

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.)

BILL: CS/SB's 1724 & 2312

SPONSOR: Criminal Justice Committee and Senators Scott and Campbell

SUBJECT: Juvenile Justice

DATE: April 6, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Under the CS, in those instances where a child is taken into custody for a violation of law and later released, the person taking the child into custody must make the release report to the juvenile probation officer within 24 hours after the child's release. The CS would also require the person taking the child into custody to file a copy of the custody report or release report, whichever is appropriate, with the clerk of the circuit court within 24 hours after the report is made. In addition, the arresting law enforcement agency is required to complete and present its investigation to the state attorney's office within 8 days of the child being placed in secure detention.

The CS creates a nine member workgroup that would be responsible for reviewing the effectiveness of the "Risk Assessment Instrument" (RAI) as a screening device in determining the need for juvenile detention. The CS also provides for an additional independent evaluation to be commissioned by the Department of Juvenile Justice (DJJ), subject to specific appropriation, to validate the current RAI and to make an objective report to the workgroup and to the Legislature.

The CS also extends the current 21-day detention time limit to 30 days if the offense charged is a capital felony, life felony, first degree felony, or second degree felony involving violence against a person.

This CS substantially amends the following sections of the Florida Statutes: 985.211, 985.215, and 985.213.

II. Present Situation:

Reports and Affidavits

Currently, a child taken into custody for a violation of law must be released as soon as reasonably possible unless there is a need to hold the child and a court issues an order to detain the child

pursuant to s. 985.215, F.S. (Supp.1998). Section 985.211(3), F.S. (Supp.1998), requires that if a child is released, the person taking the child into custody must make a written report or probable cause affidavit to the juvenile probation officer within 3 days.

The report must contain the facts and reasons for taking the child into custody. In addition, the release report must identify the child, the parents, guardian, or legal custodian and the person to whom the child was released, and contain sufficient information to establish the jurisdiction of the court and make a prima facie showing that the child has committed a violation of law or a delinquent act.

Section 985.211(4), F.S. (Supp. 1998), provides that if a person taking a child into custody for a violation of law determines that the child needs to be detained pursuant to s. 985.215, F.S. (Supp. 1998), the child shall be delivered to the appropriate juvenile probation officer or, if a court has so ordered, to a detention center. Upon delivery of the child, the person taking the child into custody must make a written report or probable cause affidavit to the juvenile probation officer. The custody report must:

- ▶ Identify the child and, if known, the parents, guardian, or legal custodian.
- ▶ Establish that the child was legally taken into custody, with sufficient information to establish the jurisdiction of the court and to make a prima facie showing that the child has committed a violation of law.

In those instances where a child is taken into custody and detained, a copy of the custody report must be filed with the clerk of the circuit court for the county within which the child was taken into custody within 24 hours. In those instances where the child is taken into custody and released, a copy of the release report must be filed with the clerk of the circuit court, as outlined above, within one week after the child has been released from custody, or within one week after the release report has been made.

The Initial Stage of Detention

When a law enforcement officer takes a child into custody for a violation of law, the child is turned over to a juvenile probation officer. The juvenile probation officer makes the initial decision of whether to securely detain the child between the time he or she is taken into custody and the time of the child's detention hearing. The decision is made based on a risk assessment instrument as provided in s. 985.213, F.S. (Supp.1998). If a juvenile probation officer determines a child who is eligible for detention should be released, he or she must contact the state attorney who may authorize release.

A child who is taken into custody and detained must be given a detention hearing within 24 hours. The purpose of the hearing is to determine whether there is probable cause to believe the child committed the offense charged, and whether there is a continued need for detention. s. 985.215 (2)(g) F.S. (Supp. 1998).

Detention and Risk Assessment

Section 985.213(2)(a), F.S. (Supp.1998), requires that all determinations and court orders regarding placement of a child into detention care must comply with all statutory requirements and be based on a risk assessment of the child. One exception to these requirements is cases involving acts of domestic violence which are subject to alternative detention provisions. The mechanism used to gauge the degree of risk a particular child poses to public safety, or to his or her own safety, is called the "risk assessment instrument" (RAI).

Under s. 985.215 (2), F.S. (Supp. 1998), a child taken into custody and placed into nonsecure or home detention care, or detained in secure detention care prior to a detention hearing may continue to be detained by order of the court for a period not to exceed the maximum time limits allowed under s. 985.215, F.S. (Supp. 1998), if any of the following circumstances apply:

- (1) The child is alleged to be an escapee or an absconder from a juvenile justice program;
- (2) The child is wanted in another jurisdiction for a felony offense;
- (3) The child is charged with a violation of law and requests protection from an imminent threat of physical harm;
- (4) The child is charged with a domestic violence offense;
- (5) The child is charged with a capital felony, a life felony, a felony of the first degree, a felony of the second degree that *does not* involve a drug offense, or a felony of the third degree that is a violent crime, including an offense involving a firearm;
- (6) The child is charged with any second degree or third degree felony that *does* involve a drug offense or any nonviolent third degree felony, *and* the child 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); or
- (7) The child is alleged to have violated the conditions of community control or aftercare supervision.

If the court orders a child into a detention placement which is more restrictive than indicated by the RAI, the court is required to provide, in writing, clear and convincing reasons for such placement. s. 985.215(2), F.S. (Supp. 1998). However, while the court may detain a child in a placement more restrictive than indicated by the RAI, the court is not authorized to order secure detention for those children falling outside the statutory criteria.

The RAI was developed by the DJJ in conjunction with the Conference of Circuit Judges of Florida, the Prosecuting Attorneys Association, and the Public Defenders Association. By law, the RAI was designed to target a narrower population of children than what is provided under the statutory criteria. The parties involved in developing the RAI are required to evaluate and revise it as necessary. s. 985.213(2)(b)1., F.S. (Supp.1998).

Detention Time Limits

Under current law, the maximum period of time a child may be held in secure, nonsecure, or home detention is 21 days unless an adjudicatory hearing for the child has been commenced by the court. Following an order of adjudication, a child may be detained up to 15 days.

Petition Filings

Currently, there is no specific requirement that a petition for delinquency charging a child with a delinquent act be filed within a particular time. Florida Rule of Juvenile Procedure 8.090, however, requires a child to be brought to an adjudicatory hearing (trial) within specific time frames to satisfy the requirements of an accused's right to a speedy trial.

III. Effect of Proposed Changes:

Reports and Affidavits

Under the CS, in those instances where a child is taken into custody and released, the person taking the child into custody must make the release report to the juvenile probation officer within 24 hours after the child's release. Regardless of whether a child is released from custody or detained, the CS would require the person taking the child into custody to file a copy of the custody report or release report, whichever is applicable, with the clerk of the circuit court within 24 hours after the report is made.

In addition, the arresting law enforcement agency is required to complete and present its investigation to the state attorney's office within 8 days of a child being placed in secure detention. Included in the presentation will be police reports, witness statements, and evidence collection documents.

Detention and Risk Assessment

The CS would create a nine member workgroup, consisting of a public defender, a state attorney, and a sheriff, appointed by the Florida Public Defenders Association, the Florida Prosecuting Attorney's Association, the Florida Sheriffs Association, respectively. Also included on the board would be a representative of the DJJ, a juvenile court judge, a chairman of a local juvenile justice board or county council, a child advocate appointed by the Secretary of Juvenile Justice, a member of the Senate, and a member of the House of Representatives.

The workgroup would be responsible for reviewing the RAI's effectiveness as a screening device and would be required to make recommendations on whether to keep, modify, or eliminate the RAI. The workgroup would issue these recommendations and findings in a report to be presented to the Governor, Speaker of the House of Representatives, and the President of the Senate by January 15, 2000.

The CS also provides for an additional independent evaluation to be commissioned by the DJJ, subject to specific appropriation, to validate the current RAI and to make an objective report to the workgroup and to the Legislature.

The provisions concerning the evaluation of the RAI would expire on October 1, 2000, unless reenacted by the Legislature.

The CS would also extend the current 21-day detention time limit for an additional 9 days if the offense charged is a capital felony, life felony, first degree felony, or second degree felony involving violence against a person.

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:

None.

C. Government Sector Impact:

The DJJ estimates that extending the detention stay an additional 9 days under the CS would require the construction of an additional 73 detention beds. Combining the cost of construction in FY 99-00 of \$5,321,700 and the cost of annual operating expenses of \$2,511,774, the DJJ estimates a **cost** to the state of **\$7,833,474**.

	FY 99-00	FY 00-01	FY 01-02
Non-recurring DJJ Costs	\$5,321,700		
Recurring DJJ Costs	\$2,511,774	\$2,511,774	\$2,511,774
Total DJJ Costs	\$7,833,474	\$2,511,774	\$2,511,774

Senate Bill 2500, the General Appropriations Act for FY 99-00, as amended and passed by the Senate contains a \$50,000 appropriation for the RAI validation study.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DJJ indicates that the additional 9 days of detention provided for in the CS could increase the current overcrowding in detention centers. The DJJ also notes, however, that currently for most of these children, the detention stay is continued by the court until the adjudicatory hearing. For the period of time between October 18, 1998, and February 21, 1999, an average of 13 out of the 21 detention centers have been operating at or over 100 percent capacity.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
