

**STORAGE NAME:** h3995.jj

**DATE:** April 6, 1998

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

**BILL #:** HB 3995

**RELATING TO:** Prosecuting Juveniles as Adults

**SPONSOR(S):** Representative Merchant

**COMPANION BILL(S):** SB 1354

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

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

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I. SUMMARY:

This bill authorizes the state attorney to direct file juvenile offenders age 14 and 15 to adult court for the theft of a motor vehicle or the theft of a motor vehicle with a value of \$20,000 or greater. These offenses are added to a list of offenses for which juvenile offenders age 14 or 15 may be transferred to adult court.

There will be a significant fiscal impact to the court system, counties, and to the Department of Corrections (DOC) as this bill makes eligible for transfer to adult court a segment of the juvenile offender population currently not eligible under current law. The Criminal Justice Impact Conference, using DOC data and analysis, projects that over the next five fiscal years, the total fiscal impact for new prison beds would be \$14,055,268 and the total fiscal impact for additional community supervision staff for DOC would be \$1,582,982 under this bill.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

**Methods of Transferring a Juvenile Offender to Adult Court**

According to an October 1997 publication by the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) entitled Juvenile Justice Reform Initiatives in the States: 1995-96, all 50 states allow for juveniles to be transferred to adult court for criminal prosecution. The most common mechanism (47 states) is judicial waiver which gives the juvenile court judge, upon a motion by the prosecuting attorney, the discretion to waive juvenile cases to adult criminal court. Other transfer mechanisms include statutory exclusion (37 states) which mandates juvenile prosecution in adult court for selected serious offenders and direct file (10 states) which provides prosecutorial discretion for the filing of criminal charges against juveniles in adult court.

Under current Florida law, there are five ways that a juvenile offender charged with a criminal offense can have his or her case transferred to adult court. Once a juvenile offender is transferred to adult court and found guilty for the offense or lesser included offenses, the juvenile offender must be handled thereafter in every respect as an adult for any subsequent violation of state law, unless the adult court judge imposes juvenile sanctions pursuant to s. 985.233(4)(b). Transfer mechanisms include the following:

(1) A juvenile offender may demand to be tried as an adult. The juvenile court judge must transfer the case to adult court if prior to the start of an adjudicatory hearing, the juvenile offender, joined by a parent or legal guardian, demands in writing to be tried as an adult. This transfer method is referred to as a voluntary waiver [s. 985.226(1)].

(2) The state attorney has the discretion and may request the court to transfer a juvenile offender, 14 years-of-age or older, to adult court for criminal prosecution for any violation of law. If the juvenile offender has previously been adjudicated delinquent for murder, sexual battery, armed or strong armed robbery, carjacking, home invasion robbery, aggravated battery, or aggravated assault, and is charged with a second or subsequent violent crime against a person, the state attorney must file a motion with the juvenile court requesting the court to transfer the juvenile offender to adult court or proceed pursuant to s. 985.227(1) which gives the state attorney the discretion to file an information on the juvenile offender which directly transfers the case to adult court [s. 985.226(2)(a)].

(3) If a juvenile offender is 14 years-of-age or older at the time of committing a fourth or subsequent felony offense and the juvenile offender was adjudicated for three previous felony offenses of which one or more offenses involved the use or possession of a firearm or violence against a person, the state attorney must request the juvenile court to transfer the juvenile offender to adult court or provide reasons to the court for not making the request. Upon the state attorney's request to the juvenile court, the judge shall either order the juvenile offender to be transferred to adult court or provide written reasons for not issuing such an order. The state attorney may also proceed pursuant to s. 985.227(1) [s. 985.226(b)]. Judicial waiver is the least used method to transfer juvenile offenders to adult court. According to data from the State Courts Administrator, in 1979, over 50% of transfers were

waived judicially. By 1994, only 7 percent of the cases transferred were waived judicially. In 1997, less than 3 percent of the transfers were judicial waivers.

(4) If a juvenile offender of any age is charged with a violation of law punishable by death or life imprisonment and a grand jury issues an indictment, the case must be tried as an adult [s. 985.225(1)].

(5) A. The state attorney may file an information on any juvenile offender age 14 or 15 at the time of the offense when in the state attorney's judgement the public interest requires that adult sanctions be considered or imposed and the juvenile offender is charged with one of the following offenses:

- arson
- sexual battery
- robbery
- kidnaping
- aggravated child abuse
- aggravated assault
- aggravated stalking
- murder
- manslaughter
- throwing, placing or discharging a destructive device or bomb
- armed burglary in violation of s. 810.02(2)(b)
- burglary of a dwelling in violation of s. 810.01(2)(c)
- aggravated battery
- lewd or lascivious assault or act in the presence of a child
- carrying, displaying, using, threatening or attempting to use a weapon or firearm during the commission of a felony
- grand theft in violation of s. 812.014(2)(a) [s. 985.227(1)(a)].

B. The state attorney has the discretion to direct file a juvenile offender who is 16 or 17 at the time of the offense for any felony offense. If the juvenile offender has two previous adjudications or adjudications withheld for delinquency acts, of which one was a felony, the state attorney may direct file the juvenile offender to adult court for a misdemeanor offense [s. 985.227(1)(b)].

C. If a juvenile offender is 16 or 17 years-of-age and is currently charged with a second or subsequent violent crime against a person and the juvenile offender has a previous adjudication for murder, sexual battery, armed or strong-armed robbery, carjacking, home invasion robbery, aggravated battery, or aggravated assault, the state attorney must file an information that directly transfers the case to adult court [s. 985.227(2)(a)].

D. Regardless of the juvenile offender's age at the time of offense, the state attorney is required to direct file the juvenile offender to adult court if the juvenile offender has previously been adjudicated three or more times for felony offenses and three of the adjudications resulted in placement in a residential commitment facility [s. 985.227(2)(b)].

E. The state attorney is also required to direct file a juvenile offender to adult court, regardless of the juvenile offender's age at the time of the offense, if the

juvenile offender is charged with an offense involving stealing a motor vehicle and while driving the motor vehicle caused the death or serious bodily injury to a person [s. 985.227(2)(c)]. This is the only direct file mandate which is triggered by the presenting offense alone and does not take into account the age of the offender or prior offenses history.

Section 985.227(4), F.S., requires state attorneys to develop and annually update written policies and guidelines to govern determinations for filing an information on a juvenile. These policies and guidelines are submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Juvenile Justice Advisory Board by January 1 of each year. Generally, state attorneys restate sections of the statute related to transferring juvenile offenders to adult court. Several state attorneys report additional information on what factors are used in determining when to transfer a juvenile offender under the discretionary provisions of the statutes. For example, the state attorney from the Ninth Judicial Circuit reports the following:

“The primary duty of a prosecutor is to seek justice while fully and faithfully representing the interests of the state. In juvenile cases, the prosecutor should consider the special interests and needs of the juvenile to the extent that the prosecutor can do so without compromising his or her primary concern: the safety and welfare of the community, including the victim. In certain juvenile cases, the prosecutor’s duty can best be fulfilled by filing an information against the accused juvenile, in order that sentencing options not available to the court under Chapter 985, Florida Statutes, may be used by the court is necessary to protect the community.”

The state attorney from the Ninth Judicial Circuit ends his report by stating:

“In those cases where the statutes mandate the filing of an information against a juvenile, the prosecutor should again give careful consideration to the prosecutive merit of the complaint. It should be remembered that guidelines are just that, guidelines. The prosecutor’s knowledge and assessment of adequate protection of the interests to the community through juvenile proceedings, should enter into the decision to initiate criminal prosecution of a juvenile regardless of the offense charged.”

### **Number of Youth Transferred to Adult Court**

According to data from the Department of Juvenile Justice, the number of cases transferred from juvenile court to adult court has fluctuated over the past five years from a high of 7,315 cases in FY 1995-96 to a low of 5,357 cases in FY 1996-97. The number of youth transferred to adult court has also followed the same pattern over the past five years. In FY 1995-96, the number of youth transferred to adult court was a high of 5,357 while the number of youth transferred in FY 1993-94 was a low of 4,636.

Based on data from the Department of Juvenile Justice, the following chart compares the total number of delinquency felony cases, misdemeanor cases, and other cases referred statewide to DJJ from FY 1992-93 to FY 1996-97 and the number of cases transferred to adult court for those same fiscal years.

**A COMPARISON OF DELINQUENCY CASES RECEIVED  
AND CASES TRANSFERRED TO ADULT COURT  
STATEWIDE (FY 1992-93 to FY 1996-97)**

**OFFENSE CATEGORY TOTALS (WITH PERCENTAGE)**

|                       | Refer.  | Transf.          | Refer.  | Transf.         | Refer.  | Transf.         | Refer.  | Transf.          | Refer.  | Transf.         |
|-----------------------|---------|------------------|---------|-----------------|---------|-----------------|---------|------------------|---------|-----------------|
|                       | 1992-93 |                  | 1993-94 |                 | 1994-95 |                 | 1995-96 |                  | 1996-97 |                 |
| <b>Felonies</b>       | 58,814  | 5,979<br>(10.2%) | 62,819  | 5,624<br>(0.9%) | 63,225  | 5,931<br>(9.4%) | 60,043  | 6,184<br>(10.3%) | 59,125  | 5,605<br>(9.5%) |
| <b>Misdemeanors</b>   | 67,343  | 1,066<br>(1.6%)  | 76,780  | 932<br>(1.2%)   | 86,115  | 901<br>(1%)     | 89,223  | 936<br>(1%)      | 91,651  | 809<br>(0.9%)   |
| <b>Other Offenses</b> | 14,927  | 184<br>(1.2%)    | 17,181  | 173<br>(1%)     | 20,160  | 187<br>(0.9%)   | 23,010  | 195<br>(0.8%)    | 22,977  | 156<br>(0.7%)   |
| <b>TOTAL</b>          | 141,084 | 7,229<br>(5.1%)  | 156,780 | 6,729<br>(4.3%) | 169,500 | 7,019<br>(4.1%) | 172,276 | 7,315<br>(4.2%)  | 173,753 | 6,570<br>(3.8%) |

**\*\*Source: Department of Juvenile Justice, Profile of Delinquency Cases and Youths Referred, November 1997.**

Based on data from the Department of Juvenile Justice, the following chart compares the total number of youth referred statewide to DJJ for felony, misdemeanor, and other offenses from FY 1992-93 to FY 1996-97 and the number of youth transferred to adult court for the same fiscal years. The number of youth referred to DJJ and the number of youth transferred to adult court will be less than the number of cases referred to DJJ and transferred since a youth may have more than one case referred to DJJ and transferred to adult court.

**A COMPARISON OF YOUTH REFERRED FOR DELINQUENCY  
AND YOUTH TRANSFERRED TO ADULT COURT  
STATEWIDE (FY 1992-93 to FY 1996-97)**

**OFFENSE CATEGORY TOTALS (WITH PERCENTAGE)**

|                       | Refer.  | Transf.          | Refer.  | Transf.         | Refer.  | Transf.          | Refer.  | Transf.          | Refer.  | Transf.          |
|-----------------------|---------|------------------|---------|-----------------|---------|------------------|---------|------------------|---------|------------------|
|                       | 1992-93 |                  | 1993-94 |                 | 1994-95 |                  | 1995-96 |                  | 1996-97 |                  |
| <b>Felonies</b>       | 38,883  | 4,252<br>(10.9%) | 42,223  | 4,134<br>(9.8%) | 44,037  | 4,486<br>(10.2%) | 43,484  | 4,819<br>(11.8%) | 43,872  | 4,481<br>(10.2%) |
| <b>Misdemeanors</b>   | 41,268  | 465<br>(1.12%)   | 47,614  | 426<br>(0.9%)   | 53,958  | 409<br>(0.8%)    | 56,989  | 435<br>(0.8%)    | 59,113  | 387<br>(0.7%)    |
| <b>Other Offenses</b> | 3,107   | 84<br>(2.7%)     | 3,199   | 76<br>(2.4%)    | 4,176   | 97<br>(2.3%)     | 4,872   | 103<br>(2.1%)    | 5,339   | 84<br>(1.6%)     |
| <b>TOTAL</b>          | 83,258  | 4,801<br>(5.8%)  | 93,036  | 4,636<br>(5%)   | 102,171 | 4,992<br>(4.9%)  | 105,345 | 5,357<br>(5.1%)  | 108,324 | 4,952<br>(4.6%)  |

**\*\*Source: Department of Juvenile Justice, Profile of Delinquency Cases and Youths Referred, November 1997.**

According to DJJ data, burglary is the most common charge for which a youth is transferred to adult court. Over the past five years, this offense accounted for between

21% and 23% of all cases transferred to adult court. The number of cases transferred for burglary has declined 15% over the past five years.

About 30% of the offenses for which youth are transferred consists of three offenses. Robbery accounted for 15% of the cases transferred, auto theft 6%, and aggravated assault 9%. The number of aggravated assault cases transferred to adult court declined 12% in from FY 1995-96 to FY 1996-97. Auto theft cases transferred to adult court declined about 29% from FY 1995-96 to FY 1996-97. Over the past five years, auto theft cases transferred to adult court has declined 48%.

The number of felony drug offenses transferred to adult court has increased 23% over the past five years accounting for about 13% of the total number of cases transferred to adult court in FY 1996-97. The number of felony marijuana cases has increased from 56 cases in FY 1992-93 to 105 cases in FY 1996-97 or an increase of 88%.

### **Number of Juvenile Offenders Referred and Transferred to Adult Court for Grand Theft Auto**

Current law provides that a juvenile offender age 16 and above may be direct filed for any felony offense, including grand theft auto. Juvenile offenders age 14 and 15 cannot be direct filed under similar circumstances. According to DJJ, there were 5,370 auto theft cases referred to the department in FY 1996-97 of which 367 of these cases were direct filed in adult court. Auto theft referrals to DJJ statewide have shown a steady decline with an average decline of about 6% each year over the past five years. According to DJJ, referral rates for auto theft in most counties show a steady decline in the number of referrals. For example, over the past five years, Hillsborough County averaged a 10% decline each year, Palm Beach County 3% each year, Duval County 7% each year, and Leon County averaged a 15% decline each year in the number of referrals for auto theft over the past five years.

According to DJJ data, the number of cases transferred to adult court for auto theft over the past five years from FY 1992-93 to FY 1996-97 were 704, 555, 505, 520, and 367 respectively.

Section 812.014(2)(c)6., F.S., provides that it is a felony of the third degree to commit the offense of grand theft auto. Section 812.014(2)(b), F.S., provides that it is a felony of the second degree to commit a grand theft of a motor vehicle valued between \$20,000 and \$100,000.

### **Sentencing Options for Juvenile Offenders Transferred to Adult Court**

According to an August 1997 OJJDP report entitled Juvenile Offenders and Victims: 1997 Update on Violence, juvenile court dispositions were traditionally based on the offender's individual characteristics and situation and tended to have rehabilitation as the primary goal. As states have shifted the purpose of juvenile court away from rehabilitation and toward punishment, accountability, and public safety, dispositions are more offense-based. In addition to increasing the options for transferring juvenile offenders to adult court, states have also changed the sentencing structure for those juvenile offenders transferred to adult court and those serious offenders not transferred to adult court.

There are five blended sentencing options which create a “middle ground” between traditional juvenile and adult sanctions. These five blended sentencing options are the following:

1. Juvenile-exclusive blend: The juvenile court may impose a sanction involving either the juvenile or adult correctional systems. (New Mexico)
2. Juvenile-inclusive blend: The juvenile court may impose both juvenile and adult correctional sanctions. The adult sanction is suspended pending a violation or revocation of the juvenile sanction. (Connecticut, Minnesota, and Montana)
3. Juvenile-contiguous blend: The juvenile court may impose a juvenile correctional sanction that may remain in force beyond the age of its extended jurisdiction, at which point the offender may be transferred to the adult correctional system. (Colorado for “aggravated juvenile offenders”, Massachusetts, Rhode Island, South Carolina, and Texas)
4. Criminal-exclusive blend: The criminal court may impose either an adult sanction or a juvenile sanction. (California, Florida, Colorado for “youthful offenders”, Idaho, Michigan, and Virginia)
5. Criminal-inclusive blend: The criminal court may impose both juvenile and adult correctional sanctions. The adult sanction is suspended pending a violation and revocation of the juvenile sanction. (Arkansas and Missouri)

Section 985.233, F.S., defines sentencing options for juvenile offenders transferred to adult court. An offender found to have committed a violation of law may, as an alternative to adult dispositions, be committed to DJJ for placement in a residential commitment program or be placed on DJJ community control. In determining whether to impose juvenile sanctions on a juvenile offender transferred to adult court, the court must consider the following factors:

- The seriousness of the offense and whether the community would best be protected by juvenile or adult sanctions.
- Whether the offense was committed in an aggressive, violent, premeditated, or willful manner.
- Whether the offense was against persons or against property, with greater weight being given to offenses against persons, specifically if personal injury resulted.
- The sophistication and maturity of the offender.
- The record and previous history of the offender (prior arrests, referrals, placements on community control or prior commitments to DJJ).
- The prospects for adequate protection of the public and the likelihood of deterrence and reasonable rehabilitation of the offender if assigned to services immediately available.

- Whether DJJ has appropriate programs, facilities, and services immediately available.
- Whether adult sanctions would provide more appropriate punishment and deterrence to further violations of law than the imposition of juvenile sanctions.

Section 985.233(2) and (3), F.S., require a presentence investigation report prepared by DOC with a recommendation by DJJ on what sanctions would be appropriate following a finding of guilt. At the sentencing hearing, all parties are heard and the court may receive all relevant material related to sentencing the offender. Under current law adopted in the 1997 Legislative session, the trial court can impose an adult sanction or a juvenile sanction and may not sentence the offender to a combination of adult and juvenile punishments. If the juvenile offender is given juvenile sanctions and DJJ determines that the juvenile offender is not suitable to a community control program or placement in a residential commitment program, the court may revoke the previous adjudication, impose an adjudication of guilt, classify the offender as a youthful offender when appropriate and impose an adult sentence.

### **What Happens to Juvenile Offenders Transferred to Adult Court**

The Department of Juvenile Justice does not maintain data on what happens to juvenile offenders transferred to adult court. No data currently exists for what happens to juvenile offenders transferred to adult court for auto theft. However, based on data from the Department of Corrections (DOC), for FY 1996-97, there were 782 offenders under the age of 18 admitted to a state prison. Offenders this age are placed in one of thirteen DOC youthful offender facilities. Inmates under the age of 24 are either sentenced or classified by DOC as youthful offenders.

The court may sentence a person as a youthful offender if the offense was committed prior to the person's 21st birthday [s. 958.04, F.S.]. DOC may classify an inmate as a youthful offender if the inmate is 21 years old or less with a sentence of less than 10 years. Inmates who are 19 years old and under with a sentence of less than 10 years may also be classified as a youthful offender if the inmate's safety would be jeopardized in an adult institution.

According to an October 1997 OJJDP report, youth incarcerated in adult institutions are five times more likely to be sexually assaulted, twice as likely to be beaten by staff, and 50 percent more likely to be attacked with a weapon than their counterparts in a juvenile correctional facility.

Youthful offenders who are between the ages 14 and 18 years old are separated from youthful offenders ages 19 to 24. There are currently two DOC correctional facilities for youthful offenders age 18 and below. They are the Indian River Correctional Institution (population 351 on 6/30/97) and the Hillsborough Correctional Institution (population 329 on 6/30/97).

In FY 1996-97, there were 1,664 offenders under the age of 18 placed on adult community supervision and on June 30, 1997, there were 1,039 offenders under the age of 18 on adult community supervision caseloads.



A 1996 study entitled The Transfer of Juveniles to Criminal Court: Does It Make a Difference? by Donna Bishop, et. al., compared the recidivism of juveniles who were transferred to criminal court in 1987 with the recidivism of a matched sample of juveniles who were retained in the juvenile system. By every measure of recidivism used (individual rearrests and group rates of arrest, severity of charges at rearrest, and time to failure among those rearrested over a one-year follow-up period), reoffending was greater among the juvenile offenders transferred to adult court than among the matched offenders who remained in the juvenile system. The authors found that despite being incarcerated for longer periods of time, juvenile offenders transferred to adult court committed more offenses upon their release than nontransferred juvenile offenders. Transferred offenders were more likely than nontransferred offenders to commit a subsequent felony offense.

In a subsequent 1997 study, the same researchers followed the same two matched groups (transferred and nontransferred) through November, 1994 to examine whether the short-term recidivism results found in the earlier study differed in the long term. Consistent with results found in the earlier study for a one-year follow-up period, transferred juvenile offenders reoffended more quickly than did their nontransferred counterparts.

However, when examining rearrest data through November, 1994, the study showed that the nontransfers eventually caught up with those juvenile offenders transferred to adult court in terms of prevalence of rearrests. This recidivism catchup was due to the impact of transfer for property felonies. More transferred property felons avoided rearrest upon their release than was true for their nontransferred counterparts. When offense type was controlled, transfer was more likely to increase recidivism both in the short term and in the long term.

B. EFFECT OF PROPOSED CHANGES:

The bill adds grand theft of a motor vehicle and grand theft of a motor vehicle valued at between \$20,000 and \$100,000 to the list of offenses for which a state attorney may direct file a juvenile offender age 14 or 15 to adult court. These two offenses are felonies of the third degree and second degree respectively.

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?

Yes.

- (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?

N/A

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

N/A

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

N/A

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?

Juvenile offenders placed on adult community supervision will pay a supervision fee.

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, state attorneys, and the courts.

- (2) Who makes the decisions?

DJJ, the state attorney, and the court.

- (3) Are private alternatives permitted?

No.

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

If ordered to do so by the court.

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

Yes.

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

No.

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?

No.

(2) service providers?

No.

(3) government employees/agencies?

Yes.

D. STATUTE(S) AFFECTED:

Section 985.227

E. SECTION-BY-SECTION RESEARCH:

**SECTION 1.** Amends paragraph (a) of subsection (1) of s. 985.227, F.S., related to discretionary direct filing of juvenile offenders by state attorneys; adds grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. and grand theft of a motor vehicle valued at \$20,000 or more in violation of s. 812.014(2)(b) to the list of offenses for which a state attorney may direct file a juvenile offender to adult court.

**SECTION 2.** Reenacts paragraph (e) of subsection (4) of s. 985.21, F.S., related to intake and case management, for the purpose of incorporating the amendment to s. 985.227.

**SECTION 3.** Enacts the bill effective July 1 of the year in which the bill is enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

4. Total Revenues and Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

There could be an indeterminate but significant fiscal impact upon local governments since there will likely be an increase in the number of juvenile offenders age 14 and 15 transferred to adult court under the provisions of this bill. These offenders would have to be held in county jails which may require the construction of special sections to hold these offenders.

2. Recurring Effects:

There would be ongoing operational costs incurred by counties for holding the juvenile offenders age 14 and 15 transferred to adult court for auto theft. There would also be additional costs incurred by state attorneys, public defenders, and the courts for processing these juvenile offenders. Counties would also incur additional costs should the court sentence these offenders to county jail time.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

This bill was analyzed by the Department of Corrections and presented before the Criminal Justice Impact Conference (1998 Legislature) on March 20, 1998. The cumulative impact on the number of prison beds over the next five fiscal years was an increase of 37, 95, 136, 154, and 164 beds respectively. The Impact Conference reported that the bill will have a significant fiscal impact on the adult court system. Any sentence in adult court other than a term of confinement in state prison, such as county jail time or placement on probation, would result in increased funds incurred by DOC or counties.

Based on DOC estimates, the Impact Conference is projecting over the next five years, a total fiscal impact for new prison beds of \$14,055,268 ( FCO = \$3,969,770 and operating = \$10,085,498). There would also be a fiscal impact to DOC for community supervision in the amount of \$1,582,982 over the next five years for additional community supervision staff.

The following chart shows the Projected Prison Bed Impact:

**Projected Prison Bed Impact**

| Fiscal year  | Additional Annual Prison Beds Required | Additional Cumulative Prison Beds Required | Funds Required         |                                   |                 |
|--------------|--|--|------------------------|-----------------------------------|-----------------|
|              |  |  | Annual Operating Costs | Annual Fixed Capital Outlay Costs | Total All Funds |
| 1997-1998    | 0                                      | 0  | \$0                    | \$881,229                         | \$881,229       |
| 1998-1999    | 37                                     | 37   | \$345,523              | \$1,381,386                       | \$1,726,909     |
| 1999-2000    | 58                                     | 95   | \$1,262,180            | \$999,867                         | \$2,262,047     |
| 2000-2001    | 41                                     | 136  | \$2,266,490            | \$450,428                         | \$2,716,919     |
| 2001-2002    | 18                                     | 154  | \$2,920,667            | \$256,859                         | \$3,177,526     |
| 2002-2003    | 10                                     | 164  | \$3,290,638            | \$0                               | \$3,290,638     |
| <b>Total</b> | 164                                    | 164  | \$10,085,498           | \$3,969,770                       | \$14,055,268    |

Source: Florida Department of Corrections, Bureau of Research and Data Analysis, March 19, 1998.

The following chart shows the Projected Community Supervision Impact:

**Projected Community Supervision Impact  
(Seven Correctional Probation Officer Staff)**

| Fiscal Year        | Positions   | Recurring Expenses | Non-recurring expenses | Operating Capital Outlay | Salary Incentives (monthly) | Total Cumulative Costs |
|--------------------|-------------|--------------------|------------------------|--------------------------|-----------------------------|------------------------|
| 1998-99            | \$238,243   | \$50,836           | \$14,142               | \$35,005                 | \$3,300                     | \$341,526              |
| 1999-00            | \$245,391   | \$50,836           | \$2,310                | \$5,715                  | \$3,300                     | \$307,552              |
| 2000-01            | \$248,304   | \$50,836           | \$1,155                | \$2,858                  | \$3,300                     | \$306,453              |
| 2001-02            | \$255,753   | \$50,836           | \$0                    | \$0                      | \$3,300                     | \$309,889              |
| 2002-03            | \$263,426   | \$50,836           | \$0                    | \$0                      | \$3,300                     | \$317,562              |
| Total Annual Costs | \$1,251,117 | \$254,180          | \$17,607               | \$43,578                 | \$16,500                    | \$1,582,982            |

Source: Florida Department of Corrections, Bureau of Research and Data Analysis, March 19, 1998.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill may require counties but not municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenues.

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

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

V. COMMENTS:

The list of offenses in s. 985.227(1) for which a juvenile offender age 14 and 15 may be direct filed, with the exception of grand theft of property over \$100,000, are violent or traumatic crimes against persons and not crimes against property. Under current direct file provisions and the imposition of current sanctions in the adult and juvenile systems, referral data to DJJ for juvenile offenders charged with auto theft show that the rate of such referrals is declining. Authorizing state attorneys to direct file on 14 and 15-year-old juvenile offenders for an offense which has declined about 16% from FY 1995-96 to FY 1996-97 may result in costs exceeding the benefit.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON JUVENILE JUSTICE:

Prepared by:

Legislative Research Director:

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Ken Winker

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Ken Winker