

purpose for which it was requested and may not be further disseminated. The CS/SB 2288 will enable the DJJ's private contractors providing residential services to go directly to the department for a nominal fee to access this Florida criminal history information, rather than accessing it through the FDLE. This change will be particularly helpful when these providers want to obtain large volumes of criminal history information on juveniles to evaluate the effectiveness of their programs because the cost will no longer be prohibitive.

Intake Counselors or Case Managers-- Throughout the CS, "intake counselors" and "case managers" are renamed "juvenile probation officers." According to the DJJ, this change more appropriately reflects the current duties and responsibilities of these positions. In addition, the CS replaces the "community control counselor" with a juvenile probation officer or the supervisor of a juvenile probation officer as a required member of the Juvenile Justice Standards and Training Commission in s. 985.406, F.S.

Juvenile Assessment Centers-- The CS codifies the current practices of JACs and more clearly defines the role of juvenile assessment centers. It defines JACs as "comprising community operated facilities and programs that provide collocated central intake and screening services for youths referred to the DJJ." In addition, it provides guidelines for the operation of JACs by authorizing participating agencies to govern JACs through an advisory committee and interagency agreements. Each state agency participating in a JAC will have operational oversight over only those individual service components located at the JAC for which the agency has statutory authority.

Each JAC will continue to provide intake and screening services, as well as diagnostic testing as appropriate. The DJJ will still be responsible for providing sufficient staff and resources to make detention screening and intake services possible. The CS also clarifies that to facilitate screening and case processing, the JACs must provide for the coordination and sharing of information among participating entities.

Escapes from Secure Detention or Residential Commitment Facility-- The CS/SB 2288 transfers the third-degree felony juvenile escape provision from ch. 944, F.S., relating to the state correctional system, to the juvenile delinquency chapter as s. 985.3141, F.S. In addition, the CS reinserts the provision that was inadvertently deleted during last session which expressly provides that the escape statute applies to maximum-risk programs as defined in s. 985.03(45), F.S. The CS also deletes a reference to serious or habitual juvenile offenders in the definition of maximum risk programs.

Detention-- The CS provides that a youth who has been committed to the DJJ and is waiting dispositional placement may be held in secure detention during the currently authorized 5-day period if the youth meets detention criteria under s. 985.215, F.S. According to the DJJ, this change will prevent a misdemeanor who does not meet detention criteria from being held in secure detention while waiting to be placed in a low-risk or moderate-risk program. (This youth will still be required to be in non-secure or home detention care.)

Punishment for Contempt of Court-- Under CS/SB 2288, delinquent youth who are held in contempt of court can no longer be placed in a secure residential commitment program as a temporary sanction. Instead, they will continue to be placed in secure detention for five days for a first offense and 15 days for any subsequent contempt offenses. According to the DJJ, this change will assist the department in controlling the waiting list for residential programs.

Disposition in Delinquency Cases-- The CS clarifies that a juvenile who has violated community control or aftercare may be placed on home detention with electric monitoring only if a residential consequence unit is not available.

Juvenile Assignment Centers-- The current sunset date of July 1, 1998, for juvenile assignment centers is extended until July 1, 2002, under the CS. Extending the date by four years enables the department to seek funding to continue the current assignment center and to request funding for additional assignment centers, according to the DJJ. The department further states that without the assignment centers, approximately 20 to 25 percent of the placements into commitment programs will fail because of the lack of adequate assessment information and treatment plans.

Quality Assurance Program-- The CS removes the requirement that the DJJ Inspector General is responsible for ensuring the reliability and validity of the department's annual *Quality Assurance Report*. According to the DJJ, because administratively the Bureau of Quality Assurance has moved from the Office of the Inspector General to the Assistant Secretary for Executive Services, who also has oversight over the Bureau of Data and Research, it is more efficient and effective to have the Bureau of Data and Research verify the data.

District Juvenile Justice Boards-- The time period that a district board member can serve on a juvenile justice board is increased from two consecutive 2-year terms to three consecutive 2-year terms under the CS. This change will provide sufficient time for recruiting and retaining new board members, which can be a particular problem in less populated areas, according to the DJJ.

County Juvenile Justice Councils-- The CS/SB 2288 clarifies that the county juvenile justice councils must enter into an interagency agreement with the local law enforcement agencies, the local school authorities, the public defenders, and local representatives of the DCF and the DJJ. The agreement is required to specify how community entities will cooperate and share information to further the goals of the district and county juvenile justice plan.

Community Juvenile Justice Partnership Grants-- Under the CS, the DJJ is required to consider the applications for a juvenile justice partnership grant that provides for the participation and cooperation of only the agencies or programs that are needed to implement the project or program for which the applicant is applying. (Currently, the applicant must have an agreement among local school authorities, local law enforcement, and local representatives of the DCF and the DJJ before being able to apply.)

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The CS will result in an indeterminate cost savings to private providers contracting with the DJJ to provide residential services to juveniles who will now be able to access criminal history information through the DJJ for a nominal fee.

C. Government Sector Impact:

The DJJ estimates that the CS's provisions relating to detention and quality assurance will result in a cost savings to the department of approximately \$112,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

