

Committee on Criminal Justice

CS/CS/CS/SB 1344 — Juvenile Justice

by Fiscal Policy Committee; Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Simon

The bill amends and repeals numerous sections of ch. 984, F.S., resolves inconsistencies between current practices of the Department of Juvenile Justice (DJJ) and statutory language to more accurately reflect the DJJ's mission. The bill revises, deletes, and adds numerous definitions throughout ch. 984, F.S. and revises, in part, provisions relating to:

- Voluntary and court ordered services to families;
- Petitions for children in need of services;
- Early truancy intervention;
- Hearings for a child in need of services;
- Orders of adjudication; and
- Placement in a shelter.

Chapter 984, F.S., is renamed the Children and Families in Need of Services; Prevention and Intervention for School Truancy and Ungovernable and Runaway Children and revises the purpose of this chapter. Some revisions include providing that the purpose is to provide judicial, nonjudicial, and other procedures to address the status offenses of children who are truant from school, run away from their caregivers, or exhibit ungovernable behavior by refusing to follow the household rules of their caregivers and engage in behavior that places the child at risk of harm. The bill also provides revisions for the temporary placement of the child only when necessary for the child's education, safety, and welfare and other less restrictive alternatives have been exhausted.

Legislative Intent

The bill revises the legislative intent for prevention and intervention to provide:

- Effective services or treatment to address physical, social, and emotional needs;
- Equal opportunity and access to quality and effective education which will meet the individual needs of each child and prepare the child for future employment;
- Access to preventative services to provide the child and family the support of community resources to address the needs of the child and reduce the risk of harm or engaging in delinquent behavior;
- Court intervention when necessary to address at-risk behavior before it escalates into harm to the child or to the community through delinquent behavior;
- Access to representation by a trained advocate for court proceedings; and
- Supervision and services by staff when temporary out of home placement is necessary.

Additionally, the DJJ may develop and implement effective early prevention programs to address truancy and ungovernable and runaway behavior of a child, which place the child at risk of harm, and to allow for intervention before the child engages in a delinquent act.

Children and Families in Need of Services

Services to families are provided on a continuum of increasing intensity and participation by the parent, legal guardian or custodian, and child, and a case manager must be assigned by the designated provider at intake. The case manager must request consent for services and interagency information sharing from the parent, legal guardian, or custodian.

A family is not eligible to receive voluntary family services, if, at the time of the referral, the child is under court-ordered supervision by the DJJ for delinquency, or under court ordered supervision by the Department of Children and Families (DCF). A child who has received a prearrest delinquency citation, or is receiving delinquency diversion services, may receive voluntary family services. If there is a pending investigation into an allegation of abuse, neglect or abandonment, the child may be eligible for voluntary family services if the DCF agrees to the services and makes a referral.

When a child is in need of services the DJJ must file a petition as soon as practicable. The bill removes the 45 day deadline to file such a petition. The DJJ or its service provider must provide an array of voluntary family services aimed toward remediating school truancy, homelessness, and runaway and ungovernable behavior by children.

The DJJ must request a meeting of the family and child with a case staffing committee to review the case of any family or child who is in need of services. A case staffing committee meeting must be convened within 30 days after the case is referred by the court, and must:

- Identify the family's concerns and contributing factors;
- Request the family and child to identify their needs and concerns;
- Seek input from the school district and other persons in attendance with knowledge of the family or child's situation and concerns;
- Consider the voluntary family services or other community services that have been offered and the results of those services;
- Identify whether truancy is a concern and efforts have been made to remedy it; and
- Reach a timely decision to provide the child or family with services and recommend any appropriate treatment through the development of a plan for services.

Additionally, a guardian ad litem may be appointed for specific cases.

Right to Counsel

A child must be represented by counsel if a petition is filed alleging that he or she is in need of services, or if he or she is subject to contempt proceedings. Guidelines for appointing counsel for an indigent child, waiving counsel, or enforcing the nonindigent parents or legal guardian of an indigent child to employ counsel are provided in the bill, including, in part:

- The child must be represented by counsel at each court appearance unless he or she waived the right to counsel. The court must advise the child of his or her right to counsel at every subsequent hearing, if the right to counsel was waived.

- If the parents or legal guardians of a child are not indigent but refuse to employ counsel, the court must appoint counsel to represent the child until the parents provide counsel. Costs of representation must be imposed for such representation.
- A parent or legal guardian of a child ordered to obtain private counsel, who willfully fails to follow the court order may be punished in civil contempt proceedings.
- The court may appoint counsel to represent the child if the child's behavior has persisted after a good faith effort by the parents to participate in services.
- The court may also appoint an attorney to represent a parent or legal guardian upon finding that the parent or legal guardian is indigent.

Hearings for Children and Families in need of Services

An arraignment hearing for the petition of a child in need of services must be within a reasonable time after the date of the filing. At the arraignment hearing the court may:

- Grant a continuance of the hearing for the child or the parent, legal guardian, or custodian to obtain an attorney and legal counsel requests a continuance.
- Treat failure of a noticed person to appear at hearing as consent to the petition.

The adjudicatory hearing must be held as soon as practicable after the petition for a child in need of services is filed. If the court finds the allegations are proven by a preponderance of evidence and the child is a child in need of services, the court must enter an order of adjudication.

At the disposition hearing the court must receive and consider a predisposition study, which must be in writing and be presented by the DJJ or its provider. After reviewing the predisposition study and other relevant materials, the court must hear from the parties and consider all recommendations for court-ordered services, evaluations, treatment and required actions designed to remedy the child's truancy, ungovernable behavior, or running away. The court must enter an order of disposition. An order of adjudication by a court that a child is in need of services is a civil adjudication and not a conviction.

A review hearing must occur within 45 days after the disposition hearing. Additional review hearings may be held as necessary, allowing sufficient time for the child and family to work towards compliance with the court orders and monitoring by the case manager. No longer than 90 days may elapse between judicial review hearings.

The parent, legal guardian, or custodian and the child must be noticed to appear for the review hearing, and the DJJ must be present at such hearing. The court must consider the department's judicial review summary and may proceed with the hearing and enter orders that affect the child and family accordingly. The child's presence may be waived by the court if the court finds good cause. Upon request of the petitioner, the court may close the case and relinquish jurisdiction.

At review hearings, the court may enter further orders to adjust the services case plan to address the family needs and compliance with court orders, including but not limited to ordering the child placed in shelter.

Custody and Shelter Placement

The use of detention care or a secure detention facility intended for juvenile delinquents, or the use of a jail or similar facility is prohibited for a child under the jurisdiction of the court solely for a child in need of services. A child who is held in direct or indirect contempt must be placed in a shelter and may be taken into custody:

- By a law enforcement officer when the officer has reasonable grounds to believe that the child has run away from his or her parents, legal guardian, or custodian;
- By designated school representative or a law enforcement officer when the officer has reasonable grounds to believe the child is absent from school without authorization;
- Pursuant to a court order based on sworn testimony *after* a child in need of services petition is filed;
- Pursuant to a court order that the child has been found guilty of contempt; and
- By a law enforcement officer when the child agrees to or requests services.

The person taking the child into custody must:

- Release the child to a parent, legal guardian, custodian or responsible adult relative and make full report to the DJJ within 3 days after release.
- Deliver the child to a shelter when under certain circumstances.
- Deliver the child to a hospital for necessary evaluation and treatment if the child is believed to be suffering from a serious physical condition which requires either diagnosis or treatment.
- Deliver the child to a designated public receiving facility for examination under if the child is believed to be mentally ill, including immediate threat of suicide.
- Deliver the child to a hospital, addictions receiving facility, or treatment resource if the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse.

The DJJ must provide temporary voluntary shelter services with 24-hour care and supervision, referrals for services as needed, education at the center or off site, and counseling services for children.

If a child is sheltered due to being a runaway, or a parent, legal guardian, or custodian is unavailable, the shelter must immediately attempt to make contact with the parent, legal guardian, or custodian to advise the family of the child's whereabouts, determine if the child can safely return home, or determine if the family is seeking temporary voluntary shelter services until the family can arrange to take the child home. If the parent, legal guardian, or custodian cannot be located within 24 hours, the DCF shall be contacted.

The court may order that a child adjudicated as a child in need of services be placed in shelter for the purpose of enforcing the court's orders, ensure the child attends school, ensure the child receives needed counseling, and ensure the child adheres to a service plan.

Such placement of a child is designed to provide residential care on a temporary basis and does not abrogate the legal responsibilities of the parent, legal guardian, or custodian with respect to the child, except to the extent that those responsibilities are temporarily altered by court order.

A child adjudicated a child in need of services to be placed in a shelter for up to:

- Thirty five days; or
- Ninety days, if other alternative, less restrictive remedies have been exhausted, and certain circumstances are met.

The court must review the child's 90-day shelter placement at least every 45 days to determine if continued shelter is deemed necessary, and whether the parent, legal guardian, or custodian has reasonably participated in the child's counseling and treatment program and is following the recommendations to work toward reunification. The court must also determine whether the DJJ's reunification efforts have been reasonable. If the court finds an inadequate level of support or participation by the parent, legal guardian, or custodian before the end of the shelter commitment period, the court must direct a staffing to take place with the DCF.

If the child requires residential mental health treatment or residential care for a developmental disability, the court shall refer the child to the Agency for Persons with Disabilities or the DCF for the provision of necessary services.

Contempt of Court

A child adjudicated as a child in need of services may be placed solely in a shelter for purposes of punishment for contempt of court only 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.

If court determines the child has committed indirect contempt of a court order, the court may impose an alternative sanction or may proceed with placement in a secure facility. If the court orders shelter placement of a child in need of services, the court must review the matter every 72 hours to determine whether it is appropriate for the child to remain in the facility.

A child who has been held in contempt may be placed for five days for a first offense or 15 days for a second or subsequent offense. Upon a second or subsequent finding of contempt, the court must refer the child to the case staffing committee with a recommendation to file a child in need of services petition.

Truancy

The circuit court has exclusive original jurisdiction of early truancy intervention and may retain jurisdiction for up to 180 days. The court must terminate supervision and relinquish jurisdiction if the child has substantially complied with the requirements of early truancy intervention, is no longer subject to compulsory education, or is adjudicated a child in need of services.

If the school determines that a student subject to compulsory school attendance has had at least five unexcused absences, or absences for which the reasons are unknown, with a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-day calendar-day period or has had more than 15 unexcused absences in a 90-day calendar period, the superintendent of schools may file a truancy petition seeking early truancy intervention. A principal must report students who have 15 unexcused absences in a period of 90 days and the school board must take action and provide for remedial actions for failure to comply.

If the court determines that the student missed any of the alleged days, the court must enter an order finding the child to be a truant status offender, and order the student to attend school, and order the parent, legal guardian, or custodian to ensure that the student attends school. If the student substantially complies with compulsory school attendance, the court must close the truancy case.

If the student does not substantially comply with compulsory school attendance and court-ordered services required and the child meets the definition of a child in need of services, the case must be referred by the court to the DJJ's designated service provider for review by the case staffing committee with a recommendation to file a petition for child in need of services.

Any truant student that meets the definition of a child in need of services and who has been found in contempt for violation of a court order two or more times must be referred to the case staffing committee with a recommendation that the committee file a petition for a child in need of services. If the child is adjudicated a child in need of services the truancy case must be closed.

Additionally, the bill amends the education statutes to revise provisions relating to child study teams. Some of these revisions include allowing a parent to attend the meeting virtually or by telephone and permitting the meeting to take place even if the parent fails to attend.

Additional Provisions

The bill revises additional provisions including, in part, that:

- Require providers personnel who have direct contact with children must have a level 2 background screening.
- Expand the court's record retention policy to apply to any proceeding under ch. 984, F.S., instead of just children in need of services, and provide that information obtained by the district superintendent, school board employees, and school employees are included under the protection of confidentiality.
- Authorize pharmacists employed by the DJJ to import drugs from Canada under specified programs.
- Provides for supervised release or detention of a child despite the child's risk assessment score in certain circumstances.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2025.

Vote: Senate 36-0; House 114-0