

**STORAGE NAME:** h1369.jj  
**DATE:** March 27, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
JUVENILE JUSTICE  
BILL RESEARCH DOCUMENT & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 1369

**RELATING TO:** Juvenile Justice

**SPONSOR(S):** Representative Betancourt

**STATUTE(S) AFFECTED:** s. 39.01, 39.021, 39.042, 39.044, 39.0445, 39.054, 39.057, 39.059,  
and 39.076, F.S.

**COMPANION BILL(S):** SB 1822

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) JUVENILE JUSTICE
- (2) CRIMINAL JUSTICE APPROPRIATIONS
- (3)
- (4)
- (5)

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I. SUMMARY:

The bill expands the offense of escape from juvenile facilities to include low-risk residential facilities and makes it a third degree felony offense.

The bill permits the court to place a child charged with committing a domestic violence offense in respite care, if the child is not eligible for detention. In addition, the bill clarifies that domestic violence is a felony offense.

The bill deletes the requirement that restitution by a youth be secured by a promissory note, and allows the court to take further action if restitution is not paid. Also, the bill allows the court to order restitution from a parent or guardian lacking 'good faith' in preventing a child's delinquent acts.

The bill clarifies the minimum time period a facility must provide for a youth in a boot camp program. It also extends the time period the DJJ has to publish an outcome evaluation study of a new boot camp program.

The bill provides that the court may not combine adult and juvenile sanctions. It also allows a youth in a maximum risk program to remain in commitment up to 21 years of age.

The bill deletes the requirement that the DJJ will produce a cost-benefit ratio as part of the cost benefit model annually reported to the Legislature.

The bill changes the employment screening level for those employed in delinquency programs from level 1 to level 2 screening.

The bill has a \$ 1,079,680 fiscal impact.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

**ADMINISTERING THE CONTINUUM**

Under s. 39.021, F.S., the Department of Juvenile Justice is directed to develop a comprehensive quality assurance system which establishes goals, objectives, and criteria for evaluation of programs in the juvenile justice continuum. Annual reports are produced for the Legislature to use when evaluating programs for decision making regarding effectiveness, resource allocation, and improving service delivery.

The DJJ and the Juvenile Justice Advisory Board are jointly directed to produce a cost-benefit model that compares the costs and benefits for use in evaluating each commitment program. Boot camps are a part of the juvenile justice continuum, and outcome evaluations are conducted in accordance with s. 39.021, F.S., and s. 39.057, F.S. Section 39.057, F.S. requires the DJJ to "publish an outcome evaluation study of each boot camp within 18 months after the program becomes operational."

Juvenile Justice Advisory Board

In 1994, the Legislature abolished the Commission on Juvenile Justice. In its place, the Legislature created the Juvenile Justice Advisory Board and transferred to it all of the Commission's staff, property and resources. The Commission was housed in the legislative branch. The Board is required to evaluate, review and recommend programmatic and fiscal policies for juvenile justice programs and services. The Board produces an annual report summarizing its activities and recommendation for legislative or executive branch action. As well, the Board annually measures and reports on outcome for juvenile justice programs.

DJJ Boot Camps

Section 39.057, F.S., provides that under current law, boot camps for children that are operated by the department, a county, or municipality may hold a low risk residential participant for 2 months and a moderate risk residential participant for 4 months.

Boot camp outcome evaluation studies are required by s. 39.057, F.S., to be conducted for each facility after 18 months of operation. In addition, certain criteria must be included in the evaluation study of boot camp programs including a comparison of criminal activity, educational progress, employment placements, educational progress, and employment records.

Evaluations of boot camp programs conducted by the DJJ are based upon outcome measures and compare juveniles who complete the boot camp program to a matched group of juveniles who complete other delinquency programs. According to DJJ, data utilized for this evaluation is not readily available, what is available is incomplete, and data is based upon a small sample size.

**COMMITMENT RESTRICTIVENESS LEVELS**

In court disposition hearings, youth committed to the DJJ may be placed in one of five restrictiveness levels: level 2 non-residential, level 4 residential (low risk), level 6 residential (moderate risk), level 8 residential (high risk), and level 10 residential (serious risk). The courts decision in placing a youth is based upon information in the DJJ pre-disposition report (PDR) and statutory guidelines for disposition of juvenile cases.

Level 2 is a non-residential program serving youth who present a minimum risk. Level 4 is a residential program serving youth who present a low risk. Level 6 is a residential program designed for youth needing more supervision and security who present a moderate risk to themselves and the public. Level 8 is a residential program designed to serve youth who need a structured, secure, environment who present a high risk to themselves and others. Level 10 is the highest commitment level designed to serve youth who present a high risk to themselves and others, needing more services, the highest level of security and supervision.

#### Low-risk residential programs

Section 39.01(59)(b), F.S., defines a low-risk residential offender program as one of five programs designed to serve and care for committed children and is a level 4 program. Programs in this level are designed to be the least restrictive while providing for counseling and treatment needs. Youth committed to this level program while awaiting placement may be held in home detention with electronic monitoring. Other level 4 programs include the Outdoor Expedition Program, and Wilderness Program.

#### Serious or habitual offender programs

Section 39.01(62), F.S., defines a serious or habitual juvenile offender for purposes of commitment to a residential facility as a child who has been found to have committed a delinquent act or a violation of law and at the time of disposition the child was at least 14 years old. This is a level 8, high risk residential program that is physically secured and houses a child between nine and twelve months. The serious or habitual juvenile offender designation is classified as a maximum-risk residential program defined in section 39.01(59)(e), F.S.

#### Maximum-risk residential programs

Section 39.0581, F.S., provides that a maximum-risk residential program is designed to serve a child 15 to 19 years old who has committed serious or felony offenses and who presents a danger to society. A child who is less than 18 years old at the time of the commission of the current offense and has been convicted as an adult, or has had adjudication withheld pursuant to s. 39.059, F.S., and otherwise meets the criteria may be referred to this level.

### **DETENTION**

When a child is placed in detention, a risk assessment is used to determine the appropriate level of care. A youth may be in home, non-secure, or secure detention. One of the criteria used in scoring the risk assessment is whether the youth has a record of prior escapes. If a child has committed a domestic violence offense, they will be referred to secure detention for up to 48 hours if a respite home or similar facility is not

available at that time. A child may be held an extended period of time if one or more of the following exists: escape from a facility, outstanding charge, in imminent physical threat, charged with domestic violence, certain felony offenses, or failure to appear for a previous court hearing, s. 39.044, F.S.

Under s. 39.059, F.S., a child transferred to adult court and who is found to have committed a delinquent act or a violation of law may be referred to the DJJ for treatment outside the adult correctional system, be placed on community control, classified as a youthful offender, or a serious or habitual offender pursuant to s. 39.058, F.S. If the child pleads guilty or is found guilty the court may request a recommendation from the DJJ. In this case, adjudication is withheld and is not considered a conviction.

The court has statutorily designated options as follows: refer to a community control program until age 19, place in a serious or habitual offender program until age 21 or sooner if the provider and department both discharge the youth. Current law allows a child to be adjudicated delinquent if the community control option proves not suitable. In addition, the offender may be referred to a serious or habitually delinquent program and reclassified as a youthful offender, s. 39.059(6)(b), F.S. Under this section, recommendations are made at the sentencing hearing by the Department of Corrections (DOC) regarding placement in either an adult juvenile, or youthful offender program. In the event the court does not refer a youth to a youthful offender program or impose adult sanctions, the court may develop, approve, and order a community control program.

## **RESTITUTION**

Currently, under the powers of disposition, the court may require the parent of a youth adjudicated delinquent to pay restitution under s. 39.054, F.S. This section allows the court to impose an order of restitution and require the parent to cosign a promissory note for the restitution owed by the child. No provision exists to require the parent to pay the restitution, however the parent may be required to pay the actual cost incurred by the clerk for processing the child's restitution payments.

## **ADULT SANCTIONS**

### **Disposition**

Section 39.059, F.S., describes the procedures for the disposition or sentencing of children who have been prosecuted as adults. Upon a plea of guilty or a finding of guilt of a child prosecuted as an adult, the court may: (1) stay or withhold the adjudication of guilt, adjudicate the child delinquent, and impose juvenile sanctions; (2) impose an adjudication of guilt, classify the child as a youthful offender, and impose any lawful sentence; or (3) impose other adult sanctions. The court's decision to impose adult sanctions must be in writing. Under current law, the court is not required to document specific findings or to specify the criteria in s. 39.059(7), F.S., as a basis for its decision to impose adult sanctions.

According to the Department of Juvenile Justice, even though current law states that the court is not required to state specific findings or enumerate the criteria used in making the sentencing decisions, there are judges who document their reasons for the decision to impose sanctions. This is happening primarily because of the current statutory requirement that the decision to impose sanction be in writing.

In FY 1995-96, 7,100 cases were transferred to adult court, a .9% increase over the number of cases transferred in the previous fiscal year, *DJJ Bureau of Research & Data*. Recent studies conducted by the National Institute of Justice (NIJ) report the number of juvenile court cases transferred on a national level is rapidly increasing.

### Youthful Offender Program

Chapter 958 provides for youthful offender programs under jurisdiction of the Department of Corrections (DOC) for the purpose of improving the chances of corrections and return of youthful offenders to the community. The court may sentence a youth to the program who is over 18 and under age 21, who is guilty, and who has not been previously enrolled. Options are permitted including community control, incarceration, community control, and a split sentence of both incarceration and community control.

### **JUVENILE ESCAPE**

In 1996, the Legislature passed a bill clarifying escape from a maximum-risk restrictiveness level facility is a felony offense. The language conforms to s. 39.061, F.S., which states an escape from any secure detention facility, residential facility, or escape from lawful transportation is a third degree felony.

### **DOMESTIC VIOLENCE OFFENDERS**

Section 39.0445, F.S., allows a child who has committed a domestic violence offense, but does not meet the detention criteria, be placed in a respite home or similar facility or if not available, in a secure detention facility.

Domestic violence is defined in s. 741.28(1), F.S., as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, or any criminal offense toward a family member causing harm to that person.

### **EMPLOYMENT SCREENING**

#### Department of Juvenile Justice

Section 39.001, F.S., requires the DJJ or the Department of Children and Family Services (CFS) to conduct level 1 screening for all personnel working for a provider under contract to provide youth programs. Volunteers working part-time for a provider and under supervision, may be exempt from the level 1 employment screenings. The DJJ and CFS are required to conduct level 2 employment screenings for personnel working with youth and the screenings are to be conducted according to Chapter 435 guidelines.

Section 39.076, F.S., allows the DJJ to contract for delinquency services with other governments, departments, agencies and with private sector corporations, agencies, and individuals. Personnel working for a provider under contract with the DJJ to provide delinquency youth programs must be of good moral character and must undergo level 1 employment screening pursuant to ch. 435, F.S.

Section 435.03, F.S., authorizes the Florida Department of Law Enforcement (FDLE) to conduct level 1 screenings. Level 1 screenings include employment history checks and criminal records checks. An employee must not have been found guilty or entered a plea to any offense listed in this subsection. Crimes include, but are not limited to, crimes relating to: assault upon a minor, battery upon a minor, sexual battery, lewd and lascivious behavior, lewd and indecent exposure, child abuse, or child neglect.

Section 435.04, F.S., authorizes FDLE to conduct level 2 screenings. These screenings of applicants include all of the elements of a level 1 screening plus fingerprinting, a juvenile records check, and a Federal (FBI) criminal records check. A licensed or registered employee of the state must submit an annual affidavit declaring compliance with this section.

**B. EFFECT OF PROPOSED CHANGES:**

**BOOT CAMPS**

The bill allows the Department of Juvenile Justice (DJJ) to conduct the outcome evaluation study of each boot camp after the fourth platoon has graduated from the program rather than conducting the study after 18 months. The extension in time will allow the department to base the study on a larger sample of boot camp program participants. In addition, the bill deletes the criteria that must be included in the evaluation study of boot camp programs including a comparison of criminal activity, educational progress, employment placements, educational progress, and employment records.

The bill allows publicly operated boot camp facilities to detain a low-risk participant for "at least two months" rather than "for two months". A moderate-risk participant may be detained for at least four months rather than for four months. Revising this language may extend the child's length of stay in a boot camp program.

**ADULT SANCTIONS**

This bill deletes reference to a "delinquent act" within the provisions for community control and commitment of juveniles transferred to adult court. By deleting a "delinquent act" the section has a broader application to juveniles in disposition as an adult. The bill also clarifies that committing a child to the DJJ is an alternative to adult dispositions. However, in taking this alternative to adult sanctions the court will have the option to refer a child to the DJJ or juvenile community control.

The bill deletes the following options to adult sanctions from this section: classified as a youthful offender, classified as a serious or habitual offender, and deletes provisions requiring a the DJJ intake counselor or case manager to further assess a serious or habitual offender. Youthful offender programs are under jurisdiction of the Department of Corrections and disposition is provided for under s. 958.045, F.S. Therefore, by deleting reference to the youthful offender programs in this section of Chapter 39, the provisions for these DOC programs are separated into the appropriate chapters. Reference to a serious or habitual offender and youthful offender programs are deleted throughout the bill.

The bill deletes the provision allowing the court to refer a case to the DJJ for investigation and recommendation if the juvenile is found guilty leaving only the option to refer the case to the DJJ if the child pleads guilty. This may lead to an increase in the number of pleas for this type case, possibly resulting in fewer court trials, corresponding to the number of hours spent in court.

The bill directs the court to impose juvenile or adult sanctions and prohibits the combining of sanctions. This clarifies the jurisdictional boundaries between DOC and the DJJ in disposition of juvenile cases in adult court. This has an effect on detention centers and other facilities, as well as the court system.

The bill combines language eliminating duplicate language and also the stipulation that a child placed in a serious or habitual delinquent program may be discharged early by the treatment provider and the department.

The bill allows a child to be under the care of the department until the age of 19, unless the child is committed to a maximum risk program. Then, the child may be under the care of the department until the age of 21.

### **JUVENILE ESCAPE**

This bill amends the definition of a low-risk residential facility to provide that s. 39.061, F.S. related to escapes applies to these facilities. Similar language appears in the definitions of moderate-risk and high-risk residential commitment programs also found in 39.01, F.S.

### **RESTITUTION**

This bill deletes the provision requiring a parent or guardian to cosign for the child's restitution when ordered by the court. The bill also allows the court to take any further action necessary against the parent or guardian if payment of restitution is not rendered. In addition, it allows the court to impose fees upon a parent who lacks good faith in preventing a child from committing delinquent acts. The restitution against the parent or guardian for damage or loss caused by the child's delinquent act, as ordered by the court, may be in the form of money or in kind. Restitution is payable to the clerk of the circuit court.

### **EMPLOYEE SCREENING**

This bill changes the requirement that employees working for a facility, service or program under contract to DJJ undergo level 1 screening with a requirement that they will now undergo level 2 screening. This increases the number of checks into an employee's background requiring all of the elements of a level 1 screening plus fingerprinting, a juvenile records check, and a Federal (FBI) criminal records check. A licensed or registered employee of the state must submit an annual affidavit declaring compliance with this section.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill imposes a sentence for escape from a low-risk residential facility which may lead to an increase in a juvenile's length of stay in either state or contracted facilities.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

This does not apply.

(2) what is the cost of such responsibility at the new level/agency?

This does not apply.

(3) how is the new agency accountable to the people governed?

This does not apply.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.



b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes, the parent or guardian of a youth in custody may be required to pay restitution to the clerk of the circuit court.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

The Department of Juvenile Justice and the court are responsible for evaluating the family's needs.

(2) Who makes the decisions?

Final decisions are made within the powers of disposition held by the court.

(3) Are private alternatives permitted?

Some facilities are private and others are publicly operated, however the department determines the placement of a youth adjudicated delinquent.

(4) Are families required to participate in a program?

The family may be required to participate in counseling as part of the treatment and services for a delinquent youth.

(5) Are families penalized for not participating in a program?

The bill proposes the court may order a parent or guardian to pay restitution when not showing a "good faith effort to prevent the ... delinquent acts".

b. Does the bill directly affect the legal rights and obligations between family members?

Yes, the bill increases the court's power to hold a parent financially responsible for the delinquent behavior of a child.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Yes.

(2) service providers?

No.

(3) government employees/agencies?

No.

**D. SECTION-BY-SECTION RESEARCH:**

**SECTION 1.** Amending s. 39.01, F.S., the definition of a low-risk residential facility to make escape a third degree felony offense.

**SECTION 2.** Amending s. 39.021, F.S., to delete the provision that requires DJJ to produce a cost-benefit ratio for evaluating of commitment programs.

**SECTION 3.** Amending s. 39.042, F.S., revising detention care placement permitting respite care when the child has committed a domestic violence offense and does not meet detention criteria.

**SECTION 4.** Amending s. 39.044, F.S., regarding detention provisions; clarifying a child committing a domestic violence felony offense may be detained in detention care.

**SECTION 5.** Amending s. 39.054, F.S., the powers of disposition; deleting a requirement that parents cosign a promissory note for restitution; allowing the court to take further action if restitution is delinquent; allowing the court to order restitution from the parent or guardian not "showing good faith" to prevent delinquent acts.

**SECTION 6.** Amending s. 39.057, F.S., regarding boot camp provisions clarifying the minimum requirements for public facilities will provide for a youth in the boot camp, and extending the time for evaluating programs.

**SECTION 7.** Amending s. 39.059, F.S., changing application of disposition proceedings; prohibiting a combination of adult and juvenile sanctions; and allowing commitment up to age 21 for a child in maximum risk program.

**SECTION 8.** Amending s. 39.076, F.S., changing employment screening requirements for contract provider employees working in delinquency facilities, services, and programs; increasing screening pursuant to Chapter 435 from level 1 to level 2 standards.

**SECTION 9.** Deleting s. 39.0445, F.S., as it relates to juvenile domestic offenders.

**SECTION 10.** Creates an effective date of October 1, 1997.

**III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

1. Non-recurring Effects:

None.

2. Recurring Effects:

The Department of Juvenile Justice estimates, there will be a positive fiscal impact on the department's detention center funding as a result of no longer holding youth insecure detention for domestic violence offenses. Currently the cost per diem for a youth in secure detention is \$86/per day. During FY 1995-96 there was an estimated 2,308 youth held in detention for these violations with an average length of stay of 3 days for a total of 6,924 residential days x \$86/per day for a total cost of \$595,000.

The Department reports there will be a fiscal impact on the department to provide alternative services to youth who will no longer be held in secure detention for domestic violence offenses. Currently the cost to provide staff intensive services to youth placed in CINS/FINS programs contracted by the DJJ is approximately \$70/per day. There will be approximately 2,308 youth impacted by the bill with an average length of stay of 3 days for a total of 6,924 residential days x \$70/per day for a total cost of \$484,680.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

The total expenditures for the bill is \$1,079,680.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Costs to county and municipal governments operating boot camps and to the extent the changes in length of stay for participants in boot camp portions of residential treatment programs are utilized, government budgets may be impacted.

2. Recurring Effects:

See B1.

3. Long Run Effects Other Than Normal Growth:

None.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

There may be an impact upon the parent or guardian of a child adjudicated delinquent to the extend payment of restitution changes.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. **FISCAL COMMENTS:**

To the extent dual supervision is eliminated, there may be a positive fiscal impact upon both the DJJ and DOC spending on supervision of juveniles in the adult system. The DJJ estimates the exact amount is indeterminant.

An indeterminant fiscal impact may occur due to the change in employment screening standards to a level 2 screening. Level 2 screenings require fingerprinting, a juvenile records check, and an FBI records check, not previously required to be conducted on this category of employees.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not impose a mandate on local governments and thus the mandates provision is not applicable.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the revenue raising authority of local governments.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

The extension of time allowed to the DJJ to produce an outcome evaluation study of boot camps may result in more reliable statistical data due to corresponding increasing numbers of participants as a basis for evaluation. Under current practice, some studies are conducted on less than 50 participants and the adverse actions of one participant may skew the results and may not be reflective of an average of the population

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON JUVENILE JUSTICE:

Prepared by:

Legislative Research Director:

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Sara A. Wright

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Ken Winker