

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1417 Juvenile Justice
SPONSOR(S): Judiciary Committee; McClure
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	10 Y, 0 N	Painter	Sumner
2) Justice Appropriations Subcommittee	11 Y, 0 N	Welty	Gusky
3) Judiciary Committee	20 Y, 0 N, As CS	Painter	Poche

SUMMARY ANALYSIS

CS/HB 1417 addresses several provisions relating to juvenile justice:

- "Invest in Children" license plates: Currently, s. 320.08058(11), F.S., requires the annual use fee proceeds from the license plates go into the Juvenile Crime Prevention and Early Intervention Trust Fund within the Department of Juvenile Justice (DJJ). DJJ funds programs and services on a county level based on each county's proportionate share of the license plate annual use fee collected in that county. The bill deletes the requirement that the funds be allocated based on each county's proportionate share.
- Secure detention for PJOs pending a detention hearing: When a youth violates the conditions of nonsecure release, s. 985.26, F.S., is silent as to whether a prolific juvenile offender (PJO) should be placed in secure or nonsecure detention pending a detention hearing. DJJ uses a risk assessment instrument (RAI) to determine if the child should remain in secure or nonsecure detention pending the hearing. Some youth who meet the PJO criteria will not necessarily score for secure detention based on the RAI and will be released until the detention hearing. The bill amends s. 985.26, F.S., to require that a PJO who is taken into custody for a violation of nonsecure detention be held in secure detention until the detention hearing.
- Detention Risk Assessment Instrument (DRAI): DJJ recently updated the detention risk assessment instrument used in determining placement of a child. The new instrument will take effect by July 1, 2019. The bill amends several statutes to conform to the new instrument. It changes the term "nonsecure detention" to "supervised release detention." The bill also repeals statutory authorization for evening reporting centers, consequence units, and the requirement to hold a youth in secure detention pending the detention hearing if youth has been taken into custody three or more times within a 60-day period.
- Florida Juvenile Justice Foundation: The bill amends s. 985.672, F.S., to delete the scheduled repeal of DJJ's direct-support organization, the Florida Juvenile Justice Foundation. In addition, the bill allows the board of directors to be appointed by the Secretary in accordance with the foundation's bylaws.

The bill has an indeterminate, but likely insignificant, fiscal impact on local governments. The bill has an indeterminate fiscal impact on state government.

The bill provides an effective date of July 1, 2018, unless otherwise provided.

FULL ANALYSIS
I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

"Invest in Children" License Plates

Section 320.08058(11), F.S., requires the Department of Highway Safety and Motor Vehicles to develop an Invest in Children license plate. The proceeds from the license plate annual use fee are deposited into the Juvenile Crime Prevention and Early Intervention Trust Fund within the Department of Juvenile Justice (DJJ).¹ DJJ uses the fees to fund programming and services recommended by the county's juvenile justice council², designed to prevent juvenile delinquency.³ Funding is allocated on a county level based on each county's proportionate share of the license plate annual use fee collected by each individual county.

Below is a chart of the total amount of annual use fees collected each fiscal year, for the past three years⁴:

FY 2014-2015	\$247,474.67
FY 2015-2016	\$230,422.31
FY 2016-2017	\$217,738.00
FY 2017-2018 (July 2017- Jan 2018)	\$135,614.83

Due to the requirement that funding be allocated based proportionally on the fees collected by each county, DJJ is unable to fund prevention services in many counties that do not sell many license plates. In FY 2015-16, license plate sales in 27 counties resulted in revenue of less than \$500 per county.⁵ As a result, many low revenue-producing counties do not respond to grant offerings by DJJ. The Juvenile Crime Prevention and Early Intervention Trust Fund has a current balance of over \$1.2 million.⁶

Prolific Juvenile Offender Violations of Nonsecure Detention

When a child is taken into custody on a new offense, a detention hearing must be held within 24 hours.⁷ The purpose of the detention hearing is to determine if probable cause exists that the child committed a crime.⁸ The judge also determines at that time where the child will be placed⁹ pending the resolution of the case.¹⁰ The imposition of bail or bond for pretrial release is not used in juvenile cases.

¹ S. 320.08058(11)(b), F.S.

² Members of a juvenile justice council must include representative(s) of: the state attorney, the public defender, the chief judge, the Department of Children and Family Services, local enforcement agencies, a county commissioner, the superintendent of each school district within the county, a workforce organization, the business community, the faith community, a youth who has experience within the juvenile justice system, a healthcare service person specializing in mental-health care, victim-service programs and victims of crime, and the parent or family member of a youth who has been involved in the juvenile justice system. S. 985.664(4), F.S.

³ S. 320.08058(11)(b), F.S.

⁴ Transparency Florida, Trust Fund Revenues Report. Available at:

<http://www.transparencyflorida.gov/Reports/TrustFundRevReport.aspx?FY=&RT=TF> (Last accessed February 3, 2018).

⁵ Email from Department of Juvenile Justice, October 26, 2017 (on file with Judiciary Committee).

⁶ Id.

⁷ S. 985.255(1), F.S.

⁸ S. 985.255(3)(a), F.S.

⁹ Whether the child will be released or placed in secure or nonsecure detention.

¹⁰ Supra, FN 7.

During the 24-hour period between the arrest and the detention hearing, DJJ must determine if the child should be released or placed in detention care.¹¹ There are two types of detention care, secure and nonsecure:

- Secure detention means the child is under the physical restriction of a secure detention center or facility pending the detention hearing.¹²
- Nonsecure detention means the child is released to a parent, guardian or custodian pending the detention hearing but subject to supervision by DJJ.¹³

DJJ uses a detention risk assessment instrument (DRAI) in determining whether to release the child or place them in detention care pending the detention hearing.¹⁴ The DRAI takes into account prior history of failure to appear, prior offenses, offenses committed pending adjudication, unlawful possession of a firearm, theft of a motor vehicle or possession of a stolen motor vehicle, and probation status at the time the child is taken into custody.¹⁵ The DRAI indicates whether detention care is warranted¹⁶ and, if it is, whether the child should be placed in secure or nonsecure detention.¹⁷ The DRAI uses points:

- Zero to six points - the child should be released.
- Seven to eleven points - the child should be placed in nonsecure detention.
- Twelve or more points - the child should be placed in secure detention.¹⁸

Prolific Juvenile Offender and Secure Detention Pending Detention Hearing

Section 985.255(1)(j), F.S., establishes the designation of a prolific juvenile offender ("PJO"). A child is a PJO if he or she:

- Is charged with a delinquent act that would be a felony if committed by an adult;
- Has been adjudicated or had adjudication withheld for a felony offense, or a delinquent act that would be a felony if committed by an adult, prior to the charge for which they are currently appearing; and
- Has five or more of any of the following:¹⁹
 - An arrest event²⁰ for which a disposition²¹ has not been entered;
 - An adjudication; or
 - An adjudication withheld.

When a child is taken into custody on a new offense and qualifies as a PJO, the child must remain in secure detention pending the detention hearing.²² It is not an option for the child to be released or placed in nonsecure detention during that 24-hour period before the detention hearing.

Prolific Juvenile Offender and Detention Hearings

At the detention hearing, a PJO must be placed in either secure detention or nonsecure detention with electronic monitoring until the disposition of the case.²³ The term "disposition" means the state declines

¹¹ S. 985.25(1)(a), F.S.

¹² S. 985.03(18)(a), F.S.

¹³ S. 9085.03(18)(b), F.S.

¹⁴ S. 985.25(1)(b), F.S.

¹⁵ S. 985.245(2)(b), F.S.

¹⁶ If the child is PJO, charged with possessing or discharging a firearm on school property, or has been taken into custody on three or more separate occasions within a 60-day period, then the child must remain in secure detention pending the detention hearing regardless of the DRAI points. S. 985.25(1)(b), F.S.

¹⁷ Id.

¹⁸ Email from Department of Juvenile Justice, February 1, 2018 (on file with Judiciary Committee).

¹⁹ Three of which must have been for felony offenses or delinquent acts that would have been felonies if committed by an adult.

²⁰ S. 985.255(1)(j)3, F.S., defines an "arrest event" as an arrest or referral for one or more criminal offenses or delinquent acts arising out of the same episode, act, or transaction.

²¹ S. 985.26, F.S., defines "disposition" to mean a declination to file under s. 985.15(1)(h), the entry of nolle prosequere for the charges, the filing of an indictment under s. 985.56 or an information under s. 985.557, a dismissal of the case, or an order of final disposition by the court.

²² S. 985.25(1)(b), F.S.

²³ S. 985.26, F.S.

to file charges;²⁴ the state enters a nolle prosequi for the charges; an indictment²⁵ or information²⁶ is filed; the case is dismissed; or there is a final order of disposition by the court.

If a PJO is placed in nonsecure detention with electronic monitoring, violates a technical condition of that detention, and is taken into custody by DJJ, it is unclear whether the PJO must remain in secure detention pending the detention hearing.²⁷ As a result, DJJ uses the DRAI to determine if the child should be released or remain in detention pending the detention hearing.²⁸ A subset of youth who meet the criteria of PJO may score below seven points on the DRAI and be released.²⁹

Detention Risk Assessment Instrument

All determinations and court orders regarding placement of a child into detention care are based on a risk assessment of the child.³⁰ DJJ uses a detention risk assessment instrument (DRAI) in making the determination of where to place the child prior to the detention hearing before a judge.³¹ The DRAI is developed by DJJ in agreement with the Conference of Circuit Judges of Florida, the Prosecuting Attorneys Association, the Public Defenders Association, the Florida Sheriffs Association, and the Florida Association of Chiefs of Police.³²

History of the Detention Risk Assessment Instrument

The Florida Legislature first implemented a DRAI in Broward county in 1989, and by 1990 the instrument was used statewide.³³ Before using a DRAI, state criteria authorized detention of any child "who presented a clear and present danger to himself or others" or "any violation of law or court order" and allowed detention to be used as "punishment" by way of judicial contempt.³⁴ The DRAI was last updated in 1994.³⁵ In December 2017, DJJ assembled a committee pursuant to s. 985.245(2)(a), F.S., and approved an updated DRAI.³⁶

Current Detention Risk Assessment Instrument

The current DRAI is divided into six sections.³⁷ The first includes identifying information about the youth and parent or guardian.³⁸ The second section includes admission criteria.³⁹ The factors include:

- Youth is an escapee or absconder from a commitment program, probation program, or conditional release supervision;
- Youth requests through legal counsel to be detained for protection from an imminent physical threat to his or her personal safety;
- Youth is charged with a felony;⁴⁰
- Youth is charged with committing domestic violence;

²⁴ Pursuant to s. 985.15(1)(h), F.S.

²⁵ Pursuant to s. 985.56, F.S., this may occur if the child is charged with a violation of law punishable by death or by life imprisonment.

²⁶ Pursuant to s. 985.577, F.S., the state attorney may direct file, or in certain cases must direct file, an information for juvenile offenders of a certain age charged with committing certain serious offenses if the state intends to seek adult sanctions.

²⁷ Section 985.26, F.S., is silent as to any such detention requirement if a PJO violates nonsecure release.

²⁸ Phone call between Criminal Justice Subcommittee staff and Department of Juvenile Justice on November 16, 2017.

²⁹ Id.

³⁰ S. 985.245(1), F.S.

³¹ Supra, FN 14.

³² S. 985.245(2)(a), F.S.

³³ Email from Department of Juvenile Justice, February 7, 2018 (on file with Judiciary Committee).

³⁴ Frank Orlando, *Controlling the Front Gates, Effective Admissions Policies and Practices*, available at: <http://www.aecf.org/resources/controlling-the-front-gates/> (last visited February 7, 2018).

³⁵ Id.

³⁶ Department of Juvenile Justice, Agency Bill Analysis HB 1417, pg. 2, February 7, 2018.

³⁷ Email from Department of Juvenile Justice, February 6, 2018 (on file with Judiciary Committee).

³⁸ Id.

³⁹ Id.

⁴⁰ If it is a third degree felony, it must be a crime of violence.

- Youth has a record of failing to appear to court, violating the law prior to hearings, committing violent conduct, or possessing a firearm;
- A judicial order requires detention;
- Youth violated conditions of probation or conditional release probation; or
- Youth is detained for failure to appear and has previously willfully failed to appear.⁴¹

The admission criteria is listed as A through K. If the child meets any criteria in A through E, then the user proceeds to the third section of the instrument. If the child does not meet any criteria A through E, then the child must be released unless he or she meets criteria listed in F through K.⁴²

Section three is the risk assessment, and it is divided into six subcategories with each option assigned a certain number of points:

- Most serious current offense;
- Other current offenses and pending charges;
- Prior history;
- Legal status;
- Aggravating or mitigating circumstances; and
- Mandatory aggravating circumstance such as illegal possession of a firearm.⁴³

Sections four and five are for the state attorney's screening decision and the final screening decision.⁴⁴ Section six is for a narrative of the alleged offense.⁴⁵ The final screening decision is to release the youth, place the youth in nonsecure detention, or place the youth in secure detention.⁴⁶

- Six points or less, the youth is released;
- Seven to Twelve points, the youth is placed in nonsecure detention⁴⁷; and
- Thirteen points or more, the youth is held in secure detention.⁴⁸

Redesign of the Detention Risk Assessment Instrument

The new instrument is divided into six sections.⁴⁹ The first section is identification information, such as name and personal information of the youth, as well as the parent or guardian, and information about the alleged offense.⁵⁰ The second section is the risk assessment.⁵¹ The risk assessment portion has five subsections and the user is instructed to score only one factor from each category.⁵² If multiple factors apply in a category, the user should select the choice with the highest point value.⁵³ The five categories and associated factors are:

- Most serious presenting offence
 - Capital, life or first-degree felony punishable by life;
 - Violent first or second degree felony, or vehicular homicide;
 - Any offense involving use or possession of firearm;
 - Violent third-degree felony, burglary of a dwelling or five or more burglary offenses being presented at once;
 - Non-violent first, second, third degree felony or misdemeanor; or
 - Technical violation or municipal ordinance.

⁴¹ Supra, FN 37.

⁴² Id.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ S. 985.25(1)(a), F.S.

⁴⁷ Supra, FN 37.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id.

⁵² Id.

⁵³ Id.

- Prior referrals
 - Three or more prior felony or misdemeanor referrals;
 - Two prior felony or misdemeanor referrals;
 - One prior felony or misdemeanor referral;
 - Current offense is the first offense.
- Delinquent history
 - Prior abscond or escape;
 - History of law violations prior to court hearings;
 - Two or more prior failures to appear;
 - History of violations of any supervision; or
 - No history of escape, abscond, law violation pending court, violation of probation or failure to appear.
- Current legal status
 - Currently committed or conditional release;
 - Current detention statute or currently on supervised release;
 - Currently on probation or post-commitment probation for 90 days or less;
 - Currently on probation or post-commitment probation for more than 90 days; or
 - No current involvement.
- Current age
 - Age 12 or younger;
 - Age 13, 14, 15 or 16; or
 - Age 17 or older.⁵⁴

Section three provides for statutory policy or overrides of the DRAI where, if applicable, a youth may be detained regardless of the DRAI score. A policy override would include, for example, a situation where a youth may score low enough for release, but the youth requests, through an attorney, to be detained for protection from an imminent physical threat. If a youth qualifies as PJO,⁵⁵ or commits an offense of domestic violence,⁵⁶ then statute requires the youth remain in secure detention pending a detention hearing, even if the youth's score makes him or her eligible for release. A judge may also order detention regardless of the DRAI score if the youth violated home detention, is pending commitment placement, or absconded. These statutory and policy override options in section three include:

- The youth is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony;
- The youth is alleged to have committed a delinquent act or violation of law and requests through legal counsel to be detained for protection from an imminent physical threat to his or her personal safety;
- The youth is a prolific juvenile offender.
- The youth is currently on any type of supervision for an offense that would score 20 points in section two; or
- Judicial order.⁵⁷

Sections four and five are for the state attorney's review and decision and the final screening decision.⁵⁸ Section six is for a narrative of the alleged offense.⁵⁹ The final screening decision is to release the youth, place the youth in supervised release detention, or place the youth in secure detention.⁶⁰

- Six points or less, the youth is released;
- Seven to Twelve points, the youth is placed on supervised release; and
- Thirteen points or more, the youth is held in secure detention.⁶¹

⁵⁴ Id.

⁵⁵ S. 985.255(1)(j), F.S.

⁵⁶ S. 741.28(1), F.S.

⁵⁷ Supra, FN 37.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Id.

Agency Direct Support Organizations

Direct Support Organizations

A direct-support organization (DSO) is a non-profit organization⁶² authorized by statute to carry out specific tasks in support of a public entity or public cause. The function and purpose of a DSO is detailed in its enacting statute and the written contract with the agency the DSO was created to support.⁶³

DSO Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing transparency and reporting requirements for DSOs.⁶⁴ Specifically, the law requires each DSO to submit annually the following information to the agency it was created to support by August 1st:⁶⁵

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent Internal Revenue Service (IRS) Form 990.⁶⁶

Additionally, the information submitted annually by a DSO must be available on the respective agency's website along with a link to the DSO's website, if one exists.⁶⁷ Any contract between an agency and a DSO must be contingent upon the DSO submitting the required information to the agency and posting the information on the agency's website.⁶⁸ The contract must include a provision for ending operations and returning state-issued funds if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁶⁹ If a DSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate its contract with the DSO.⁷⁰

By August 15th of each year, each agency must report to the Governor, President of the Senate, Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information submitted by the DSO, along with the agency's recommendation and supporting rationale to continue, terminate, or modify the agency's association with the DSO.⁷¹ Any law creating, or authorizing the creation of a DSO must repeal its authorization on October 1st of the 5th year after enactment, unless reviewed and reenacted by the Legislature.

⁶² Ch. 617, F.S.

⁶³ SS. 14.29(9)(a), 16.616(1), and 258.015(1), F.S.; see also Rules of the Florida Auditor General, *Audits of Certain Nonprofit Organizations* (effective June 30, 2017), Rule 10.720(1)(b) and (d), available at: https://flauditor.gov/pages/pdf_files/10_700/pdf (last visited February 8, 2018).

⁶⁴ S. 3, Ch. 2014-96, L.O.F.

⁶⁵ S. 20.058(1), F.S.

⁶⁶ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501. 26 C.F.R. 1.6033-2.

⁶⁷ S. 20.058(2), F.S.

⁶⁸ S. 20.058(4), F.S.

⁶⁹ Ch. 2017-75, L.O.F.

⁷⁰ S. 20.058(4), F.S.

⁷¹ S. 20.058(3), F.S.

A list of DSOs in existence prior to July 1, 2014 which are scheduled for repeal in 2018 and 2019 is below:

DSOs Scheduled for Repeal ⁷²	
October 1, 2018	October 1, 2019
<ul style="list-style-type: none"> • Guardian ad Litem Program Foundation (s. 39.8298(8), F.S.) • Florida Department of Law Enforcement for Florida Missing Children's Day (s. 683.231(8), F.S.) • Department of Corrections (s. 944.802(4), F.S.) • Executive Office of the Governor to assist victims of adult and juvenile crime. (s. 960.002(6), F.S.) • Department of Juvenile Justice (s. 985.672(7), F.S.) 	<ul style="list-style-type: none"> • Department of Environmental Protection (s. 20.2551(6), F.S.) • Division of Library and Information Services (s. 257.43(4), F.S.) • Division of Recreation and Parks (s. 258.015(4), F.S.) • Babcock Ranch Preserve (s. 259.10521(4), F.S.) • Division of Cultural Affairs (s. 265.703(4), F.S.) • Division of Historical Resources (s. 267.17(4), F.S.) • Florida Tourism Industry Marketing Corporation (ss. 288.1226(9) and 288.923(6), F.S.) • Florida Intergovernmental Relations Foundation (s. 288.809(5), F.S.) • Fish and Wildlife Conservation Commission (s. 379.223(4), F.S.) • Department of Agriculture and Consumer Services (s. 570.691(10), F.S.) • Florida Beef Council (s. 570.83(14), F.S.)

Current law requires all DSOs in existence prior to July 1, 2014 must be reviewed by the Legislature by July 1, 2019.⁷³

DSO Audit Requirements

Section 215.981, F.S., requires each DSO with annual expenditures in excess of \$100,000 to annually audit its accounts and records.⁷⁴ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the DSO. The audit report must be submitted within nine months of the fiscal year to the Auditor General and to the state agency the DSO supports. Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of DSO accounts and records.⁷⁵

⁷² Supra, FN 62.

⁷³ S. 20.058(5), F.S.

⁷⁴ The independent audit requirement does not apply to a DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

⁷⁵ S. 11.45(3), F.S.

Florida Juvenile Justice Foundation

The Florida Business Partners for Juvenile Justice, Inc. was established in 2000 as the non-profit DSO to support DJJ, under s. 985.672, F.S.⁷⁶ In 2005, the Board of Directors voted to change the name of the organization from Florida Business Partners for Juvenile Justice to Florida Juvenile Justice Foundation (Foundation).

The Foundation's purpose is to raise funds that enhance, promote, and support DJJ initiatives. The Foundation funds the Youth Investment Award program, which provides financial assistance to further the education and employability of juvenile justice-involved youth.⁷⁷ The Foundation also funds back-to-school drives, Youth Success Week, the Human Trafficking Summit, the National Faith-Based Symposium, and provides support and recognition for the DJJ Teacher of the Year Award.⁷⁸

Under s. 985.672(3), F.S., the Foundation board must include representatives from businesses, representatives from each of the juvenile justice service districts, and one representative appointed at large.⁷⁹ However, the Foundation bylaws state that the Secretary shall appoint the members of the board and they must include a diverse group of individuals with broad based representation from communities and business leaders with ethnic, age, gender and geographic diversity.⁸⁰ The statutory language of s. 985.672(3), F.S., was never updated to reflect the transition from "districts" to "circuits" and is not in keeping with the current bylaws of the Foundation for board membership. The board currently has five members serving up to four two-year staggered terms.⁸¹

The Foundation's authorizing statute is scheduled for repeal October 1, 2018.

Effect of Proposed Changes

Invest in Children License Plates

CS/HB 1417 removes the requirement in s. 320.08058, F.S., that DJJ use the proceeds from license plate annual use fees to fund programs and services on a county level based on each county's proportionate share of the fee collected in that county. The bill permits DJJ to distribute the proceeds from the license plate fund on a statewide basis to better distribute the revenues collected to counties with program funding needs.

Prolific Juvenile Offender Violations of Nonsecure Detention

The bill requires PJOs taken into custody for a violation of nonsecure detention to be held in secure detention until the detention hearing is held. The DRAI will no longer be used to determine if a PJO youth who violates the conditions of nonsecure release will be held pending the detention hearing.

Detention Risk Assessment Instrument

The bill changes several statutes to conform with the new DRAI that will go into effect by July 1, 2019:

- Amends statutes throughout ch. 985, F.S., to replace the term "nonsecure detention" with the term "supervised release."

⁷⁶ Id.

⁷⁷ Florida Juvenile Justice Foundation, Board Members, available at: <http://www.djj.state.fl.us/fjff/about-us/board-members> (last visited February 3, 2018).

⁷⁸ Email from Department of Justice, November 20, 2017 (on file with Judiciary Committee).

⁷⁹ While DJJ used to divide the state into "districts," that system changed in the late 1990s. The current system divides the state into "circuits." This involves a substantial geographical change from the former "district" system. Where there used to be 15 districts, there are now 20 circuits.

⁸⁰ Florida Juvenile Justice Foundation, Inc. Bylaws, Art. V (on file with Judiciary Committee).

⁸¹ Supra, FN 76.

- Provides a definition for "supervised release" in s. 985.03(18) that is nearly identical to the current definition of "nonsecure release."⁸² The new definition will allow for additional types of youth supervision for those who do not score for secure detention, such as electronic monitoring and reporting centers.⁸³
- Repeals DJJ's statutory authorization to implement evening reporting centers (ERCs) as an alternative to secure detention. ERCs are included in the definition of supervised release detention;
- Replaces the required review of probation status in the DRAI with review of supervision status to include all types of supervision.
- Removes the requirement that the DRAI take into consideration appropriate aggravating and mitigating circumstances.
- Requires DJJ to continue to identify and develop supervised release detention options rather than alternatives to secure detention care.
- Removes the rule for mandatory secure detention prior to the detention hearing for youth arrested three times in a sixty day period. The new DRAI will take into account the youth's prior record and accurately score the youth for detention.
- Removes the term "consequence unit" in statute as a means for punishment for a probation violation as these units no longer exist.⁸⁴
- Repeals several factors a court may consider to order that a child be held in continued pre-hearing detention placement.

DJJ Foundation

CS/HB 1417 removes the scheduled repeal date for the Foundation. As a result, the DSO will remain in existence unless the legislature determines that another review is necessary. The bill also removes the requirement that members of the organization include representatives from businesses and each of the juvenile justice service districts, and one at large representative. The bill provides that the Secretary of DJJ must appoint members in accordance with the Foundation's bylaws.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.08058, F.S., relating to specialty license plates.

Section 2: Amend s. 985.03, F.S., relating to definitions.

Section 3: Amends s. 985.037, F.S., relating to punishment for contempt of court; alternative sanctions.

Section 4: Amends s. 985.039, F.S., relating to cost of supervision; cost of care.

Section 5: Amends s. 985.24, F.S., relating to use of detention; prohibitions.

Section 6: Amends s. 985.245, F.S., relating to risk assessment instrument.

Section 7: Amends s. 985.25, F.S., relating to detention intake.

Section 8: Amends s. 985.255, F.S., relating to detention criteria; detention hearing.

Section 9: Amends s. 985.26, F.S., relating to length of detention.

Section 10: Amends s. 985.26, F.S., relating to length of detention.

Section 11: Amends s. 985.265, F.S., relating to detention transfer and release; education; adult jails.

Section 12: Amends s. 985.439, F.S., relating to violation of probation or postcommitment probation.

Section 13: Amends s. 985.601, F.S., relating to administering the juvenile justice continuum.

Section 14: Amends 985.672, F.S., relating to direct-support organization; definition; use of property; board of directors; audit.

Section 15: Provides an effective date of July 1, 2018, unless otherwise specified.

⁸² The definition of "supervised release" removes home detention as an option.

⁸³ Email from Department of Juvenile Justice, February 6, 2018 (on file with Judiciary Committee).

⁸⁴ Id.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Prolific Juvenile Offenders

To the extent that additional youth are held in secure detention, there will be additional costs to the state to operate secure detention facilities. However, these costs are likely to be insignificant due to the minimal number of youth that qualify as prolific juvenile offenders but do not score to be held in secure detention. According to DJJ, these costs can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

To the extent that additional youth are held in secure detention, there will be additional costs to the non-fiscally constrained counties that contribute funding to operate secure detention facilities. However, these costs are likely to be insignificant due to the minimal number of youth that qualify as prolific juvenile offenders but do not score to be held in secure detention.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Invest in Children license plate generated approximately \$240,000 in revenues over the past four fiscal years. The Department of Highway Safety and Motor Vehicles (DHSMV) deposits these funds into the Juvenile Crime Prevention and Early Intervention Trust Fund. DJJ expended approximately \$137,000 per year from this trust fund during the last four fiscal years. As a result, the trust fund balance continues to increase. As of January 2018, the trust fund has available revenue of approximately \$1.2 million. The bill removes the current distribution limitations, allowing DJJ to use available funding for prevention programs around the state.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 7, 2018, the Judiciary Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment removed the requirement that a judge order and consider a predisposition report prior to committing a juvenile to secure or nonsecure detention. The amendment also made the following changes to conform with the new detention risk assessment instrument:

- Changed the term "nonsecure detention" to "supervised release detention";
- Provided a definition for supervised release detention;
- Repealed statutory authorization for evening reporting centers and consequence units;
- Repealed the requirement to hold a child in secure detention care pending the detention hearing where the child has been taken into custody 3 or more separate times within a 60-day period;
- Allowed the court to order continued detention if the risk assessment instrument indicates; and
- Repealed some statutory criteria by which a court may order that a child be held in continued pre-hearing detention placement.

The analysis is drafted to the committee substitute as passed by the Judiciary Committee.