

# 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: SB 722

SPONSOR: Senator Lee

SUBJECT: Habitual Juvenile Offenders

DATE: March 14, 2000

REVISED: 03/20/00 \_\_\_\_\_

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

## I. Summary:

The bill requires a prosecutor to direct file an information on a juvenile (transfer to adult court) who is 16 or 17 years of age if the juvenile is currently charged with a *forcible felony* and has three previous felony adjudications or three withheld felony adjudications, each of which occurred at least 45 days apart. An exception is provided if a prosecutor finds exceptional circumstances exist.

In addition, the bill would require the sentencing court to impose adult sanctions on juveniles transferred to adult court under this newly created criteria or under current mandatory waiver provisions in ch. 985, F.S.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 985.227, 985.233, and 985.226.

## II. Present Situation:

### Transferring a Juvenile for Adult Prosecution

Sections 985.226 and 985.227, F.S., prescribe the circumstances by which a juvenile may be transferred for prosecution as an adult in the criminal court. In some instances, the prosecutor is required to “direct file” an information on a juvenile and in some instances the prosecutor has the discretion to direct file an information. Similarly, the statute sets forth circumstances whereby the prosecutor must request that the court waive its jurisdiction over the juvenile and transfer the juvenile for criminal prosecution. There are also prescribed circumstances allowing the prosecutor to request the court to waive its jurisdiction over the juvenile and transfer him for criminal prosecution. Generally, these circumstances are based on the juvenile’s age, past criminal history, and the seriousness of the present offense.

Mandatory direct file can occur under the following circumstances (s. 985.227(2), F.S.):

- ▶ when a juvenile 16 or 17 years of age has a previous adjudication for an enumerated violent felony and the current offense is also violent;
- ▶ when a juvenile of any age has three previous felony adjudications which occurred at three separate hearings and which resulted in three residential commitments; or
- ▶ when a juvenile of any age has committed an act involving stealing a motor vehicle and it resulted in serious personal injury or death to another person.

Discretionary direct file can occur under the following circumstances (s. 985.227(1), F.S.):

- ▶ when a juvenile 14 or 15 years of age has committed an alleged enumerated violent felony and the prosecutor believes that the public interest requires adult prosecution; or
- ▶ when a juvenile 16 or 17 years of age commits any offense, except a misdemeanor unless the juvenile has two prior adjudications and one of those is for a felony, and the prosecutor believes that the public interest requires adult prosecution.

Mandatory request (waiver) for the court to transfer a juvenile to criminal court can occur under the following circumstances (985.226(2)(b), F.S.):

- ▶ when a juvenile 14 years of age or older has a previous adjudication for an enumerated violent felony and the current offense is also violent; or
- ▶ when a juvenile 14 years of age or older has three previous felony adjudications, one of which involved a firearm or violence, and the current offense is a felony.

Discretionary request (waiver) for the court to transfer a juvenile to criminal court can occur under the following circumstance (985.226(2)(a), F.S.):

- ▶ when a juvenile 14 years of age or older commits any delinquent act or violation of law.

### **Sentencing Options for Juveniles Transferred to Adult Court**

Section 985.233, F.S., defines sentencing options for juveniles transferred to adult court. A juvenile found to have committed a violation of law may, as an alternative to adult dispositions, be committed to the Department of Juvenile Justice (DJJ) for placement in a residential commitment program or be placed on DJJ community control. In determining whether to impose juvenile sanctions on a juvenile transferred to adult court, the court must consider the following factors:

- ▶ The seriousness of the offense and whether the community would best be protected by juvenile or adult sanctions;
- ▶ Whether the offense was committed in an aggressive, violent, premeditated, or willful manner;
- ▶ Whether the offense was against persons or against property, with greater weight being given to offenses against persons, specifically if personal injury resulted;
- ▶ The sophistication and maturity of the offender;
- ▶ The record and previous history of the offender (prior arrests, referrals, placements on community control or prior commitments to DJJ);
- ▶ The prospects for adequate protection of the public and the likelihood of deterrence and reasonable rehabilitation of the offender if assigned to services immediately available;
- ▶ Whether the DJJ has appropriate programs, facilities, and services immediately available; and
- ▶ Whether adult sanctions would provide more appropriate punishment and deterrence to further violations of law than the imposition of juvenile sanctions.

Section 985.233, F.S., requires a presentence investigation report prepared by the Department of Corrections with a recommendation by the DJJ on what sanctions would be appropriate following a finding of guilt. At the sentencing hearing, all parties are heard and the court may receive all relevant material related to sentencing the juvenile.

Under this statute, the trial court can impose an adult sanction or a juvenile sanction, but may not sentence the juvenile to a combination of adult and juvenile punishments. If the juvenile is given juvenile sanctions and the DJJ determines that the juvenile is not suitable for a community control program or placement in a residential commitment program, the court may revoke the previous adjudication, impose an adjudication of guilt, classify the juvenile as a youthful offender when appropriate and impose an adult sentence.

### **III. Effect of Proposed Changes:**

Senate Bill 722 would create the “Habitual Juvenile Offender Accountability Act” by requiring a prosecutor to direct file an information on a juvenile who is 16 or 17 years of age, if the juvenile is currently charged with a *forcible felony* and has three previous felony adjudications or three withheld felony adjudications, each of which occurred at least 45 days apart. *Forcible felonies*

include the following: treason; murder; manslaughter; sexual battery; arson; carjacking; home-invasion robbery; robbery; burglary; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing or discharging of a destructive device or bomb; and any other felony involving the use or threat of physical violence.

The bill would, however, allow a prosecutor the opportunity not to transfer to adult court a juvenile meeting the above criteria if the prosecutor has good cause to believe that exceptional circumstances exist.

In addition, the bill would require the sentencing court to impose adult sanctions on juveniles transferred to adult court under this newly created criteria or under the mandatory waiver provisions of s. 985.226(2)(b), F.S. (see current situation for description). According to the DJJ, using FY 1997-98 data, there were 56 juveniles who met these requirements and would have required transfer to the adult court as proposed by the bill.

#### **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:**

According to the DJJ, no additional costs would occur for the department as a result of this bill.

There would, however, be an impact upon the adult prison system. According to the Criminal Justice Estimating Conference (CJEC), 197 new prison beds would be required over the next 5 years, at a total cost of \$16,124,477. Of the total cost, \$9,753,755 would be operating costs and \$6,370,722 would be fixed capital outlay costs. Below is a chart prepared for the CJEC that shows the breakdown of costs and beds over the next five years.

Fiscal Year	Projected Additional Cumulative Prison Beds Required Under CS/HB69 / SB722	Projected Additional Annual Prison Beds Required	FUNDS REQUIRED			
			Annual Operating Costs	Annual Fixed Capital Outlay Costs	TOTAL Annual Funds	TOTAL Cumulative Funds
2000-2001	21	21	\$205,086	\$1,922,700	\$2,127,786	\$2,127,786
2001-2002	68	47	\$888,487	\$1,274,636	\$2,163,123	\$4,290,909
2002-2003	112	44	\$1,841,040	\$1,604,070	\$3,445,110	\$7,736,019
2003-2004	166	54	\$2,915,803	\$944,136	\$3,859,939	\$11,595,958
2004-2005	197	31	\$3,903,339	\$625,180	\$4,528,519	\$16,124,477
<b>TOTAL</b>	<b>197</b>	<b>197</b>	<b>\$9,753,755</b>	<b>\$6,370,722</b>	<b>\$16,124,477</b>	<b>\$16,124,477</b>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Criminal Justice:  
(Strike Everything)

Corrects a technical problem with the bill in 2 sections.

It also restores a provision in current law that was deleted in the bill so that when a juvenile of any age has three previous felony adjudications which occurred at three separate hearings and resulted in three residential commitments, the state attorney must direct file the youth to adult court; however, the court continues to have discretion to impose adult or juvenile sanctions.

(WITH TITLE AMENDMENT)