

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/SB 792

INTRODUCER: Criminal Justice Committee and Senator Baker

SUBJECT: Juvenile Justice

DATE: April 20, 2008

REVISED: 04/22/08

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------|----------------|-----------|-----------------|
| 1. | Dugger | Cannon | CJ | Fav/CS |
| 2. | Treadwell | Maclure | JU | Fav/1 amendment |
| 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 checked="" type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill proposes several changes to state policy relating to the detention of juveniles. These changes concern all phases of the juvenile process, including custody and initial intake, to adjudication, disposition, and postcommitment placement. Specifically, the bill:

- Permits a child to be taken into custody for violating the conditions of pre-adjudicatory release set by the court.
- Permits the detention of a child who absconds from home or nonsecure detention care or otherwise violates the terms of release while awaiting placement in a residential facility, or commits a new law violation, or who intentionally fails to appear for trial.
- Requires that a child be placed in secure detention care upon intake if alleged to have absconded from home or nonsecure detention or otherwise violated the terms of post-adjudication release.
- Provides that the pre-adjudication and post-adjudication time limits for holding a child in detention care do not apply to a child held in secure detention for absconding from home or nonsecure detention, committing a new law violation, or otherwise violating the terms of release after adjudication while awaiting placement in a residential facility; escaping or

- absconding from certain residential, probation or other programs; or being charged with certain acts specified in current law; or intentionally failing to make a court appearance.
- Increases the length of time a child awaiting placement in a low-risk or moderate-risk residential program could be held in secure detention care and provides that the only detention option for a child committed to a high-risk or maximum-risk residential program is secure detention.
 - Makes the court responsible for determining the appropriate restrictiveness level for a child committed to a residential program, changing the Department of Juvenile Justice (DJJ) role into one that is advisory.
 - Permits the court to retain jurisdiction over a child beyond the age of 18, and the child's parents or guardians, until all costs, fees, and costs associated with court-appointed counsel have been satisfied.
 - Permits counties to adopt a mandatory court cost of up to \$50 to fund local juvenile crime initiatives.

This bill substantially amends the following sections of the Florida Statutes: 790.22, 985.0301, 985.101, 985.24, 985.245, 985.25, 985.255, 985.26, 985.265, 985.27, 985.35, 985.43, and 985.433. It also creates the following sections of the Florida Statutes: 985.031, 985.28 and 938.20.

II. Present Situation:

The Legislature has defined “detention care”¹ to mean “the temporary care of a child in secure, nonsecure, or home detention, pending a court adjudication or disposition or execution of a court order.”² There are three types of detention care:

- “Secure detention” means temporary custody of the child while the child is under the physical restriction of a detention center or facility pending adjudication, disposition, or placement.
- “Nonsecure detention” means temporary custody of the child while the child is in a residential home in the community in a physically nonrestrictive environment under the supervision of the Department of Juvenile Justice (DJJ) pending adjudication, disposition, or placement.³
- “Home detention” means temporary custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the DJJ staff pending adjudication, disposition, or placement. For FY 2006-07, the average daily population on home detention was 1,744 youth.⁴

¹ Statutory references to “detention” do not include postcommitment residential facilities even though being committed to a residential facility is a form of “detention.” However, for purposes of state policy and, specifically, the changes in this bill, the two should not be confused.

² Section 985.03(18), F.S.

³ Although there are multiple references to “nonsecure detention” throughout current juvenile justice law, the Department of Juvenile Justice reports that it no longer utilizes “nonsecure detention.”

⁴ Florida Department of Juvenile Justice, *2006-07 Comprehensive Accountability Report*, 73 (2007).

Most youth are not placed in detention care prior to adjudication, but are released to a parent or guardian.⁵

The state and counties, other than the fiscally constrained counties in certain circumstances, jointly fund detention care.⁶ In this context, “detention care” has been defined as limited to “secure detention.”

Counties are required to pay for predisposition secure detention costs. The state pays for post-disposition secure detention costs. The counties’ share of the overall cost of secure detention includes the number of pre-disposition youth in detention centers multiplied by their length of stay. As the percentage of predisposition youth and days increase, the counties’ share of detention costs will also increase. For FY 2006-07, detention centers operated at 89 percent of statewide capacity with an average daily population of 1,831, or 89 percent of the 2,057 beds available. The average length of stay was 12 days.⁷

Pre-Adjudicatory Release

The law currently permits a law enforcement officer to take a child into custody when there is probable cause to believe the child has violated the conditions of probation, home detention, post-commitment probation, or conditional release supervision, or has absconded or escaped from residential commitment.⁸ In nearly 75 percent of the cases referred to DJJ in FY 2006-07, the child was released without any form of detention. Judges will sometimes impose behavioral orders in these cases, but some judges have expressed concern that their authority to do so may be called into question. The statewide delinquency referral rate has been trending down, standing at a five-year low in FY 2006-07. However, the share represented by felonies has increased by 6.2 percent. Over the past five years, according to DJJ, while the total number of youth referred for person offenses has dropped slightly, referrals for certain violent crimes have jumped dramatically – e.g., murder/manslaughter, 70 percent; attempted murder/manslaughter, 131 percent; and armed robbery, 67 percent.

Use of Detention

All types of detention authorized

The court must make certain findings before placing a child in secure, home, or nonsecure detention.⁹ These include finding that the child presents a substantial risk of not appearing at a subsequent hearing or causing bodily harm to others, or has a history of committing a property offense, has been found to be in contempt of court, or requests protection from imminent bodily harm. Further, except when a child is charged with committing domestic violence, all determinations and court orders concerning placement of a child into detention care must be

⁵ According to the Department of Juvenile Justice, for FY 2006-07, approximately 109,000 of the 146,000 referrals were releases. These included some youth charged with felonies.

⁶ Section 985.686, F.S.

⁷ For fiscal year 2006-07, utilization of secure detention beds ranged from a low of 28 percent in Monroe County to a high of 125 percent in Escambia County.

⁸ Section 985.101(1)(d), F.S.

⁹ Section 985.24(1), F.S.

based on a risk assessment of the child and comply with all requirements and criteria as set forth in current law.¹⁰

Under certain circumstances, a court may continue to detain a child taken into custody and placed in home or nonsecure detention or in secure detention care prior to the detention hearing.¹¹ These circumstances include when the child is:

- an escapee from a residential treatment program;
- wanted in another jurisdiction for a felony;
- charged with a delinquent act and seeks protection from imminent bodily harm;
- charged with possession and discharge of a firearm on school grounds;
- charged with a capital felony;
- alleged to have violated probation or conditional release supervision; or
- detained for failure to appear when the child has previously willfully failed to appear for a hearing on the same case.

If a child is detained, DJJ may transfer the child from nonsecure or home detention care to secure detention care only if the transfer is warranted by a significant change in circumstances.¹²

Secure detention required for youth absconding from home or nonsecure detention

The juvenile probation officer receives custody of a child who has been taken into custody by law enforcement and is required to review the facts in the law enforcement report or probable cause affidavit and make further inquiry as may be necessary to determine whether detention care is required. From the time the child is taken into custody to the time the detention hearing is held, the initial placement decision is made by the juvenile probation officer.¹³ The juvenile probation officer must base any decision to detain the child on an assessment of risk using the risk assessment instrument and procedures developed by the DJJ under s. 985.245, F.S.¹⁴

Secure detention care authorized for failure to appear at trial

The Legislature has made a specific finding that decisions to detain a child should be based in part on a prudent assessment of the risk and be limited to situations where there is clear and convincing evidence that a child presents a risk of failing to appear.¹⁵ All determinations and court orders regarding the use of secure, nonsecure, or home detention care must be based primarily upon findings (those relevant to failure to appear) that the child presents a substantial risk of not appearing at a subsequent hearing, or has committed contempt of court by intentionally disrupting the administration of the court or intentionally disobeying a court order.¹⁶ Determinations and orders placing a child in detention care must be based on a risk assessment.¹⁷ The risk assessment instrument must take into consideration any prior history of failure to appear.

¹⁰ Section 985.245(1), F.S.

¹¹ Section 985.255(1), F.S.

¹² Section 985.265(1), F.S.

¹³ Section 985.245(1), F.S.

¹⁴ Section 985.25(1)(b), F.S.

¹⁵ Section 985.02(4)(a), F.S.

¹⁶ Section 985.24(1), F.S.

¹⁷ Section 985.245(2)(b), F.S.

A child may be taken into custody by a law enforcement officer for failing to appear at a court hearing after being properly noticed.¹⁸

A child taken into custody and placed into nonsecure, home detention, or secure detention care prior to a detention hearing may continue to be detained by the court if the child is charged with any second-degree or third-degree felony involving a violation of ch. 893, F.S. (i.e., illegal drugs), or any third-degree felony that is not also a crime of violence, and the child has a record of failure to appear at court hearings after being properly notified in accordance with the Rules of Juvenile Procedure.¹⁹

The court may punish any child for contempt for interfering with the court or with court administration.²⁰ The Legislature has expressed its intent that the court restrict and limit the use of contempt powers with respect to commitment of a child to a secure facility. A child who commits direct contempt of court or indirect contempt of a valid court order may be taken into custody and ordered to serve an alternative sanction or placed in a secure facility. A child may be placed in a secure facility for purposes of punishment for contempt of court if alternative sanctions are unavailable or inappropriate, or if the child has already been ordered to serve an alternative sanction but failed to comply with the sanction.

A delinquent child who has been held in direct or indirect contempt may be placed in secure detention for up to five days for a first offense and 15 days for a second or subsequent offense. If a child is charged with indirect contempt of court, the court must hold a hearing within 24 hours. The court must review the placement of the child every 72 hours to determine if it is appropriate for the child to remain in the facility. The court may also order the withholding or suspension of driving privileges.

Secure detention care permitted for violation of probation

When a child is taken into custody for violating probation, he or she must be placed in a consequence unit if one is available. The law makes no provision for an alternative if one is not available. A “consequence unit” is a secure facility specifically designated by the department for children who are taken into custody for violating probation or postcommitment probation.

Length of Detention

From intake to adjudication

A child may not be held in secure, nonsecure, or home detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced in good faith by the court.²¹ However, upon good cause being shown that the nature of the charge requires additional time for the prosecution or defense of the case, the court may extend the length of detention for an additional nine days if the child is charged with an offense that would be, if committed by an adult, a capital felony, a life felony, a felony of the first degree, or a felony of the second degree involving violence against any individual. The time limits do not

¹⁸ Section 985.101(1)(a), F.S.

¹⁹ Section 985.255(1)(g), F.S.

²⁰ Section 985.037(1), F.S.

²¹ Section 985.26(2) and (4), F.S.

include periods of delay resulting from a continuance granted by the court for cause on motion of the child or his or her counsel or of the state. Upon the issuance of an order granting a continuance for cause on a motion by either the child, the child's counsel, or the state, the court must conduct a hearing at the end of each 72-hour period, excluding Saturdays, Sundays, and legal holidays, to determine the need for continued detention of the child and the need for further continuance of proceedings for the child or the state. In addition, a child may not be held in detention care between adjudication and disposition for more than 15 days.

From disposition to placement

This section addresses the time frames for holding a child in detention between disposition (e.g., when commitment is ordered) and the placement in a residential program. Residential programs are not "detention centers" as that term is used in ch. 985, F.S. Detention refers to a temporary status while pending adjudication or while awaiting placement following disposition. If awaiting placement:

- In a low-risk residential program, the child must be removed from detention care within five days, excluding Saturdays, Sundays, and legal holidays.²² A child placed in home detention, nonsecure detention, or home or nonsecure detention care with electronic monitoring, may be held in secure detention care for five days, if the child violates the conditions of the home detention or the nonsecure detention care, or electronic monitoring agreement. For any subsequent violation, the court may impose an additional five days in secure detention care.
- In a moderate-risk program, the child must be removed from detention care within five days, excluding Saturdays, Sundays, and legal holidays. The court may order additional time in detention, not to exceed 15 days from the commitment order. A child placed in home detention, nonsecure detention, or home or nonsecure detention care with electronic monitoring, may be held in secure detention care for five days if the child violates the conditions of the home detention or nonsecure detention care, or the electronic monitoring agreement. For any subsequent violation, the court may impose an additional five days in secure detention care.
- In a high or maximum-risk program, the child must be held in detention until placed, but detention care may be home, nonsecure, or secure.

Judicial Role in Residential Placement Decisions

If the court determines that the child should be adjudicated as having committed a delinquent act and should be committed to DJJ, such determination shall be in writing or on the record of the hearing.²³ The determination must include a specific finding of the reasons for the decision to adjudicate and to commit the child to DJJ. The juvenile probation officer then recommends the most appropriate placement and treatment plan, specifically identifying the restrictiveness level most appropriate for the child. The court must consider the DJJ's recommendation in making its commitment decision, but must commit the child to DJJ at the restrictiveness level identified or may order placement at a different restrictiveness level. The court must make a special finding

²² Section 985.27(1)(a), F.S.

²³ Section 985.433(7), F.S.

establishing its reasons for disregarding the DJJ's recommendation by a preponderance of the evidence. Any party may appeal the court's findings resulting in a modified level of restrictiveness.

Liability for Fees and Costs

Parents or legal guardians of a minor child are liable for the payment of fees, charges, and costs of representation by court-appointed counsel.²⁴ Liability is imposed in the form of a lien against the property of the parents or legal guardians. If the court finds that a defendant-recipient or parent is not in contempt for failure to pay attorney's fees or costs, the court can allow additional time for payment, or reduce or revoke the assessed fees or costs.²⁵ Defendant-recipients or parents that are not in willful default may petition the court to defer payment of all or part of the attorney's fees or costs.²⁶ Fees are charged to the parent of the child for cost of care at a rate of \$1 per day for home detention, probation, or other supervision, and \$5 per day when placed in secure detention or otherwise in the custody of DJJ. The court must waive or reduce fees upon a finding of indigence and significant financial hardship. Fees can be directed to the child in lieu of the parent if the child reaches 18 prior to the detention or disposition hearing at which fees are imposed. For the parent or child to be liable for these fees, the child must be adjudicated or have had adjudication withheld, or have violated a court order.²⁷

III. Effect of Proposed Changes:

This bill proposes numerous changes to state policy concerning the use and length of detention for juveniles. It covers all phases of the process, from custody and initial intake to adjudication, and to disposition through postcommitment placement.

Pre-Adjudicatory Release

The bill permits a law enforcement officer to take a child into custody in an additional circumstance – when a child on release without any form of detention violates the conditions of pre-adjudicatory release. It also gives the court the authority to impose conditions for pre-adjudicatory release such as requiring the child to obey all laws, not possess or carry a weapon, abstain from using alcoholic beverages or illegal drugs, obey all household rules, and attend school. However, the court could not impose conditions for pre-adjudicatory release in a manner that effectively converted it into home detention. (Section 2) (amends s. 985.101, F.S.).

Use of Detention

All types of detention authorized

The bill authorizes the use of detention in any determination or order, and specifically authorizes the court to continue to detain a child taken into custody and placed on detention while awaiting

²⁴ Section 27.52(6), F.S.

²⁵ Section 27.561(3), F.S.

²⁶ Section 938.29(3), F.S.

²⁷ Section 985.039(1). See also, s. 985.0395, F.S., wherein the Legislature has approved a pilot program in the 4th and 11th Judicial Circuits, allowing the court to waive cost of care fees required to be paid by the parent for successful completion of a parenting class.

placement, when a child absconds from home or nonsecure detention or otherwise violates the terms of release while awaiting placement in a residential facility, or when there is probable cause to believe the child has committed a new law violation. (Sections 3 and 6) (amends s. 985.24 and s. 985.255, F.S.).

The bill specifies the following circumstances in which a child on home or nonsecure detention care may be transferred to secure detention care:

- when the child is alleged to have absconded from home or nonsecure detention care or violates the terms of release while awaiting placement in a residential facility; or
- when there is probable cause to believe the child has committed a new law violation while on home or nonsecure detention care and awaiting placement in a residential facility. (Section 9) (amends s. 985.265, F.S.).

Secure detention required for youth absconding from home or nonsecure detention

The bill requires a child to be placed in secure detention care upon intake if the child is alleged to have absconded from home or nonsecure detention care or otherwise violates the terms of post-adjudication release prior to placement in a residential facility. The authority to make this determination would be removed from the juvenile probation officer. (Section 6) (amends s. 985.25, F.S.).

Secure detention care authorized for failure to appear for trial

When a child intentionally fails to appear for trial, the bill permits the court to have the child held in secure detention care until the conclusion of the trial and permits the court to hold the parent in contempt for knowingly and willfully failing to bring or otherwise preventing the child from appearing for trial. (Section 11) (new s. 985.28, F.S.) The bill dispenses with the requirement of a risk assessment. (Section 5) (amends s. 985.245, F.S.).

Secure detention care permitted for violation of probation

When a child is taken into custody for violating probation and a consequence unit is not available, the bill would permit the child to be held in secure detention. (Section 14) (amends s. 985.439, F.S.).

Length of Detention

The bill provides that the pre-adjudication and post-adjudication time limits for holding a child in detention care do not apply to a child held in secure detention for absconding from home or nonsecure detention, committing a new law violation, or otherwise violating the terms of release after adjudication while awaiting placement in a residential facility; escaping or absconding from certain residential, probation or other programs; being charged with certain acts specified in current law; or intentionally failing to make a court appearance. (Section 8) (amends s. 985.26, F.S.).

The bill provides that if a child is alleged to have absconded from home or a nonsecure detention care or otherwise violates the term of release while awaiting placement may be continue to be detained if the court find probably cause to believe that a new law violation has been committed by the youth. (Section 7) (amends s. 985.255, F.S.).

From disposition to placement

The bill increases the length of time a child awaiting placement in a low- or minimum-risk residential program could be held in secure detention care following commitment at disposition, and requires that the detention options of a child committed to a high-risk or maximum-risk residential program be limited to secure detention care. (Section 10) (amends 985.27, F.S.).

For a child awaiting placement in a low-risk program, the child could be held in secure detention for an additional 15 days, rather than the current 5 days, for a subsequent violation of the conditions of home or nonsecure detention care, the terms of any release, or the conditions of any electronic monitoring agreement. (Section 10) (amends 985.27, F.S.).

For a child awaiting placement in a moderate-risk program, the child could be held in secure detention for an additional 10 days, 15 rather than 5, and could be held until placed (rather than an additional 15) when the child is alleged to have absconded from home or nonsecure detention care, violated the terms of release or electronic monitoring, or committed a new law violation. (Section 10) (amends s. 985.27, F.S.).

It appears that the timeframes delineated in Section 10 are contradictory with the timeframes contained in Section 7. Section 7 of the bill exempts the limitations for secure detention for youth who violate the terms of home detention. The Legislature may wish to reconcile these two sections.

Judicial Role in Residential Placement Decisions

The bill includes legislative intent that the court is in the best position to determine whether or not to commit a child to the Department of Juvenile Justice (DJJ) and determine the most appropriate restrictiveness level. (Section 13) (amends s. 985.43, F.S.). It would also give the court primary authority to determine the appropriate restrictiveness level for a secure residential placement and change DJJ's role to one that would be advisory to the court.

In practice, this provision may produce a different result in a very limited number of cases. The DJJ reports that, over the past three years, the Court agreed with DJJ's recommendation 85.7 percent of the time.²⁸ In many circuits, juvenile judges rely upon the recommendation of DJJ because of the familiarity DJJ staff has with the youth, family and community.²⁹

The bill eliminates the requirement that the court make a specific finding by a preponderance of the evidence in order to have a child placed at a restrictiveness level different than that recommended by DJJ. The bill also repeals a provision permitting this judicial finding to be

²⁸ In an effort to examine judicial satisfaction with DJJ recommended restrictiveness levels, House staff recently asked the DJJ to identify, over the last three years, the percentage of cases in which judges agreed with the restrictiveness level recommended by the department commitment manager. This data indicated that judges agreed with the recommendations of DJJ commitment managers in the overwhelming majority of cases, on average approximately 85 percent. However, there were several circuits, the 1st 3rd, 8th and 17th, that had consistently and substantially lower rates of agreement. All but one of these circuits are in the North Region of the Department of Juvenile Justice. Department of Juvenile Justice, data provided to House Juvenile Justice Staff in October 2007.

²⁹ Department of Juvenile Justice, *2008 Legislative Session Bill Analysis* (HB 273), 10 (February 1, 2008).

appealed, presumably since no specific finding would now be required. (Section 14) (amends s. 985.433, F.S.).

Liability for Fees and Costs

The bill permits courts to retain jurisdiction over a child after the child turns 19, and over the child's parents or guardians, until all costs, fees, and costs associated with court-appointed counsel have been satisfied, regardless of adjudication. (Section 1) (amends s. 985.0301, F.S.). This retention of jurisdiction does not preclude DJJ from closing out the community supervision case if all conditions have been satisfied.

Court Cost for Counties for Juvenile Crime Needs

The bill permits counties to adopt a mandatory court cost of up to \$50, earmarked for the administration of a county juvenile crime prevention fund. Proceeds could only be used to fund local juvenile crime prevention programs, the creation of consequence or suspension centers, and other areas of local concern relating to juvenile crime. (Section 14) (creating s. 938.20, F.S.)

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Several sections of the bill proposing changes to state policy relative to predisposition detention, both when it can be used and the length of detention, could have the effect of requiring counties to expend funds. As a result, the requirements of Article VII, Section 18(a) of the Florida Constitution may apply. This would include the requirement that the bill be approved by a two-thirds vote of the membership of each house on final passage.

Assuming the bill requires counties to spend funds, the next step is to determine whether or not one of several possible exemptions applies. The two exemptions most relevant to this bill would be the exemption for a criminal law and the exemption due to an insignificant fiscal impact.

With regard to the criminal law exemption, on November 12, 2004, the Circuit Court for the Second Judicial Circuit declared s. 985.2155, F.S.,³⁰ unconstitutional because it violated the mandates provision of the Florida Constitution.³¹ This section of law required counties to participate in funding the cost of juvenile detention. The court found that the law did not meet any of the constitutional exemptions or exceptions and, therefore, required a two-thirds vote for passage. The court found that it was not a criminal law. The bill did not pass by the necessary vote. This decision was not appealed and the Legislature has not defined this term pursuant to the authority granted by Art. VII, Section 18(e).

³⁰ Later transferred to s. 985.686, F.S.

³¹ *Alachua County, Florida, et. al v. Anthony Schembri, in his capacity as Secretary of the State of Florida, Department of Juvenile Justice, et. al*, Case No. 2004-CA-1398, *Order on Cross Motions for Summary Judgment* (Fla. 2nd Cir. Ct.).

With regard to the fiscal impact exemption, the impact will be considered “insignificant” if it does not exceed an amount equal to an average of \$0.10 multiplied by the current state population, or approximately \$1.9 million for FY 2007. This bill is expected to have a negative fiscal impact on counties of an indeterminate amount.

If the bill does not fall within one of the exemptions, it can nonetheless bind counties if the Legislature finds that it fulfills an important state interest³² and meets one of several criteria. The most relevant would be that the Legislature has authorized counties to enact a funding source that can be used to generate an amount of funds sufficient to fund any required expenditures. This bill does provide counties with an additional revenue source that could generate up to \$3.5 million, depending on the assumptions utilized, to fund juvenile crime initiatives. This could be construed as providing the necessary offsetting revenue, although the extent to which it does so depends upon the extent of any negative fiscal impact on counties as a result of this bill.

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:

The bill is expected to have an indeterminate recurring fiscal impact on both the state and local governments. A provision that may generate increased detention bed utilization relates to the requirements that a child be placed in secure detention care upon intake if alleged to have absconded from home or nonsecure detention or otherwise violated the terms of post-adjudication release. Though this could have a significant bed impact, any estimation would be highly speculative due to the number of assumptions that would comprise the estimation.

³² In section 18 of the bill, the Legislature declares “that this act fulfills an important state interest.”

Department of Juvenile Justice

The Department of Juvenile Justice (DJJ) reports that it is impossible to calculate a complete fiscal impact, due to uncertainty regarding how often judges will use the additional opportunities to put youth into secure detention.

In its most recent fiscal analysis, DJJ reports that adding detention days to predisposition juveniles increases costs to the counties while decreasing costs to the state. Recognizing the existence of unpredictable variables, DJJ hypothesizes with regard to the potential costs as follows:

Preadjudicatory Release section:

Assuming 1,333 youth violate their preadjudicatory release sanctions and assuming those youth will spend seven (7) days in secure detention, there will be an increase of 9,328 bed days. Adding days to the predisposition number of days forces additional costs to the counties, shifting the burden away from the state. An additional 9,328 days would collectively cost the counties \$385,405; the State's cost would be reduced by \$263,214.

Assuming 1,333 youth violate their preadjudicatory release sanctions and assuming those youth will spend fifteen (15) days in secure detention, there is an increase of 19,988 bed days. Adding days to the predisposition number of days forces additional costs to the counties, shifting the burden away from the state. An additional 19,988 days would collectively cost the counties \$815,766; the State's cost would be reduced by \$555,208.

Assuming 1,333 youth violate their preadjudicatory release sanctions and assuming those youth will spend twenty-one (21) days in secure detention, there is an increase of 27,983 bed days. Adding days to the predisposition number of days forces additional costs to the counties, shifting the burden away from the state. An additional 27,983 days would collectively cost the counties \$1,131,768; the State's cost would be reduced by the \$768,288.

Summary:

If all the assumptions came to fruition regarding the preadjudicatory release status of youth, the counties' burden of the detention costs would increase between \$385,405 and \$1,131,768; the State's cost would be reduced by \$263,214 - \$1,131,768.

Awaiting Placement Sections:

Assuming 217 youth violate the conditions of home detention while awaiting placement and assuming those youth will spend seven (7) days in secure detention, there will be an increase of 1,520 bed days. Adding days to the predisposition side of the equation forces additional costs to the counties, shifting the burden away from the state. An additional 1,520 days would collectively cost the counties \$63,378; the State's cost would be reduced by \$43,395.

Assuming 217 youth violate the conditions of home detention while awaiting placement and assuming those youth will spend seven (15) days in secure detention, there will be an increase of 3,257 bed days. Adding days to the predisposition side of the equation forces additional costs to the counties, shifting the burden away from the state. An additional 1,520 days would collectively cost the counties \$135,528; the State's cost would be reduced by \$92,742.

Assuming 217 youth violate the conditions of home detention while awaiting placement and assuming those youth will spend seven (21) days in secure detention, there will be an increase of 4,560 bed days. Adding days to the predisposition side of the equation forces additional costs to the counties, shifting the burden away from the state. An additional 1,520 days would collectively cost the counties \$189,458; the State's cost would be reduced by \$129,592.³³

Mandatory Court Costs for Juvenile Cases

The bill provides counties with a new revenue source in the form of a mandatory court cost of up to \$50 that can be used to fund, among other things, the creation of consequence or suspension centers, and "such other areas of local concern relating to juvenile crime." It is unclear if this includes county detention costs such that it could be applied to offset any increase in detention costs incurred by counties as a result of this bill. This new revenue source could generate annual recurring revenues of at least \$1.8 million based on the current 49 percent collection rate for similar assessments. However, based on a 100 percent collection rate, the revenue source has a value of \$3.5 million.

Due to a possible increase in the number of cases processed, the courts may experience increased costs of an indeterminate amount at least initially but, over time, may find any increased costs offset by a reduction in the number of referrals.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

³³ Department of Juvenile Justice, *Senate Bill 792 Fiscal Analysis*, 2-4 (April 17, 2008).

VIII. Additional Information:

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

CS by Criminal Justice on April 8, 2008:

The committee substitute:

- Eliminates the proposed repeal of the 15-day time limit on the length of time a child may be held in detention care between adjudication and disposition.
- Includes a new section amending s. 985.439, F.S., providing that a child may be detained in a facility other than a consequence unit when the child violates probation and a consequence unit is not available.
- Includes a statement that this act fulfills an important state interest.
- Clarifies one of the conditions for preadjudicatory release relating to alcohol or illegal drug possession or use.
- Restores a provision in current law allowing an adjudicated youth to appeal a judge's decision imposing a commitment restrictiveness level.

- B. **Amendments:**

Barcode 975568 by Judiciary on April 21, 2008:

Clarifies that, of those juveniles listed in s. 985.255(1), the exclusion from the time limitations on the length of secure detention set forth in s. 985.26, F.S., only applies to a juvenile who is:

- alleged to be an escapee from a residential commitment program, or an absconder from a nonresidential commitment program, a probation program, or conditional release supervision, or is alleged to have escaped while being transported to or from a residential facility; or
- wanted in another jurisdiction for an offense that, if committed by an adult, would be a felony.