

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1361 Juvenile Justice  
**SPONSOR(S):** Robinson  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1144

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	14 Y, 0 N	Frost	Hall
2) Justice Appropriations Subcommittee	12 Y, 0 N	Jones	Gusky
3) Judiciary Committee	15 Y, 0 N	Frost	Luczynski

### SUMMARY ANALYSIS

Section 20.316, F.S., establishes the Department of Juvenile Justice (DJJ), and directs the Governor to appoint a Secretary of DJJ to plan, coordinate, and manage all juvenile justice programs within the State. The Secretary oversees, and may assign assistant secretary positions for, the following statutorily created programs within DJJ:

- Prevention and Victim Services.
- Intake and Detention.
- Residential and Correctional Facilities.
- Probation and Community Corrections.
- Administration.

In Florida, the payment of detention care costs for juveniles is determined by county, and may be the responsibility of the county or may be paid for in-part or entirely by the State. The State must pay all detention care costs for a juvenile:

- Residing in a fiscally constrained county;
- Residing outside of Florida; or
- Who is housed in a state-run detention center, but is from a county that provides its own juvenile detention care.

The State is currently required to share detention care costs with non-fiscally constrained counties based on each county's annual percentage share of total shared detention costs. However, prior to 2016, juvenile detention cost sharing was governed by s. 985.686, F.S., which provides that non-fiscally constrained counties are responsible for all costs of providing preadjudicatory detention care, except costs associated with nonmedical, educational or therapeutic services. This previous cost-sharing method led to litigation between counties and DJJ. In 2016, in response to the cost-sharing litigation, the Legislature passed s. 985.6865, F.S., creating the current cost-sharing method, but requiring counties to dismiss any pending legal action to participate in the new cost-sharing plan.

HB 1361 amends s. 20.316, F.S., by establishing a new statutory program within DJJ entitled "Accountability and Program Support," designed to focus on DJJ's contracting and program oversight efforts. The bill also renames DJJ's current "Prevention and Victim Services" program to "Prevention," because DJJ indicates it has not provided victim services in many years.

The bill amends s. 985.6865, F.S., to ensure that a non-fiscally constrained county providing its own detention care is not required to participate in detention cost sharing. The bill also removes language within s. 985.6865, F.S., referencing prior cost-sharing litigation, as there is no longer any pending litigation. The bill also repeals s. 985.686, F.S., which provided the detention cost sharing plan between DJJ and counties prior to 2016, as cost sharing is now governed solely by s. 985.6865, F.S.

DJJ indicates no additional revenue is needed to support the changes made by the bill.

The bill provides an effective date of July 1, 2020.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

Section 20.316, F.S., establishes the Department of Juvenile Justice (DJJ), and directs the Governor to appoint a Secretary of DJJ (Secretary) who is responsible for planning, coordinating, and managing all juvenile justice services and programs within the state, including all: children-in-need-of-services programs; families-in-need-of-services programs; other prevention, early intervention, and diversion programs; detention centers and related programs and facilities; community-based residential commitment and nonresidential programs; and delinquency institutions provided or funded by DJJ. The Secretary is statutorily assigned duties relating to DJJ programs and services, including, but not limited to:<sup>1</sup>

- Ensuring DJJ programs and services are implemented according to legislative intent; state and federal laws, rules, and regulations; statewide program standards; and performance objectives by reviewing and monitoring regional and circuit program operations and providing technical assistance to those programs.
- Identifying the need for and recommending the funding and implementation of an appropriate mix of programs and services within the juvenile justice continuum, including prevention, diversion, nonresidential and residential commitment programs, training schools, and conditional release programs and services, with an overlay of educational, vocational, alcohol, drug abuse, and mental health services where appropriate.
- Establishing program policies and rules and ensuring that those policies and rules encourage cooperation, collaboration, and information sharing with community partners in the juvenile justice system to the extent authorized by law.

#### DJJ Programs

The Secretary is currently responsible for five statutorily created programs within DJJ:<sup>2</sup>

- Prevention and Victim Services – offers voluntary youth crime prevention programs throughout the state.<sup>3</sup>
- Intake and Detention – DJJ currently operates 21 secure detention centers in 21 counties.<sup>4</sup>
- Residential and Correctional Facilities – oversees DJJ’s development, maintenance, and management of facilities/programs that meet the needs of Florida’s delinquent youths and promote public safety.<sup>5</sup>
- Probation and Community Corrections – A juvenile who is placed on probation is supervised by a Juvenile Probation Officer (JPO), who helps the juvenile develop a youth-empowered success plan, monitors compliance, and helps connect the juvenile with other service providers.<sup>6</sup>
- Administration – Responsible for providing services to department staff, including but not limited to, financial, computer information systems, personnel, and general services.<sup>7</sup>

The Secretary may establish assistant secretary positions and a chief of staff position for each program.<sup>8</sup> In addition to the five programs authorized by statute, DJJ currently has an established Program Accountability Office (PAO) housed under its support services. The PAO ensures that all

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<sup>1</sup> S. 20.316(1)(c), F.S.

<sup>2</sup> S. 20.316(2), F.S.

<sup>3</sup> The Department of Juvenile Justice, *Prevention & Victim Services*, <http://www.djj.state.fl.us/services/prevention> (last visited Feb. 19, 2020).

<sup>4</sup> The Department of Juvenile Justice, *Detention Services*, <http://www.djj.state.fl.us/services/detention> (last visited Feb. 19, 2020).

<sup>5</sup> The Department of Juvenile Justice, *Residential Services*, <http://www.djj.state.fl.us/services/residential> (last visited Feb. 19, 2020).

<sup>6</sup> The Department of Juvenile Justice, *Probation & Community Intervention*, <http://www.djj.state.fl.us/services/probation> (last visited Feb. 19, 2020).

<sup>7</sup> The Department of Juvenile Justice, *Office of Administrative Services*, <http://www.djj.state.fl.us/services/support/administration> (last visited Feb. 19, 2020).

<sup>8</sup> *Id.*

programs operated or contracted by DJJ, including those contracted with private providers, are effectively providing for the safety, wellbeing, and treatment of juveniles who are in the State's care.<sup>9</sup> Approximately 60 percent of DJJ's budget is currently allocated to contract with private providers, resulting in nearly \$360 million per year going to 129 separate providers in 233 different contracts.<sup>10</sup> During FY 2020-21, DJJ plans to shift several full-time equivalent positions and reallocate funding from the five existing programs to the PAO. However, because the PAO is not established under statute, the Secretary is unable to assign an assistant secretary to manage the program.<sup>11</sup>

### Juvenile Detention Cost Sharing

In Florida, the payment of detention care costs for juveniles is determined by county, and may be the responsibility of the county alone or may be paid for in-part or entirely by the State. The State must pay all detention care costs for a juvenile:<sup>12</sup>

- Residing in a fiscally constrained county;<sup>13</sup>
- Residing outside of Florida; or
- Who is housed in a state-run detention center, but is from a county that provides its own juvenile detention care.

The State is currently required to share detention care costs with non-fiscally constrained counties operating in cooperation with DJJ based on each county's annual percentage share of total shared detention costs. However, prior to 2016, juvenile detention cost sharing was governed by s. 985.686, F.S., which provides that non-fiscally constrained counties are responsible for all costs of providing preadjudicatory detention care, except for costs associated with nonmedical, educational or therapeutic services. This cost-sharing methodology led to litigation between counties and DJJ.<sup>14</sup>

In 2016, in response to the cost-sharing litigation, the Legislature passed s. 985.6865, F.S., creating a new cost sharing method.<sup>15</sup> However, to participate in the new cost-sharing plan, a county was required to dismiss any legal action against the State related to the previous cost-sharing plan. Section 985.6865, F.S., provides that, notwithstanding s. 985.686, F.S., beginning in FY 2017-18 and each fiscal year thereafter, a non-fiscally constrained county that has dismissed any legal action relating to cost-sharing under s. 985.686, F.S., must pay an annual percentage share of 50 percent of the total annual shared detention costs.<sup>16, 17</sup>

A non-fiscally constrained county's annual percentage share is calculated by dividing the total number of detention days for juveniles residing in the county for the most recent 12-month period by the total number of detention days for juveniles in all non-fiscally constrained counties during the same period. The county must pay 50 percent of the annual percentage share in 12 equal payments, due on the first day of each month.<sup>18</sup>

A county required to pay a share of detention costs must incorporate funds to pay shared detention costs into the county's annual budget.<sup>19</sup> Funds DJJ receives from cost-sharing must be deposited into

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<sup>9</sup> Department of Juvenile Justice, Handout Regarding the Creation of Office of Accountability and Program Support (Received Jan.19, 2020).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> S. 985.6865(5), F.S.

<sup>13</sup> A "fiscally constrained county" is a county within a rural area of opportunity, as designated by the Governor pursuant to s. 288.0656, F.S., or each county for which the value of a mill will raise no more than \$5 million in revenue, based on the certified school taxable value certified under s. 1011.62(4)(a)1.a., F.S., from July 1 of the previous year. S. 985.6865(3)(b), F.S.

<sup>14</sup> Various counties and DJJ have engaged in numerous legal proceedings, including administrative or judicial claims, regarding detention cost sharing for juveniles. This litigation has focused mainly on how DJJ calculates detention costs counties are responsible for paying, leading to the overbilling of counties for a period of years. Ss. 985.6865(1) and (2), F.S.

<sup>15</sup> Ch. 2016-152, Laws of Fla.

<sup>16</sup> S. 985.6865(4), F.S.

<sup>17</sup> DJJ indicates that Polk and Seminole counties chose not to dismiss their lawsuits relating to cost-sharing, and in 2019 won their lawsuits and were compensated for their overpayment of services. Polk and Seminole counties continue to operate their detention facilities independently. Department, *supra* note 9.

<sup>18</sup> S. 985.6865(4), F.S.

<sup>19</sup> S. 985.6865(6), F.S.

the Shared County/State Juvenile Detention Trust Fund,<sup>20</sup> and DJJ must determine quarterly whether each county is complying with cost-sharing requirements.<sup>21</sup>

### **Effect of Proposed Changes**

HB 1361 amends s. 20.316, F.S., by establishing a new statutory program within DJJ entitled “Accountability and Program Support,” which will continue the work currently performed by the PAO. Creating a statutory program allows the Secretary to assign an assistant secretary to administer the program, and will allow greater funding to focus on DJJ’s contracting and program oversight efforts. The bill also renames DJJ’s current “Prevention and Victim Services” program to “Prevention,” because DJJ indicates that victim services have not been provided by DJJ in many years.<sup>22</sup>

The bill amends s. 985.6865, F.S., to ensure that a non-fiscally constrained county providing its own detention care is not required to participate in detention cost sharing. The bill also removes language within s. 985.6865, F.S., referencing prior cost-sharing litigation, as there is no pending litigation.

The bill repeals s. 985.686, F.S., which provided the detention cost sharing plan between DJJ and counties prior to 2016, as cost sharing is now governed solely under s. 985.6865, F.S.

The bill provides an effective date of July 1, 2020.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 20.316, F.S., relating to Department of Juvenile Justice.

**Section 2:** Repeals s. 985.686, F.S., relating to shared county and state responsibility for juvenile detention.

**Section 3:** Amends s. 985.6865, F.S., relating to juvenile detention.

**Section 4:** Provides an effective date of July 1, 2020.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The DJJ Fiscal Year (FY) 2020-21 Legislative Budget Request includes a reorganization to shift full time equivalent positions and funding from existing programs to the new Accountability and Program Support program established by the bill. Both the House and Senate proposed FY 2020-21 budgets include these changes, as requested by DJJ.<sup>23</sup> DJJ indicates no additional revenue is needed to support the new program.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

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<sup>20</sup> S. 985.6865(7), F.S.

<sup>21</sup> S. 985.6865(8), F.S.

<sup>22</sup> Department, *supra* note 9.

<sup>23</sup> See PCB APC 20-01 and SPB 2500 (2020).

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES