

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 813

Juvenile Justice Facilities and Programs

SPONSOR(S): Garcia

TIED BILLS:

IDEN./SIM. BILLS:

| | REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|----|--|-----------|------------|----------------|
| 1) | Public Safety & Domestic Security Policy Committee | 12 Y, 0 N | Cunningham | Cunningham |
| 2) | Health Care Services Policy Committee | | | |
| 3) | Criminal & Civil Justice Appropriations Committee | | | |
| 4) | Criminal & Civil Justice Policy Council | | | |
| 5) | | | | |

SUMMARY ANALYSIS

Section 985.039(1)(b), F.S., provides that when a child is placed in detention or on committed status, the Department of Juvenile Justice (DJJ) has temporary legal custody of such child and must provide ordinary medical, dental, psychiatric, and psychological care. There is currently no definition of the term "ordinary medical care" in ch. 985, F.S.

Section 985.601(9)(b)7., F.S., also requires DJJ to adopt rules governing medical attention, health, and comfort items in detention facilities; however, there is no such requirement in the rules for providing medical attention in other areas of the continuum of care.

The bill amends s. 985.03, F.S., to define "ordinary medical care" as follows:

"Ordinary medical care" means medical procedures that are administered or performed on a routine basis and include, but are not limited to, inoculations, physical examinations, remedial treatment for minor illnesses and injuries, preventative services, medical management, chronic disease detection and treatment, and other medical procedures that are administered or performed on a routine basis and do not involve hospitalization, surgery, use of general anesthesia, or the provision of psychotropic medications for which a separate court order, power of attorney, or informed consent as provided by law is required.

The bill also amends s. 985.64, F.S., to require DJJ to adopt rules for ordinary medical care, mental health services, substance abuse treatment services, and developmental disabilities services and to coordinate its rulemaking effort with the Department of Children and Families and the Agency for Persons with Disabilities.

This bill does not appear to have a fiscal impact and is effective July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Various sections within Chapter 985, F.S., which relates to juvenile justice, imply or specifically state that the Department of Juvenile Justice (DJJ) is responsible for providing health services to the youth it serves. For example, s. 985.039(1)(b), F.S., provides that when a child is placed in detention or on committed status, DJJ has temporary legal custody of such child and must provide ordinary medical, dental, psychiatric, and psychological care.¹ There is currently no definition of the term "ordinary medical care" in ch. 985, F.S.

Section 985.601(9)(b)7., F.S., requires DJJ to adopt rules governing medical attention, health, and comfort items in detention facilities; however, there is no such requirement in the rules for providing medical attention in other areas of the continuum of care. DJJ reports that because they are only authorized to develop rules governing medical care in *detention* facilities, the provision of care in other areas of the continuum of care is governed by policies that are subject to challenge.

Effect of the Bill

The bill amends s. 985.03, F.S., to define "ordinary medical care" as follows:

"Ordinary medical care" means medical procedures that are administered or performed on a routine basis and include, but are not limited to, inoculations, physical examinations, remedial treatment for minor illnesses and injuries, preventative services, medical management, chronic disease detection and treatment, and other medical procedures that are administered or performed on a routine basis and do not involve hospitalization, surgery, use of general anesthesia, or the provision of psychotropic medications for which a separate court order, power of attorney, or informed consent as provided by law is required.

The bill also amends s. 985.64, F.S., to require DJJ to adopt rules to ensure the effective provision of health services to youth in facilities or programs operated or contracted by DJJ. The bill specifies that such rules must address delivery of ordinary medical care, mental health services, substance abuse treatment services, and developmental disabilities services. Additionally, the bill requires DJJ to

¹ See s. 985.03(31), F.S. See also, Section 985.441(1)(b) F.S., which authorizes a court to commit a child to DJJ and requires DJJ to provide treatment to the child; and ss. 985.18 and 985.185, F.S., which indicate that DJJ is responsible for the provision of medical care.

coordinate its rulemaking effort with the Department of Children and Families and the Agency for Persons with Disabilities to ensure there is no encroachment on either agency's substantive jurisdiction.

B. SECTION DIRECTORY:

Section 1. Amends s. 985.03, F.S., relating to definitions.

Section 2. Amends s. 985.64, F.S., relating to rulemaking.

Section 3. Amends s. 985.721, F.S., relating to escapes from secure detention or residential commitment facility.

Section 4. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides DJJ rule-making authority to govern the procedure for ordinary medical care, mental health, substance abuse, and developmental disability services in DJJ facilities and programs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES