

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 302

SPONSOR: Children and Families Committee and Senator Burt

SUBJECT: Juvenile Detention

DATE: January 30,2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/1amendment</u>
2.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>APJ</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

CS/SB 302 would add to the detention eligibility criteria a child found by the court to be a clear and present danger to himself or the community. This new provision relating to detention eligibility would expire on October 1, 2004. In the meantime, by October 1, 2003, the Juvenile Justice Estimating Conference would be required to report to the Legislature about the effect of this provision on the number of juveniles who are being held in detention.

This bill substantially amends section 985.215 of the Florida Statutes.

II. Present Situation:

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 a juvenile probation officer (except that a youth may be put into secure detention for committing domestic violence or possessing or discharging a firearm on school property regardless of the risk assessment instrument results). 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. If the court orders a more restrictive detention placement than the risk assessment instrument indicates, the court must give clear and convincing written reasons for so doing.

The risk assessment instrument is developed by the Department of Juvenile Justice (DJJ) in conjunction with the Conference of Circuit Judges of Florida, the Prosecuting Attorneys Association, the Public Defenders Association, the Florida Sheriffs Association, and the Florida Association of Chiefs of Police. By law, it is designed to target a narrower population of youths

than what is provided under the statutory criteria. The parties involved in developing it are required to evaluate and revise it as necessary.

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

- A youth alleged to be an escapee or absconder from a commitment or probation program;
- 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 possessing or discharging a firearm on school property;
- 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;
- A 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);
- A youth is alleged to have violated the conditions of probation or conditional release supervision (in which case the youth may only be held in a consequence unit, if available); and
- A youth willfully fails to appear who has previously failed to appear at an adjudicatory hearing or failed to appear at two or more court hearings of any nature, regardless of the risk assessment instrument results (however, the youth may only be held up to 72 hours in advance of the next scheduled court hearing).

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, unless the court extends this time limit an additional 9 days upon good cause shown that the nature of the charge (capital felony, life felony, first degree felony, or a violent second degree felony) requires additional time for the prosecution or defense of the case.

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. After the disposition hearing (sentencing), a youth may be detained for varying time periods pending placement in a residential commitment program.

Section 394.463, F.S., specifies that a person may be taken to a Baker Act receiving facility for an involuntary examination if there is reason to believe that he or she is mentally ill and “without care or treatment, there is a substantial likelihood that he or she will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.”

For noncriminal or minor criminal behavior, the Baker Act specifies in s. 394.462(f), F.S., that law enforcement must transport a person to the nearest receiving facility for an involuntary examination when that person appears to be mentally ill. In cases where a law enforcement officer has arrested a person for a felony and it appears that he or she meets the criteria for an involuntary examination, s. 394.462(g), F.S., states that the person must first be processed in the same manner as any other criminal suspect and law enforcement must immediately notify the nearest public receiving facility, which is responsible for promptly arranging for the examination and treatment of the person. A receiving facility is not required to admit a person charged with a crime for whom the facility determines and documents that it is unable to provide adequate security, but shall provide mental health examination and treatment to the person where he or she is held.

III. Effect of Proposed Changes:

CS/SB 302 would add to the detention eligibility criteria a child found by the court to be a clear and present danger to himself or the community. If the court makes such a finding, the order to continue detention must be in writing and must specify both the need and the benefits to the child or community for continued detention. The risk assessment instrument results would be utilized by the court to determine the need for continued detention. The bill specifies that a child who meets the criteria for an involuntary examination under s. 394.463, F.S., may be detained only pursuant to the provisions of chapter 394, F.S.

This new provision relating to detention eligibility would expire on October 1, 2004. In the meantime, by October 1, 2003, the Juvenile Justice Estimating Conference would be required to report to the Legislature about the effect of this provision on the number of juveniles who are being held in detention.

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, this bill has no fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Prior to October 1990, a provision existed in the detention statute that allowed judges broad authority to place youths who presented a clear and present danger to the community in secure detention, regardless of whether they met the statutorily authorized eligibility criteria. It was deleted in October 1990.

VIII. Amendments:

None.

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