

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1863 CS PCB JUVJ 05-02 Juvenile Justice

SPONSOR(S): Juvenile Justice Committee; Culp

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Juvenile Justice Committee	5 Y, 0 N	White	White
1) Justice Appropriations Committee	9 Y, 0 N, w/CS	DeBeaugrine	DeBeaugrine
2) Justice Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill accomplishes the following:

- It reinstates the minimum-risk non-residential level of commitment, which was repealed by the Legislature in 2000, and provides that youth placed in this level shall participate in day treatment programs at least five days per week.
- It creates a definition for the term "day treatment," which provides that day treatment is available during probation, conditional release, or commitment and specifies the type of services that day treatment must include.
- It provides that the period of commitment for youth placed in the minimum-risk non-residential level may last up to six months for second degree misdemeanors.
- It requires parents to pay \$1 for each day that their child is in the minimum-risk non-residential level in conformity with current fee requirements for home detention and probation status.
- It permits youth in the high-risk residential level to be temporarily released into the community for up to 72 hours with court approval and for specified reasons, unlike current law that prohibits such release.
- It provides that commitment progress reports shall be provided to the court quarterly, rather than monthly as required by current law.
- It recreates the Task Force on Juvenile Sexual Offenders and their Victims and requires it to report its findings and recommendations regarding specified subjects to the Governor and the Legislature.
- It creates a task force to study certification for juvenile justice provider staff and requires it to report its findings and recommendations regarding specified subjects to the Governor and the Legislature.
- It provides that the membership of juvenile justice county councils and circuit boards may, rather than must as in current law, consist of specified types of representation.
- It allows judges to choose direct the placement of youth in a specified program.
- It restricts the department's ability to move youth from one level of commitment to another without a judge's permission.
- It allows for high risk programs to be environmentally secure in addition to hardware secure.
- It provides additional criteria for holding a youth who has been adjudicated but is awaiting final disposition.

The bill takes effect on July 1, 2005.

The bill is anticipated to have a minimal fiscal impact for costs associated with requirements that the Department of Juvenile Justice provide administrative support to the two task forces created by the bill. There could also be increased costs associated with increased detention center utilization.

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

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DATE: 4/20/2005

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide for limited government - The bill creates two task forces, the membership for which is to be appointed by the Secretary of the DJJ, and assigns the task force duties to review specified issues and to submit reports to the Governor and Legislature.

B. EFFECT OF PROPOSED CHANGES:

Dispositions for delinquent youth: Section 985.23(2), F.S., provides that when a youth has been found to have committed a delinquent act, the “. . . first determination to be made by the court is a determination of the suitability or unsuitability of adjudication and commitment of the child to the department.” If the court determines that commitment to the department is appropriate, the juvenile probation officer (JPO) is to recommend to the court the most appropriate placement and treatment plan, “specifically identifying the restrictiveness level most appropriate for the child.”¹ The court must commit the child to the restrictiveness level recommended, unless it states on the record reasons that establish by a preponderance of the evidence why it is disregarding the recommendation.² If the court determines not to commit the child to the department, it must then determine what community-based sanctions it will impose in a probation program for the child.³

Commitment: Currently, s. 985.03(45), F.S., establishes the following four residential levels of commitment that may be imposed by the court when disposing of a delinquent youth’s case:

- Low-risk residential.— Youth placed in this level represent a low risk to themselves and public safety but require placement and services in residential settings. Youth who have committed acts involving firearms, sexual offenses, or life or first degree felonies may not be committed to this level. Permits youth to have unsupervised community access.
- Moderate-risk residential.— Youth placed in this level represent a moderate risk to public safety and require close supervision. Facilities in this level provide 24-hour supervision and must be environmentally secure, staff secure, or are hardware-secure with walls, fencing, or locking doors. Permits youth to have supervised community access.
- High-risk residential.— Youth placed in this level require close supervision in a structured residential setting, and such placement is prompted by a concern for public safety that outweighs placement in programs at lower levels. Facilities in this level provide 24-hour supervision and are hardware-secure with perimeter fencing and locking doors. Prohibits youth from community access.
- Maximum-risk residential.— Youth placed in this level require close supervision in a maximum security setting, and such placement is prompted by a demonstrated need to protect the public. Facilities in this level include juvenile correctional facilities and juvenile prisons, and are required to provide 24-hour supervision and to be maximum-custody hardware-secure with perimeter security fencing and locking doors. Prohibits youth from community access.

Before the 2000 Legislative Session, commitment also included the minimum-risk non-residential level. This level was repealed by the Legislature in 2000 and the programs and services within that level were

¹ Section 985.23(3)(b), F.S.

² Section 985.23(3)(c), F.S.

³ Section 985.23(4), F.S.

moved to the Probation and Community Control Division of the DJJ (now Probation and Community Corrections).⁴

It appears that the genesis of this repeal was a 1997 report issued by the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) entitled a "Review of the Department of Juvenile Justice Residential Commitment Services," in which it was found that, "There is often very little or no difference from one restrictiveness level to the next in primary [commitment] program elements, which are security, length of stay, and treatment services."⁵

In response to the OPPAGA report, the House Committee on Juvenile Justice requested the creation of the Juvenile Justice Classification and Placement Workgroup (workgroup). After reviewing the differences in commitment levels, the workgroup recommended that commitment programming be changed to strike the minimum-risk level and move its programs to probation; thereby providing only for low-risk, moderate-risk, high-risk, and maximum-risk classifications.⁶ Legislation incorporating this recommendation was introduced by the House (HB 1759) and Senate (CS/SB 2336). The staff analysis for HB 1759, in discussing the repeal of the minimum-risk non-residential level, appears to explain the reasoning behind the repeal by stating that, "There is little, if any, difference relative to the issue of security between minimum risk non-residential programs and Probation/Community Control services . . ."⁷

Probation: Section 985.03(43), F.S., defines "probation" as:

. . . the legal status of probation created by law and court order in cases involving a child who has been found to have committed a delinquent act. Probation is an individualized program in which the freedom of the child is limited and the child is restricted to noninstitutional quarters or restricted to the child's home in lieu of commitment to the custody of the Department of Juvenile Justice. Youth on probation may be assessed and classified for placement in day-treatment probation programs designed for youth who represent a minimum risk to themselves and public safety and do not require placement and services in a residential setting. Program types in this more intensive and structured day-treatment probation option include career programs, marine programs, juvenile justice alternative schools, training and rehabilitation programs, and gender-specific programs.

Juvenile Probation Officers (JPOs) supervise youth on probation to ensure compliance with court-ordered sanctions and services. Court-ordered sanctions may include, but are not limited to, participation in substance abuse treatment, a day-treatment probation program, restitution in money or in kind, a curfew, revocation or suspension of the driver's license of the child, community service, and appropriate educational programs.⁸

Transfer: Under existing law, the manner in which a committed youth may be transferred from one commitment level to another differs from the manner in which a non-committed youth may be moved from probation to commitment. If a youth is committed, the DJJ may, pursuant to s. 985.404(4), F.S., transfer the youth to a different commitment program or facility when necessary to appropriately administer the youth's commitment. The DJJ is required to notify the court that committed the youth and any attorney of record of its intent to transfer a youth to a higher or lower commitment restrictiveness level. The court may agree to the transfer or may set a hearing to review the transfer. If the court does

⁴ Chapter 2000-135, L.O.F.

⁵ OPPAGA Report No. 96-48, p. 2.

⁶ There is some ambiguity regarding the source of the recommendation to move day treatment services from commitment status to probation. The 2000 staff analysis for HB 1759 refers to a workgroup recommendations document as the source. This document, however, cannot be currently be located, even though it is referred to in the House analysis, as well as in DJJ workgroup meeting minutes and memos.

⁷ House of Representatives, Criminal Justice Appropriations Analysis for HB 1759, April 11, 2000, p. 5.

⁸ Section 985.23(4), F.S.

not respond within 10 days after receipt of the notice, the transfer is deemed granted.⁹ This transfer provision also applies to youth placed on conditional release.¹⁰

Distinguishably, if a youth is on probation, the DJJ may not transfer the youth to a commitment program without first filing a petition alleging that the youth has violated his or her probation. The court is required to conduct a hearing and if the court finds a violation or if the youth admits to the violation, the court must enter a new disposition order and may impose any sanction it could have originally imposed, including commitment.¹¹

Temporary release for committed youth: Section 985.03(55), F.S., defines, "temporary release" as:

. . . the terms and conditions under which a child is temporarily released from a residential commitment facility or allowed home visits. If the temporary release is from a moderate-risk residential facility, a high-risk residential facility, or a maximum-risk residential facility, the terms and conditions of the temporary release must be approved by the child, the court, and the facility. The term includes periods during which the child is supervised pursuant to a conditional release program or a period during which the child is supervised by a juvenile probation officer or other nonresidential staff of the department or staff employed by an entity under contract with the department.

Although the definition refers to temporary release for high- and maximum-risk facilities, s. 985.03(45)(c) and (d), F.S., state that youth in the high- and maximum-risk levels shall not have access to the community. Accordingly, only youth committed to the low- and moderate-risk residential levels are eligible for temporary release into the community during their commitments.

Section 985.231(1)(d), F.S., requires all temporary releases from commitment to be approved by the court.

Post-adjudication/pre-disposition detention: Section 985.215(5)(d) and (g), F.S., provides that a youth may not be held in secure, nonsecure, or home detention for more than 15 days following the entry of an order of adjudication, except that the youth may be held for an additional 9 days if the court finds that the nature of the charge requires additional time for its prosecution or defense and the charge is a capital, life, or first degree felony or a second degree felony involving violence against an individual.

Escape and absconding: Section 985.3141, F.S., provides that the third degree felony of escape is committed when a youth escapes from a secure detention facility, a residential commitment facility, or during transportation to or from any secure detention facility or residential commitment facility. If a youth leaves home detention, a probation program, or conditional release, the youth is considered to have absconded from the DJJ's supervision. A juvenile may be taken into custody and placed in detention if he or she is alleged to have escaped or absconded.¹²

Conditional release: Section 985.316, F.S., establishes conditional release as a care, treatment and supervision program for juveniles released from residential commitment, and provides that its purposes are to, ". . . protect safety; reduce recidivism; increase responsible productive behaviors; and provide for a successful transition of care and custody of the youth from the state to the family."¹³ The section requires youth to be assessed for conditional release services when released from commitment into the

⁹ Section 985.404(4), F.S.

¹⁰ Section 985.316(4), F.S.

¹¹ Section 985.231(1)(a)1.c., F.S.

¹² Section 985.215(2)(a), F.S.

¹³ Section 985.316(1)(c), F.S.

community.¹⁴ If a juvenile fails to satisfactorily progress in conditional release, he or she may be transferred by the DJJ, under s. 985.404(4), F.S., into a commitment program.¹⁵

Cost of supervision and care: Section 985.2311(1), F.S., requires courts to order the parents of youth on home detention, probation, or other supervision status with the DJJ to pay \$1 for each day that their child is in supervision status. The subsection also requires courts to order the parents of youth placed in secure detention or in commitment to pay \$5 for each day that their child is in the temporary legal custody of the DJJ.

Task Force on Juvenile Sexual Offenders and their Victims: Section 985.403, F.S., provides for the Task Force on Juvenile Sexual Offenders and their Victims. The section states that the duties of the task force include:

- Recommending standards for specially licensed professionals to work with juvenile sexual offenders and their victims and for certifying programs for the treatment of juvenile sexual offenders and their victims.
- Making recommendations regarding the use of Medicaid.
- Establishing training requirements and curricula for investigators, prosecutors, and judges.
- Assisting communities in establishing community networks.
- Providing an avenue for public awareness regarding the issue of juvenile sexually offending behavior.
- Recommending funding sources for services to be provided.
- Recommending quality assurance standards and outcome measures.
- Recommending statutory changes to facilitate prosecution of juvenile sexual offender cases.

Representatives of the DJJ have indicated that the task force has not met in more than five years. Further, this task force has been in statute without being reenacted in excess of three years, which is the time limit imposed on statutory task forces under s. 20.03(8), F.S.

Effect of Bill:

Day treatment/Minimum-risk non-residential: In s. 985.03(15), F.S., the bill creates a new definition for the term “day treatment.” Under the bill, “day treatment” means:

. . . a non-residential, community-based program designed to provide therapeutic intervention to youth who are placed on probation or conditional release, or are committed to the minimum-risk non-residential level. A day treatment program may provide educational and vocational services, and shall provide case management services; individual, group, and family counseling; training designed to address delinquency risk factors; and monitoring of a youth’s compliance with, and facilitation of a youth’s completion of, sanctions if ordered by the court. Program types may include, but are not limited to, career programs, marine programs, juvenile justice alternative schools, training and rehabilitation programs, and gender-specific programs.

Further, in newly renumbered s. 985.03(46), F.S., the bill reinstates the minimum-risk non-residential restrictiveness level that was repealed by the Legislature in 2000. Under the bill, this level is defined as:

Minimum-risk non-residential.—Programs or program models at this commitment level work with youth who remain in the community and participate at least five days per week in a day treatment program. Youth assessed and classified for programs at this commitment level represent a minimum risk to themselves and public safety and do not

¹⁴ Section 985.316(3), F.S.

¹⁵ Section 985.316(4), F.S.

require placement and services in residential settings. Youth in this level have full access to, and reside in, the community. Youth who have been found to have committed delinquent acts that involve firearms, delinquent acts that are sexual offenses, or delinquent acts that would be life felonies or first degree felonies if committed by an adult shall not be committed to a program at this level.

Finally in s. 985.231(1)(a)d.3. and (1)(d), F.S., the bill: (a) strikes the term “residential commitment” to authorize a court to commit a adjudicated delinquent juvenile to any restrictiveness level whether residential or non-residential; and (b) specifies that minimum-risk commitments for second degree misdemeanors may last up to six months. This six month time frame is identical to the time frame permitted for probation imposed for a second degree misdemeanor.¹⁶

The practical effect of the bill’s creation of the “day treatment” definition and its reinstatement of the minimum-risk non-residential restrictiveness level are to provide the court with an additional alternative to committing a delinquent youth

Temporary release/community access: The bill amends newly renumbered s. 985.03(46)(d), F.S., to permit youth in high-risk residential commitments to be temporarily released by the court for up to 72 continuous hours of community access if the youth has made successful progress in his or her program and needs: (a) to attend a family emergency; or (b) during the final 60 days of his or her placement, to visit his or her home, enroll in school or a vocational program, complete a job interview, or participate in a community service project. Accordingly, under the bill, high-risk youth, like low- and moderate-risk youth under current law, will have an opportunity for community access. Unlike low- and moderate-risk youth, however, the bill limits such access for high-risk youth to specified purposes.

The bill also amends newly renumbered s. 985.03(56), F.S., to specify that the definition of “temporary release” continues, as in current law, to only apply to residential commitments, even though the minimum-risk non-residential commitment level is added by the bill. Thus, under the bill, the decision to permit minimum-risk youth to temporarily leave a day treatment program is left to the discretion of the DJJ and its providers.

Allowance for high-risk programs to be environmentally secure: The bill amends the definitions found in s. 985.03, F.S., to provide that high-risk programs can be environmentally secure. Current law only allows for hardware secure facilities for high-risk programs.

Juvenile prisons: The bill strikes references to the term “juvenile prisons” in ss. 943.0515, 985.03, 985.201, and 985.313, F.S. The term “juvenile correctional facility” continues to be used in these sections to refer to maximum-risk facilities.

Adjudicated youth: The bill amends s. 985.228(5), F.S., to require a court to impose conditions that include, but are not limited to, the following in a youth’s order of adjudication of delinquency: (a) if the youth is not in secure detention, the conditions must require the youth to comply with a curfew; attend school or another educational program, if eligible; and obey the reasonable and lawful demands of his or her parents or legal guardians and, if applicable, persons supervising him or her in school or another educational program; and (b) if the youth is in secure detention, the conditions must require the youth to obey the reasonable and lawful demands of all persons responsible for the youth’s supervision.

In s. 985.207, F.S., the bill provides that a youth, who has been adjudicated and is awaiting disposition, may be taken into custody if a court finds that the youth: (a) has a history of failing to appear for court; (b) is ungovernable based upon recent behavior; (c) presents a risk of failing to appear for future proceedings or of inflicting harm to himself or others or the property of others because of his or her present ungovernable behavior; or (d) has violated conditions imposed by a court in his or her order of adjudication of delinquency. If the court makes any of the aforementioned findings, the bill provides in

¹⁶ Section 985.231(1)(a)1.a., F.S.

s. 985.215(5)(d), F.S., that the court must place the youth in secure detention or in home detention with electronic monitoring under the disposition order is entered in the youth's case. The length of this detention may be in excess of the 15-day limit imposed in current law for post-adjudication, pre-disposition detention.

Escape/absconding: The bill amends references to escape¹⁷ from commitment facilities contained in ss. 985.207 and 985.208, F.S., to clarify that this offense, continues to apply only to escapes from residential facilities. If a youth leaves a minimum-risk probation program, he or she will be considered to have absconded from the DJJ's supervision, and pursuant to s. 985.215(2)(a), F.S., an absconding youth may be taken into custody and detained. The bill provides that during the detention hearing that must be conducted within 24 hours of detaining a child, the court, if it finds that the child absconded from a minimum-risk program, must determine whether to place the child in detention care based upon the results of a risk assessment instrument that takes the child's act of absconding into consideration. If the child is placed in detention care, the bill specifies that the child shall remain in such care for the shorter of the following: (a) 21 days; or (b) until the department determines under s. 985.404(4), F.S., that transfer of the child to another restrictiveness level or program is inappropriate or the court grants or denies a transfer requested by the department.

Judicial discretion to refer youth to specific programs: The bill amends s. 985.231, F.S., to allow the court to specify a program or facility when committing the youth to the DJJ. The DJJ would be allowed to notify the judge of alternative placements for youth ordered into a high or maximum risk residential program or facility as space becomes available. The court would be prohibited from ordering a child to a program or facility that is not under contract with the department. The court would have to choose from three alternative programs or facilities if the court finds that space will not be available at the chosen program or facility to allow for placement within 45 days.

Conditional release: The bill amends ss. 985.231(1)(a)d.3., and 985.316, F.S., to provide that conditional release continues, as in current law, to only apply to releases from residential commitment programs.

Commitment reports: The bill amends s. 985.231(1)(d), F.S., to provide that mandatory reports regarding a committed youth's treatment plan progress and adjustment-related issues may be provided to the court on a quarterly basis, unless the court requests monthly reports. Current law requires the reports to be given to the court on a monthly basis.

Cost of supervision and care: The bill amends s. 985.2311(1)(a), F.S., to require courts to order parents of youth committed to the minimum-risk level to pay \$1 per day that the child is in such status. This same requirement exists in current law for home detention and probation.

Sexual offender task force: The bill repeals the Task Force on Juvenile Sexual Offenders and their Victims established in s. 985.403, F.S., as this task force no longer meets and has been in statute without being reenacted in excess of three years, which is the time limit imposed on statutory task forces under s. 20.03(8), F.S.

The bill reestablishes the task force in an undesignated section of law. Under the bill, the DJJ must provide administrative support to the task force, and the the Secretary of the DJJ or his or her designee is required to appoint up to twelve members to the task force. Nine of the members must consist of the following representation: a circuit court judge, state attorney, and public defender, who each have at least one year's experience in the juvenile division; one representative of the DJJ; two representatives of providers of juvenile sexual offender services; one member of the Florida Juvenile Justice Association; one member of the Florida Association for the Treatment of Sexual Abusers, and one victim of a juvenile sex offense.

¹⁷ Section 985.3141, F.S.

The bill requires the task force to make findings that include, but are not limited to: a profile of this state's juvenile sex offenders and of dispositions received; identification of statutes that address these offenders; identification of community-based and commitment programming available for these offenders and of such programming's effectiveness; the appropriateness and rehabilitative efficacy of placing these offenders in residential commitment programs; and identification of qualifications required for staff who serve these offenders. The bill further requires the task force, based on its findings, to make recommendations for how the state's laws, policies, programs, and funding for juvenile sexual offenders may be improved. These findings and recommendations must be reported to the Governor and Legislature by December 1, 2005.

The bill prohibits task force members from receiving salaries or travel and per diem expenses, and specifies that the task force is dissolved upon submission of its report.

Certification task force: The bill creates an undesignated section of law requiring the DJJ to establish, and provide administrative support to, a task force to study the certification of juvenile justice provider staff. The Secretary of the DJJ or his or her designee is required to appoint up to twelve members to the task force. Ten of the members must consist of the following representation: two representatives of the DJJ; two representatives of providers of juvenile justice services; two members of the Florida Juvenile Justice Association; two provider employees who provide direct care services; and two representatives of the Florida Certification Board.

The bill requires the task force to consider, and make recommendations concerning, per diem levels, the occupational levels of staff subject to certification, the criteria that may be used to certify staff, the levels of certification, and a process for testing and validating the effectiveness of any recommended staff certification system. Additionally, the task force is required to make findings regarding the benefits of a staff certification system for this state's juvenile justice programming and the cost to implement such a system. These findings and recommendations must be reported to the Governor and Legislature by January 1, 2006.

The bill prohibits task force members from receiving salaries or travel and per diem expenses, and specifies that the task force is dissolved upon submission of its report.

Department transfer authority: The bill amends s. 984.404, F.S., to delete the department's authority to transfer youth from one level of commitment to another without the court's permission. The same restrictions will apply to moving a child from one program to another if the court has specified the program pursuant to s. 985.231, F.S.

Juvenile justice county councils and circuit boards: The bill amends s. 985.4135(2), F.S., to require juvenile justice county councils to develop, with the cooperation of specified local officials, criteria to be considered by law enforcement officers prior to referring youth to juvenile assessment centers. The bill also amends s. 985.4135(10), F.S., to provide that the membership of juvenile justice county councils and circuit boards may, rather than must as in current law, consist of specified types of representation. Members of the councils and boards have indicated that it is sometimes impossible to find persons meeting the required representation criteria who are willing to become members.

C. SECTION DIRECTORY:

Section 1. – Amends s. 943.0515, F.S. relating to criminal history records.

Section 2. Amends 985.03, F.S., to recreate the minimum-risk nonresidential commitment level, define day treatment as the program to be provided to youth in the minimum risk level, allow high-risk commitment facilities to be environmentally secure, allow temporary release for high-risk youth and strike references to juvenile prisons.

Section 3. – Amends s. 985.201, F.S., to strike references to juvenile prisons.

Section 4. – Amends s. 985.207, F.S. to provide that the offense of escape from a commitment facility continues, as in current law, to only apply to escapes from residential commitment facilities and to create additional criteria for taking a child into custody.

Section 5. – Amends s. 985.208, F.S., to provide that the offense of escape from a commitment facility continues, as in current law, to only apply to escapes from residential commitment facilities and to provide that a youth who leaves a nonresidential facility will be considered to have absconded.

Section 6. – Amends s. 985.213, F.S., to provide a cross reference to s. 985.215(1)(e) for taking a child into custody.

Section 7. – Amends s. 985.215, F.S., to provide the procedures and policies applicable to the detention of absconders from non-residential commitment programs and to provide that an adjudicated youth may be detained until disposition if the court makes specified findings.

Section 8. - Amends s. 985.228, F.S., to require the court to impose specified conditions in a child's order of adjudication of delinquency.

Section 9. – Amends s. 985.231, F.S., to allow the court to specify a program or facility in the commitment order, to set time limits on the duration of specified minimum-risk commitments, and to provide that commitment reports may be submitted quarterly, rather than monthly.

Section 10. – Amends s. 985.231(1), F.S., to provide that parents of delinquent youth placed in the minimum-risk non-residential restrictiveness level must be court ordered to pay \$1 for each day that the youth is supervised.

Section 11. – Amends s. 985.313, F.S., to strike references to juvenile prisons.

Section 12. – Amends s. 985.316(3), F.S., to add the phrase “placed in a residential commitment program” to clarify that conditional release continues, as in current law, to only apply to releases from residential commitment programs.

Section 13. – Repeals s. 985.403, F.S., which establishes the Task Force on Juvenile Sexual Offenders and their Victims.

Section 14. – Creates an undesignated section of law to require the DJJ to establish the Task Force on Juvenile Sexual Offenders and their Victims by August 1, 2005; requires the task force to make findings and recommendations regarding specified issues; provides that the Secretary of the DJJ shall appoint up to 12 members to the task force and specifies required representation; requires the task force to submit a report to the Governor and the Legislature by December 1, 2005; provides that members shall not receive salaries and prohibits reimbursement for travel and per diem expenses; provides that the task force is dissolved upon submission of its report.

Section 15. – Creates an undesignated section of law to require the DJJ to establish a task force to study the certification of juvenile justice provider staff by August 1, 2005; requires the task force to make findings and recommendations regarding specified issues; provides that the Secretary of the DJJ shall appoint up to 12 members to the task force and specifies required representation; requires the task force to submit a report to the Governor and the Legislature by January 1, 2006; provides that members shall not receive salaries and prohibits reimbursement for travel and per diem expenses; provides that the task force is dissolved upon submission of its report.

Section 16. – Amends s. 985.404, F.S., to restrict the department's ability to transfer youth from one commitment level to another or to a program other than designated by the court.

Section 17. – Amends s. 985.4135, F.S., to require juvenile justice county councils to develop criteria for juvenile assessment center referrals and to provide that the membership of juvenile justice county councils and circuit boards may, rather than must as is provided in current law, consist of specified representation.

Sections 18 through 24. – Reenacts and amends various sections of the Florida Statutes to correct cross references and incorporate amendments to related sections of the statutes.

Section 25. – Provides that the act takes effect on July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill's creation of two task forces will not generate costs for the salary, travel, or per diem of members as such payments are prohibited by the bill. The DJJ estimates that it will cost \$800 to provide administrative support to the two task forces.

The DJJ indicates that the bill's amendments to s. 985.231, F.S., which permit courts to specify commitment programs, may result in additional post-disposition detention costs. According to the DJJ, the average length of stay in post-disposition detention while awaiting placement in a commitment program is 13 days. Under the bill, the court is permitted to specify a commitment program so long as placement occurs within 45 days (thereby, according to the DJJ, permitting an additional 32 days in detention). The DJJ states that this may generate additional workload which could cost up to \$533,600. Currently, however, detention center utilization for the year-to-date is 91% statewide. So, it is unlikely that additional capacity will need to be funded.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill's amendments to ss. 985.207 and 985.215, F.S., which authorize courts to extend [secure detention beyond the 15-day limit provided by current law for certain adjudicated juveniles](#) may result in additional costs [being billed to counties](#). Section 985.2155, F.S., as amended by ch. 2004-263, L.O.F., takes effect on July 1, 2005 [and requires that the counties pay the costs of detention care provided by the DJJ for juveniles prior to final disposition](#). Since the courts already have the ability to order youth into custody under similar circumstances, the impact of these provisions are primarily to reinforce existing authority. Thus, the impact of these provisions is estimated to be insignificant.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The House version of the General Appropriations Act contains a net reduction of \$3.7 million from the elimination of 200 residential commitment beds and the addition of 200 lower-cost day treatment slots.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Provisions in the bill that could increase pre-disposition utilization of detention could increase costs charged to counties. Article VII, section 18 provides in pertinent part:

(a) No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and unless: funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; the legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality; the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or the law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

Subsection (d) provides that criminal laws and laws with insignificant fiscal impact are exempt from the section. Increased costs that may result from the bill are related to additional circumstances where a youth who has been adjudicated delinquent by the court can be taken into custody. Since the courts already have the ability to order youth into custody under similar circumstances, the impact of these provisions are primarily to reinforce existing authority. Thus, the impact of these provisions is estimated to be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Juvenile Justice Committee adopted a committee substitute on March 30, 2005, which adds a requirement for the task force to study the certification of juvenile justice provider staff to consider, and make recommendations concerning, per diem levels.

The Justice Appropriations Committee adopted a strike-all amendment which contained the following major provisions:

- Provides additional criteria for taking youth who have been adjudicated but awaiting final disposition into custody.
- Allows the court to order a child committed to a specific program or facility if space is available.

- Restricts the department's ability to move youth from one level of commitment to another or to a program different than directed by court without court approval.
- Provides that high-risk programs can be environmentally secure.
- Revises the time frame for allowing home visits for youth in high risk programs from the last 120 days to the last 60 days.