

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Judiciary Committee

BILL: CS/CS/SB 700

INTRODUCER: Judiciary Committee, Criminal Justice Committee, and Senator Crist

SUBJECT: Juvenile Justice

DATE: April 9, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.	Treadwell	Maclure	JU	Fav/CS
3.			JA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

In July 2007, Governor Crist authorized the creation of the Blueprint Commission (commission) for the purpose of developing recommendations to reform Florida’s juvenile justice system. The commission met throughout the second half of 2007 and issued its report titled “Getting Smart About Juvenile Justice in Florida” in February 2008. This bill implements many of the commission’s 52 recommendations in addition to several other policy changes.

Specifically, the bill:

- Includes a number of changes designed to reduce disproportionate minority contact with the juvenile justice system, including changes related to the risk assessment instrument and local juvenile justice board and council vacancies and composition.
- Revises provisions related to risk assessment for detention placements by requiring validation of the risk assessment instrument, revising the membership of the review committee, and adding a prior history of residential commitments as a factor that must be taken into account.
- Encourages the diversion of first-time misdemeanant youth or youth age 10 or younger.

- Dispenses with the requirement to monitor children who are supposed to be separated from adults in adult facilities every 15 minutes when they are in direct supervision housing with 24-hour supervision.
- Authorizes the Department of Juvenile Justice (DJJ) to utilize outcome-based contracting, develop an implementation plan, and require prevention programs to report outcome data, rather than performance data.
- Revises provisions related to the Juvenile Justice Circuit Boards (boards) and County Councils (councils), including membership and notification of the community of board vacancies.
- Promotes coordination among councils, boards, and agencies by mandating cooperation and information sharing with various agencies and programs, including faith-based and community-based organizations.
- Modifies the procedure for presentation of the annual reports by the boards and councils to the Children and Youth Cabinet.
- Eliminates the three-year limit on the receipt of Community Juvenile Justice Partnership grants.
- Provides priority to Community Juvenile Justice Partnership grant applications that meet the specified grant requirements and the local board and county council plans.
- Removes references to the term “zero tolerance” as it pertains to school-related conduct and discipline policies, provides for school-related referrals to law enforcement for serious criminal offenses as specified in the bill, and permits counties to seek reimbursement from school authorities for secure detention costs associated with referrals for offenses that are not serious criminal offenses.
- Directs the DJJ to adopt rules related to the continuum of care.
- Makes several technical and conforming changes related to alternative sanctions, DJJ contracting, and training for DJJ staff.
- Appropriates \$50,000 in nonrecurring general revenue to fund curriculum development for DJJ direct care staff.

This bill substantially amends the following sections of the Florida Statutes: 29.008, 790.22, 939.185, 984.05, 984.09, 985.02, 985.03, 985.037, 985.04, 985.245, 985.265, 985.601, 985.606, 985.632, 985.644, 985.66, 985.664, 985.668, 985.676, 985.721, and 1006.13. It also creates sections 985.0375 and 1006.125, Florida Statutes.

II. Present Situation:

Disproportionate Minority Contact

According to the Blueprint Commission (commission), the “disproportionate representation of minorities exists for both males and females in Florida’s juvenile prisons. . .at every point in the juvenile justice system.”¹ The commission highlights the fact that “in nine of the 20 circuits, more than 40% of the youth referred. . .are black. In seven circuits, more than 60% of youth incarcerated are black.”² In addition to specifically citing problems associated with the risk

¹ The Blueprint Commission, Department of Juvenile Justice, *Getting Smart About Juvenile Justice in Florida*, 34 (January 2008).

² *Id.*

assessment, the commission identified bias as one contributing factor.³ Finally, the commission identified zero tolerance policies as contributing to disproportionate minority contact (DMC).

Risk Assessment

All determinations and court orders regarding detention placements must be based on a risk assessment of the child, except in the case of a child charged with domestic violence who does not meet detention criteria.⁴ The child is assessed using a risk assessment instrument developed by the Department of Juvenile Justice (DJJ) in agreement with representatives of various associations, such as the state attorneys, public defenders, sheriffs, police chiefs, and circuit judges.⁵ According to DJJ, the current instrument, the Detention Risk Assessment Instrument (DRAI), has been in use since 1992. It has never been validated, although validation is currently under way.

The purpose of the instrument is to determine whether or not a child taken into custody should continue to be detained.⁶ According to DJJ, approximately 50 percent of all youth charged are presented for delinquency screening. Of these, approximately 40 percent score a zero and are released. Those scoring 12 or more are placed in secure detention pending a detention hearing held within 24 hours.

Factors included in the risk assessment instrument must take into account the prior history of the child to appear, prior offenses, any unlawful possession of a firearm, theft of a motor vehicle, and offenses committed pending adjudication.⁷

Diversion

For youth age 10 and under, DJJ received 1,753 referrals in FY 2006-07. Just under one-half of these involved a felony, and just over one-half involved a misdemeanor. Assault and battery, burglary, petit larceny, and vandalism accounted for nearly 75 percent of the referral offenses.

The Board of County Commissioners in each county is authorized to adopt a discretionary court cost of up to \$65 to be imposed when a person pleads guilty of, or is adjudicated delinquent for, any felony, misdemeanor, criminal traffic offense, or delinquent act.⁸ Twenty-five percent of the collections must be used for teen court programs, juvenile assessment centers, and other juvenile alternative programs.⁹ Of the 67 counties in Florida, 58 had adopted this court cost in FY 2006-07, generating total revenues of \$6.1 million for juvenile alternative programs.

The Intensive Delinquency Diversion Services (IDDS) program operates in all 20 judicial circuits.¹⁰ It is funded by the state. It was funded at \$5.7 million for FY 2007-08. The IDDS

³ Id.

⁴ Section 985.245(1), F.S.

⁵ Section 985.245(2)(a), F.S.

⁶ See Section 985.245(2)(b), F.S.

⁷ Id.

⁸ Section 939.185(1)(a), F.S.

⁹ Section 939.185(1)(a)4., F.S.

¹⁰ See Florida Department of Juvenile Justice, *Early Intensive Intervention Prevents Juveniles from Becoming Repeat Offenders*, available at <http://www.djj.state.fl.us/Research/statsresearch/factsheets/idds.html> (last visited April 5, 2008).

program focuses on early identification, and on intensive services and supervision, of juvenile offenders with the highest risk of becoming repeat and serious offenders. Based on a research-driven model program in Orange County, California, this approach looks at juveniles with a first arrest at age 15 or younger and possessing at least three of the following high-risk characteristics:

- academic failure, suspensions and truancy;
- lack of family stability, including poor parental control, lack of parenting skills, and a family member in the criminal justice system;
- mental health and substance abuse problems; or
- pre-delinquent behaviors including running away, gang affiliation, disruptive behavior, and stealing.

The program is projected to serve approximately 2,800 juveniles per year.¹¹

Monitoring Children in Adult Facilities

Children who are housed in a facility intended or used for adults must be supervised and monitored. This supervision includes physical observation and documented checks by supervisory personnel at intervals not to exceed 15 minutes.¹²

Outcome-Based Contracting and Prevention Program Data Collection

According to the Report of the Blueprint Commission, “outcome-based” refers to “programs designed with the desired outcome in mind.”¹³ The DJJ currently focuses more on compliance-based contracting.¹⁴ The commission believes the use of outcome-based contracting along with “evidence-based” practices would help ensure an “effective and accountable system” by identifying those programs that are successful.¹⁵

Prevention service providers must collect CINS/FINS prevention program performance data and provide it to the Governor and Legislature each year.¹⁶ However, the statute does not specifically provide for compilation of “outcome” data.

Juvenile Justice Circuit Boards and County Councils

Current law provides that a juvenile justice circuit board may be established in each of the 20 judicial circuits, and a juvenile justice county council may be created in each county.¹⁷ All 20 circuits have a board, and 52 counties have a council. Their purpose is to advise DJJ in the development and implementation of juvenile justice programs and work with DJJ to achieve program improvements and policy changes in response to the changing needs of Florida’s at-risk

¹¹ *Id.*

¹² Section 985.265, F.S.

¹³ Blueprint Commission, *supra* note 1, at 46.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 985.606, F.S.

¹⁷ Section 985.664(1), F.S.

youth.¹⁸ Circuit boards may have up to 18 members with an allowance for three additional members to achieve greater diversity.¹⁹ The maximum number of members of a county council is not specified, but it appears they could be much larger.²⁰ Criteria are provided for appointing board and council members, including “diversity in the judicial circuit,” “geography and population distribution,” and representatives of various entities.²¹

Community Juvenile Justice Partnership Grants Limitation

Under the Community Juvenile Justice Partnership Grants Act, a provider cannot receive a grant to provide services for more than a total of three consecutive years,²² regardless of whether or not the provider is producing outstanding outcomes.

Zero Tolerance

According to a recent DJJ report, school-related referrals decreased 18 percent over the last three years to 22,926 in FY 2006-07.²³ The department received an average of 16 referrals per 1,000 students.²⁴ Sixty-seven percent of school-related referrals were for misdemeanor offenses, with disorderly conduct and misdemeanor assault and battery accounting for 40 percent of all school-related delinquency referrals.²⁵ Lafayette, Dixie, Taylor, Wakulla, Miami-Dade, and Palm Beach counties had the lowest school referral rates per 1,000 students at between 3-8 percent, while Putnam, Flagler, Madison, Suwanee, and Okeechobee counties had the highest rates at between 35-54 percent. Other rates included Orange at 18 percent, Duval at 12 percent, and Escambia at 23 percent.²⁶

The Blueprint Commission cited zero tolerance policies as contributing to unnecessary referrals to the juvenile justice system.²⁷ African-American youth accounted for a far larger percentage share of the referrals than their percentage share of the overall student population (47 percent to 22 percent).²⁸

School districts are required to adopt zero tolerance policies for crime and victimization.²⁹ These policies must require students found to have committed certain offenses to be expelled.³⁰ These include bringing a firearm or weapon to school, a school function, or onto any school-sponsored transportation; and making a threat or false report related to a destructive device involving the school, school transportation, or a school-sponsored activity.³¹ School districts may consider

¹⁸ *Id.*

¹⁹ Section 985.664(7).

²⁰ Section 985.664(10), F.S. The number could also be larger if the circuit board is able to form under the provisions governing a county council. They can do so if county councils are not formed within a circuit.

²¹ Section 985.664(7)-(10), F.S.

²² Section 985.676, F.S.

²³ Florida Department of Juvenile Justice, *Delinquency in Florida: A Three-Year Analysis*, 1-2 (January 2008).

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at 5.

²⁷ Blueprint Commission, *supra* note 1, at 18.

²⁸ Florida Department of Juvenile Justice, *supra* note 23, at 1.

²⁹ Section 1006.13, F.S.

³⁰ Section 1006.13(2), F.S.

³¹ *Id.*

various alternatives to expulsion. School districts must enter into agreements with local law enforcement setting forth guidelines for ensuring that felonies and violent misdemeanors are reported to law enforcement. These agreements include the role of school resource officers in handling reported incidents.

School districts may establish a school resource officer (SRO) program through a cooperative agreement with law enforcement.³² School resource officers are required to “abide by district school board policies” and must “consult with and coordinate activities through the school principal, but. . .are responsible to the law enforcement agency in all matters relating to employment.”³³

For example, a SRO agreement between the Leon County Sheriff’s Office and the Leon County School Board provides that:

The SRD (School Resource Deputy) shall coordinate his/her activities with the principal and staff members. . . .³⁴ [The] SRD shall take law enforcement action as required. The SRD shall advise the principal of such action as soon as possible. . . .³⁵

If the incident is a criminal violation, the SRD will determine whether law enforcement action is appropriate.³⁶ This same agreement specifies that “SRDs are employees of the (Sheriff) and are not employees of the (Board). . .and shall uphold the law under the direct supervision and control of the (Sheriff).”³⁷

Continuum of Care Rules

The DJJ is required to develop and implement an appropriate continuum of care that provides individualized, multidisciplinary assessments, objective evaluations of relative risks, and the matching of needs with placement for all children under its care.³⁸

³² Section 1006.12(1), F.S.

³³ Section 1006.12(1)(b), F.S.

³⁴ *The 2007-2008 School Resource Deputy Program Agreement Between the School Board of Leon County, Florida and The Leon County Sheriff’s Office*, Section 6.1 (August 14, 2007).

³⁵ *Id.* at Section 6.9.

³⁶ *Id.* at Section 6.12.

³⁷ *Id.* at Section 9.1.

³⁸ Section 985.601(2), F.S.

III. Effect of Proposed Changes:

Disproportionate Minority Contact

The bill includes a number of changes to address concerns raised by the Blueprint Commission concerning disproportionate minority contact (DMC) with the juvenile justice system. These include specific changes such as a requirement that local juvenile justice circuit board and county council plans provide for continual monitoring to identify and remedy DMC (section 17). Additionally, the DJJ risk assessment instrument for detention placements must be evaluated to determine if the instrument contributes to DMC (section 10). The bill also addresses several issues cited by the Blueprint Commission as contributing to DMC, such as zero tolerance policies (section 21-22). Finally, it revises provisions relating to juvenile justice circuit board vacancies and composition by including representation from residents from high-crime zip code communities (section 17).

Risk Assessment

The bill revises provisions related to risk assessment for detention placements by requiring DJJ to have the risk assessment instrument validated no later than December 31, 2008 (section 10). The membership of the review committee is also revised to include two representatives of child advocacy organizations and two recognized child mental health experts (section 10). The bill also makes the prior history of residential commitments a factor that must be taken into account by the risk assessment instrument, and requires the instrument to be evaluated to determine if the instrument contributes to DMC (section 10).

Diversion

The bill encourages the diversion of first-time misdemeanor youth or children age 10 or younger. First, it provides that the juvenile alternative programs funded through the discretionary court cost currently available to counties include diversion options for these youth (section 3). Second, it includes diversion options for these populations as part of the statutory statement of state juvenile justice policies (section 6). Third, it requires counties that have non-state funded diversion programs to include diversion options for these populations in order to participate in the state funded Intensive Delinquency Diversion Services (IDDS) program (section 12).

Monitoring Children in Adult Facilities

Concerning the separation of child inmates from adults, the bill dispenses with the requirement that children be monitored every 15 minutes when they are in direct supervision housing with 24-hour supervision (section 11).

Outcome-Based Contracting and Prevention Program Data Collection

The bill authorizes the DJJ to utilize outcome-based contracting, develop an implementation plan, and require prevention programs to report outcome data, rather than performance data (sections 13 and 14).

Juvenile Justice Circuit Boards and County Councils

The bill revises the membership of the juvenile justice circuit boards and county councils and requires due diligence in notifying the community of board vacancies (section 17). The bill requires representation from residents of the targeted high-crime zip code communities identified by the DJJ based on referral rates within the county (section 17). It also directs the Children and Youth Cabinet (CYC) to consider plans developed by these local boards and councils in implementing its shared vision and strategic plan, and requires the DJJ Secretary to meet annually with local board chairs and the CYC chair (section 17).

The bill strengthens coordination among councils, boards, and agencies by mandating cooperation and information sharing with local school authorities, law enforcement agencies, state attorneys, public defenders, judicial entities, local representatives of DJJ, the Department of Children and Family Services, and faith-based and community based organizations. The bill also requires that annual reports presented to the Children and Youth Cabinet must be agreed upon and signed by each acting chair of the board and council, and submitted to the Children and Youth Cabinet through the DJJ secretary or the secretary's designee.

Community Juvenile Justice Partnership Grants

The bill eliminates the three-year limit on the receipt of Community Juvenile Justice Partnership grants, with first priority afforded to applications meeting the requirements of this grant program and also the fulfilling local circuit plans (section 19). In addition, the bill changes current law by affording priority to applicants for these grants who satisfy the grant requirements and fulfill the local juvenile justice circuit board and county council plans.

Zero Tolerance

The bill eliminates the phrase "zero tolerance" as it relates to school related conduct (section 22). It also requires a student to be referred to law enforcement when the student commits a violation of the code of conduct and discipline that may also constitute a serious criminal offense (section 21). The bill defines "serious criminal offense" to include a capital felony, life felony, first-degree felony, a second- or third-degree felony involving a firearm or weapon or violence against another, or an offense that poses a serious threat to school safety or the safety of any individual student or group of students.

For example, an assault and battery that involves "bodily harm" would be a misdemeanor and not qualify for a required referral. However, a battery that results in "great bodily injury" or that is aggravated would require a referral. Counties would be permitted to seek reimbursement from school districts for secure detention costs associated with referrals made by schools that do not constitute a "serious criminal" offense.

Continuum of Care Rules

The bill directs DJJ to adopt rules establishing procedures for ordinary medical care, defined in the bill (section 7). Additionally, mental health, substance abuse, and developmental disabilities are added as part of the continuum of services (section 12).

DJJ Staff Development and Training

The bill reconstitutes obsolete provisions related to the Juvenile Justice Training Academies and Training Commission with provisions that are virtually unchanged and applied to guide DJJ staff development and training (section 16). It includes a definition of “delinquency program staff.”

General Appropriation

The bill appropriates \$50,000 in nonrecurring general revenue to fund curriculum development for DJJ direct care staff (section 23).

Technical Revisions

The bill makes a number of purely technical changes, including:

- reorganizing the placement of, and reconfiguring, several statutory provisions referencing alternative sanctions, alternative sanction coordinators, and community service programs (sections 1, 2, 5, 6 and 8); and
- removing redundant provisions relating to departmental contracting powers and personnel (section 15).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

State Impact:

The Department of Juvenile Justice (DJJ) reports the following fiscal impact:

Expenditures:

<u>Source</u>	<u>Fiscal Year</u>	<u>Amount</u>	<u>Type</u>
General Revenue Fund	2008-09	\$50,000	Nonrecurring

This would fund curriculum development for the DJJ direct care staff per section 23 of the bill.

Other than the specific nonrecurring appropriation, the fiscal impact of the bill is indeterminate. Provisions that could have a negative fiscal impact on the DJJ include: periodic updates to the risk assessment instrument, implementation of outcome-based contracting, provisions related to staff development and training, and required annual meetings between the DJJ Secretary and local Board chairs. However, these are all expected to be insignificant and expenses that can be considered to be incidental to doing business.

Local Impact:

The bill permits counties to seek reimbursement from school districts for the costs associated with secure detention resulting from school-related referrals to law enforcement for offenses not qualifying as serious criminal offenses as defined in the bill. It is possible they could receive an indeterminate amount of reimbursements for these costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Judiciary on April 8, 2008:

The committee substitute:

- Promotes coordination among Juvenile Justice Circuit Boards (boards), County Councils (councils), and agencies by mandating cooperation and information sharing with various agencies and programs, including faith-based and community-based organizations.
- Modifies the procedure for presentation of the annual reports by the boards and councils to the Children and Youth Cabinet.
- Provides priority to Community Juvenile Justice Partnership grant applications that meet the specified grant requirements and the local board and county council plans.

CS by Criminal Justice on March 25, 2008:

- Includes a number of changes designed to reduce disproportionate minority contact (DMC) with the juvenile justice system.
- Revises provisions related to risk assessment for detention placements.
- Encourages the diversion of first-time misdemeanant youth or youth age 10 or younger.
- Revises provisions related to supervision of child inmates in adult facilities.
- Authorizes the DJJ to utilize outcome-based contracting and require outcome data for prevention programs.
- Revises provisions related to the juvenile justice circuit boards and county councils, including community notification of board vacancies and board/council composition.
- Eliminates the three-year limit on the receipt of Community Juvenile Justice Partnership grants.
- Revises zero tolerance policies for school-related referrals to law enforcement and, in certain circumstances, permits counties to seek reimbursement from school districts for secure detention costs.
- Appropriates \$50,000 in nonrecurring general revenue to fund curriculum development for DJJ direct care staff.

- B. **Amendments:**

None.