

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 515 w/CS Additional Court Costs in Cases of Certain Crimes Against Minors
SPONSOR(S): Ryan
TIED BILLS: HB 517 **IDEN./SIM. BILLS:** CS/SB 602; CS/SB 606

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|-----------------------------------------------------|----------------|---------|----------------|
| 1) Judiciary | 16 Y, 0 N w/CS | Birtman | Havlicak |
| 2) Future of Florida's Families | | Walsh | Liem |
| 3) State Administration | | | |
| 4) Finance & Taxation | | | |
| 5) Subcommittee on Human Services Appropriations | | | |
| 6) Appropriations | | | |

SUMMARY ANALYSIS

This bill imposes an additional court cost of \$101 against a person who pleads guilty or nolo contendere to, or is found guilty of certain offenses against minors. These offenses include battery of a child by throwing, tossing, projecting or expelling certain fluids; kidnapping, false imprisonment, luring or enticing a child; sexual battery; procurement of a minor for prostitution; lewd or lascivious offenses committed upon or in the presence of a person under the age of 16; abuse of children; selling or buying of minors; and sexual misconduct by Department of Juvenile Justice employees.

The bill directs the Clerk of Court to transfer \$100 of the proceeds to the State Treasury, for deposit into the Child Advocacy Trust Fund (created by HB 517) for disbursement to the Florida Network of Children's Advocacy Centers, Inc. The bill also allows the Clerk of the Court to retain \$1 of the costs as a service charge.

The bill requires each children's advocacy center that received revenue from the Children's Advocacy Trust Fund to provide an annual report to the Board of Directors of the Florida Network of Children's Advocacy Centers, Inc., which details center expenditures, sources of revenue, and standardized outputs. The bill also requires the Florida Network of Children's Advocacy Centers, Inc. to compile reports from the local children's advocacy centers and report to the President of the Senate and the Speaker of the House annually. Lastly, the bill requires a child advocacy center to meet specified standards and screening requirements in order to be eligible to receive funds.

This bill appears to have no fiscal impact on the state.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0515b.fff.doc
DATE: March 24, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|-----------------------------------------|-----------------------------|-----------------------------------------|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Children’s Advocacy Centers: Children’s Advocacy Centers are community based centers that provide a neutral, child-friendly setting for interviews, medical examinations, and counseling of child victims of abuse and neglect. Information provided by the Florida Network of Children’s Advocacy Centers, Inc. reveals that the goals of Children’s Advocacy Centers are to reduce the number of times a child victim must be interviewed; facilitate effective joint investigations; increase successful prosecutions; and provide for prompt access to mental health, medical, and other appropriate services.

The Florida Network of Children’s Advocacy Centers, Inc., is a non-profit organization and the member organization for Florida’s Child Advocacy Centers. The Network is a state chapter of the National Children’s Alliance, and its stated purposes are to provide advocacy for centers on a state and national level; provide mentoring, leadership, and training to centers; and provide a mechanism to establish strategic short and long range plans for the overall mission and continued development of Children’s Advocacy Centers.

There are currently 21 Children’s Advocacy Centers in Florida, which rely primarily on grants, foundations, and donations for funding. In order to receive state funds, a child advocacy center must be certified by the Florida Network of Children’s Advocacy Centers, Inc., as a full member¹, and meet the following standards:

- Be a private, non-profit incorporated agency or a governmental entity;
- Be a child protection team, or by written agreement incorporate the participation and services of a child protection team;
- Have a neutral, child-focused facility where joint department and law enforcement interviews take place with children in appropriate cases of suspected sexual or physical abuse;
- Have a minimum designated staff that is supervised and approved by the local board of directors or governmental entity;
- Have a multidisciplinary case review team that meets regularly;²
- Provide case tracking of child abuse cases seen through the center;
- Collect data on the number of child abuse cases seen at the center;
- Provide referrals for medical exams and mental health therapy;

¹ Full members of the National Children’s Alliance are located in Alachua; Bay; Brevard; Dade; Duval, St. John’s, Clay, Baker, and Nassau; Highlands; Hillsborough; Lake and Sumter; Lee, Charlotte, Hendry, Glades, and Collier; Okaloosa; Orange; Polk; and Volusia and Flagler. Associate members are located in Broward; Escambia and Santa Rosa; Marion; Palm Beach; Pinellas; and Seminole Counties.

² The team must consist of representatives from the Office of the State Attorney, the Department of Children and Family Services, the child protection team, mental health services, law enforcement, and the child advocacy center staff. Medical personnel and a victim’s advocate may be part of the team. See s. 39.3035, F.S.

- Provide training for various disciplines in the community that deal with child abuse;
- Have an interagency commitment, in writing, covering those aspects of agency participation in a multidisciplinary approach to the handling of child sexual abuse and serious physical abuse cases;
- Provide assurances that child advocacy center employees and volunteers at the center are trained and screened.³

The Office of Program Policy Analysis and Government Accountability (OPPAGA) conducted a special review of Children's Advocacy Centers which found that in 2001, twelve full member children's advocacy centers served 15,559 children. While the report indicated that children's advocacy centers appeared beneficial, the report also found that the centers lack accountability.⁴ Centers are required to report some fiscal and programmatic information to their boards and funding sources, and centers that are full members of the National Children's Alliance must also maintain client information in a case tracking system and report caseloads, client demographics, and case disposition biannually to the Alliance.

Effect of Proposed Changes: The bill imposes an additional court cost of \$101 against a person who pleads guilty or nolo contendere to, or is found guilty of certain offenses against minors. These offenses include battery of a child by throwing, tossing, projecting or expelling certain fluids; kidnapping, false imprisonment, luring or enticing a child; sexual battery; procurement of a minor for prostitution; lewd or lascivious offenses committed upon or in the presence of a person under the age of 16; abuse of children; selling or buying of minors; and sexual misconduct by Department of Juvenile Justice employees.

The bill directs the Clerk of the Court to transfer \$100 of the proceeds to the State Treasury, for deposit into the Child Advocacy Trust Fund (created by HB 517) for disbursement to the Florida Network of Children's Advocacy Centers, Inc. The bill also allows the Clerk of the Court to retain \$1 of the cost as a service charge. HB 515 requires each children's advocacy center that received revenue from the Children's Advocacy Trust Fund to provide an annual report to the Board of Directors of the Florida Network of Children's Advocacy Centers, Inc., which details center expenditures, sources of revenue, and standardized outputs, and requires the Florida Network of Children's Advocacy Centers, Inc. to compile reports from the local children's advocacy centers and report to the President of the Senate and the Speaker of the House annually.

The bill also requires a child advocacy center to comply with the statutory standards and screening requirements⁵ in order to receive the funds generated pursuant to this act.

C. SECTION DIRECTORY:

Section 1 amends s. 39.3035, F.S., to require child advocacy centers to meet specified standards and screening requirements to be eligible for funding.

Section 2 amends s. 938.10, F.S., to impose an additional \$101 in costs against persons who plead guilty or nolo contendere to, or are found guilty of, specified crimes against children; requires the Clerk of Court to transfer sums to the Child Advocacy Trust Fund. Requires specified reporting.

Section 3 provides an effective date of July 1, 2004, and shall apply to offenses committed on or after that date.

³ See s. 39.3035, F.S.

⁴ See "Children's Advocacy Centers Appear Beneficial But Have Limited Accountability", OPPAGA Report No. 02-44, August, 2002.

⁵ See s. 39.3035, F.S., which requires a child advocacy center to meet 8 requirements in order to be eligible for full membership in the Florida Network of Children's Advocacy Centers, Inc., and requires assurances that child advocacy center employees and volunteers are trained and level 2 background screening.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Office of the State Court Administrator estimates that in 2001 there were 8,328 felony charges for the offenses listed in this bill. However, it is impossible to estimate the amount of revenue to be generated by this bill because many of the offenses listed include both minors and adults as victims, which information is not tracked.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

OPPAGA reports that in fiscal year 2001-2002, the budgets of the 20 children's advocacy centers ranged from \$34,857 to over \$1.4 million, and the total budget for all 20 was \$6,308,527.⁶ In 2001-2002, the Legislature provided \$750,000 to three Children's Advocacy Centers⁷. In 2002-2003, the Legislature provided \$620,000 to three Children's Advocacy Centers.⁸

In November 1998, voters approved Revision 7 to Article V of the Florida Constitution. Generally, the revision allocates state court system funding among the state, counties, and users of courts, and must be fully effectuated by July 1, 2004. Specific to this bill, Revision 7 requires that all funding for the offices of the clerks of the circuit and county courts performing court-related functions shall be provided by users of courts through adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law.⁹ Notably, Revision 7 requires the state to provide supplemental funding for the clerks where the requirements of either the United States or Florida Constitution preclude the imposition of filing fees, and service charges and costs are insufficient to fund the court-related functions of the offices of the clerks. Counties are required to pay for the reasonable and necessary salaries, costs, and expenses of the

⁶ See OPPAGA Report 02-44, p. 5.

⁷ Orange County Children's Advocacy Center - \$100,000; Children's Justice Center in Tampa - \$200,000; Orlowitz-Lee Children's Advocacy Center (Miami) - \$450,000. Two appropriations were also vetoed by the Governor: Emerald Coast Children's Advocacy Center - \$515,465 and Orange County Children's Advocacy Center - \$200,000.

⁸ Orange County Children's Advocacy Center - \$90,000; Orlowitz-Lee Children's Advocacy Center (Miami) - \$405,000; Marion County Children's Advocacy Center - \$125,000. One appropriation was vetoed by the Governor: Emerald Coast Children's Advocacy Center - \$112,500.

⁹ Revision 7 to Article V, section 14 of the State Constitution.

state courts system to meet local requirements as determined by general law.¹⁰ Effective July 1, 2004, 'local requirements' are provided for in s. 29.008, F.S., and in general are specialized programs, nonjudicial staff, and other expenses associated with specialized court programs, specialized prosecution or defense needs, or resources required of a local jurisdiction as a result of special factors or circumstances. Local requirements exist when imposed pursuant to an express statutory directive; or when the county has enacted an ordinance, adopted a local program, or funded activities with a financial or operational impact on the locality or circumstances in a given circuit or county result in or necessitate specialized programs.¹¹ Children's Advocacy Centers are not included in the statutory definition of 'state court system' which must be funded from state revenues.¹²

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require municipalities or counties to spend funds or take actions requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Judiciary Committee adopted an amendment at the March 17, 2004 committee meeting. The amendment requires child advocacy centers to comply with statutory standards and screening requirements in order to receive funds generated by this act.

This analysis is to the Committee Substitute.

¹⁰ Id. at section 14(c).

¹¹ See the amendment to s. 29.008(2), F.S., by section 45, ch.2003-402, LOF. The amendment is effective July 1, 2004.

¹² See the amendment to s. 29.004, F.S. by section 40, ch. 2003-402, LOF. The amendment is effective July 1, 2004.