

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 Criminal and Civil Justice Appropriations Committee

BILL: CS/SB 1012

INTRODUCER: Criminal and Civil Justice Appropriations Committee and Senator Jones

SUBJECT: Juvenile Justice Facilities and Programs

DATE: April 7, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Favorable
2.	Preston	Walsh	CF	Favorable
3.	Sadberry	Sadberry	JA	Fav/CS
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:

Senate Bill 1012 amends s. 985.03, F.S., to add a definition for the term “ordinary medical care in department facilities and programs”.

The bill also amends s. 985.64, F.S., to require the Department of Juvenile Justice (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 (DCF) and the Agency for Persons with Disabilities (APD).

This bill amends the following sections of the Florida Statutes: 985.03, 985.64, and 985.721.

II. Present Situation:

Numerous sections within Chapter 985, F.S., relating 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

Section 985.03(37), F.S., provides a definition of “necessary medical treatment” to mean necessary care to prevent the deterioration of a child’s condition or to alleviate a child’s immediate pain. However, the statute does not provide a definition of “ordinary medical care.” Section 985.601(9)(b)7., F.S., requires the DJJ to adopt rules governing medical attention, health, and comfort items in detention facilities. There are no such requirements in the rules for providing medical attention in other areas of the department’s continuum of care.

DJJ reports that while the agency is required to provide basic healthcare services to youth in DJJ custody, these services are being provided through unpromulgated policies, subjecting the agency to the persistent threat of lawsuits from contracted providers who are forced to follow those policies.² DJJ currently relies upon the 2006 Health Service Manual that serves as a guide for contracted health services.³

III. Effect of Proposed Changes:

SB 1012 creates a definition of “ordinary medical care in department facilities and programs” to include:

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, preventive services, medication management, chronic disease detection and treatment, and other medical procedures that ... do not involve hospitalization, surgery, or use of general anesthesia.

The bill also amends s. 985.64, F.S., the department’s rulemaking statute, to require the DJJ to adopt rules for ordinary medical care, mental health services, substance abuse treatment services, and developmental disabilities services. Additionally, the bill requires the DJJ to coordinate its rulemaking effort with the Department of Children and Family Services and the Agency for Persons with Disabilities to ensure there is no encroachment on either agency’s substantive jurisdiction.

There is an existing signed interagency agreement⁴ between DJJ, DCF, APD, Department of Health (DOH), and Agency for Health Care Administration (AHCA). The agreement ensures the coordination of services and supports across the named agencies for youth being served by more than one agency. DJJ and DCF have jointly agreed to develop a systems approach to promote

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.

² Department of Juvenile Justice, 2010 Legislative Session Bill Analysis, SB 1012, December 31, 2009.

³ *Id.*

⁴ Interagency Agreement Between Florida Department of Children and Families, Florida Department of Juvenile Justice, Florida Agency for Persons With Disabilities, Florida Agency for Health Care Administration, and Florida Department of Health To Coordinate Services for Children Served by More Than One Agency. September 29, 2007. Agreement on file with the Committee on Children, Families, and Elder Affairs.

local coordination to address the needs of children that they jointly serve. A few examples of the types of children that would be served through the joint staffing of cases include:

- Children who have mental health issues;
- Children who have developmental disabilities;
- Children who have co-occurring developmental disabilities and mental health disabilities and mental health disorders or significant behavioral challenges;
- Children with complex medical issues; and
- Children with substance abuse issues or co-occurring mental health and substance abuse issues.⁵

Finally, SB 1012 makes a technical change to s. 985.721, F.S., to conform a cross-reference.

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:

None.

VI. Technical Deficiencies:

None.

⁵ Department of Children and Family Services, Staff Analysis and Economic Impact, SB 1012, January 19, 2010.

VII. Related Issues:

While the newly created definition for the term “ordinary medical care in department facilities and programs” addresses “medication management,” it does not specifically reference psychotropic medications. Because DJJ clients are children under 18 years of age and because some are also served by DCF, a cross reference to the procedures in s. 39.407, F.S., may ensure that necessary informed consents or court orders are obtained for children in DJJ’s care and custody who are being prescribed psychotropic medication.⁶

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 and Civil Justice Appropriations on April 6, 2010:

Revises the provisions that adds to the definitions section on Chapter 985.03, F.S. that would have defined “Ordinary Medical Care” for juveniles in the care of the Department of Juvenile Justice’s Interstate Compact of Juveniles. Then requires the department through the rule making process to adopt rules to ensure the delivery of effective and appropriate health care services to youth in facilities or programs operated or contracted by the department.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

⁶ One of the recommendations contained in the final report of the Gabriel Myers Work Group is that any other state agency, such as the Department of Juvenile Justice, charged with dealing with children in State care should ensure that their policies, Procedures, practices, oversight, and data systems relating to psychotropic medications are adequate, up-to-date, and meet legal standards. November 19, 2009. Available at: <http://www.dcf.state.fl.us/initiatives/GMWorkgroup/docs/GabrielMyersWorkGroupReport082009Final.pdf>. (Last visited March 12, 2010).