

STORAGE NAME: h4315a.go

DATE: April 21, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL OPERATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4315 (PCB JJ 98-03A)

RELATING TO: Education and Juvenile Justice Programs

SPONSOR(S): Committee on Juvenile Justice, Representative Bainter and others

COMPANION BILL(S): CS/CS/SB 2198(s)

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

- (1) JUVENILE JUSTICE YEAS 6 NAYS 1
 - (2) EDUCATION/K-12 (W/D)
 - (3) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
 - (4) EDUCATION APPROPRIATIONS
 - (5) CRIMINAL JUSTICE APPROPRIATIONS
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I. SUMMARY:

The bill authorizes the Juvenile Justice Advisory Board (JJAB) to conduct a study on a wide range of education issues in the juvenile justice system. Information will be collected on the extent and nature of current education programs in juvenile justice commitment facilities and community-based programs in terms of assessment, curriculum, staffing, delivery, and resources. The JJAB will also examine current and alternative funding methods for educational programs in juvenile justice facilities. The Office of Program Policy Analysis and Government Accountability will conduct a performance review of educational programs in juvenile justice residential commitment facilities as part of the JJAB study. Public hearings will be held and the JJAB will submit a report to the Governor and the Legislature by December 31, 1998.

The bill increases the Florida Education Finance Program (FEFP) expenditure requirements for students in Department of Juvenile Justice state-operated and contracted residential commitment facilities from 80%, to 95%, and requires the Department of Education (DOE) to define by rule the distinction between "direct education services" and "administrative education services." Emphasis is added in statute to ensure that teachers assigned to education programs in juvenile justice facilities are interested, qualified, or experienced in educating students in such settings and that specialized training be provided to these teachers. The bill requires DOE and the Department of Juvenile Justice (DJJ) to submit an annual report by December 1, on the progress of education services in juvenile justice programs, including documented cost data, status of cooperative agreements between DJJ and local school districts, quality assurance review data, and system improvement recommendations.

The bill requires DOE, in consultation with DJJ to develop a mandatory juvenile offender functional literacy program in each state-operated and contracted residential commitment program and contingent upon appropriations, implement and administer the program. The bill also specifies eligibility, program, assessment, evaluation, and reporting requirements.

An amount of \$150,000 is appropriated to the JJAB for the education study. An indeterminate, but possibly significant fiscal impact could result from implementing the juvenile offender functional literacy program, depending how the program is designed.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

DJJ Detention Programs

Sections 985.213-215, F.S., authorize the Department of Juvenile Justice to establish a state-wide detention system for youth taken into custody for criminal offenses, and who meet statutory requirements for pre-trial detention as well as post-disposition youth awaiting placement in a commitment facility. Youth may only be held in detention for the following reasons:

- a substantial risk of not appearing for subsequent court hearings;
- a substantial risk of inflicting bodily harm to others;
- a history of committing serious property offenses;
- found in contempt of court; or
- requesting protection from physical harm.

There are currently three types of detention. They are secure detention, non-secure detention, and home detention. Home detention permits the youth to remain at home, and under close supervision by the department. Such close supervision may include the use of electronic monitoring. Non-secure detention programs remove youth from their home and place them in a staff-secure setting such as a congregate living facility. Secure detention centers are physically secure facilities for youth who require a temporary locked placement pending adjudication, or following disposition and placement in a commitment program.

There are currently twenty-one (21) secure regional detention centers statewide, with a capacity of 1,640 beds. According to the department, as of March 1, 1998, the average utilization rate for regional detention centers statewide was 119%. The Alachua detention center had the lowest utilization rate at 82%, and the Escambia detention center had the highest utilization rate at 186%.

DJJ Commitment Programs

The DJJ is responsible for the care and custody of youth adjudicated delinquent, and committed by the courts to the department for placement in a non-residential or residential commitment program. Commitment programs may be state-operated or contracted programs. In FY 1996-97, there were 9,990 youth committed by the court to the department for placement in non-residential and residential commitment programs.

Section 985. 03, F.S., defines five restrictiveness levels for commitment programs. These levels are:

- Minimum-risk non-residential (level 2);
- Low-risk residential (level 4);
- Moderate-risk residential (level 6);
- High-risk residential (level 8); and
- Maximum-risk residential (level 10).

Level 2 programs are for youth who do not need placement in a residential commitment program. Youth in a level 2 program remain at home under supervision by the department, and participate in structured day-treatment programs, intensive community-based work programs, or some other special needs program. As of December 31, 1997, there were 1,666 level 2 slots, which represents a growth from last year of about 24%.

Level 4 programs are for youth who do require residential placement, but who are a low risk to public safety, and do not need lengthy stays or specialized treatment. Placements consist of short term wilderness programs, family group homes and group treatment homes. As of December 31, 1997, there were 507 level 4 residential beds which represents about a 23% increase from last year.

Level 6 programs are for youth who are of moderate risk to the community, and who need longer stays and specialized treatment. Such programs consist of halfway houses, longer term and specialized wilderness camps, and special needs residential programs. As of December 31, 1997, there were 2,517 level 6 beds which represents a growth of about 40% from last year.

Level 8 programs are for youth who are a high risk to the community, need longer lengths of stay, and may need more specialized treatment or structured services. Such programs consist of intensive halfway houses, training schools, serious or habitual offender programs, and special needs programs for youth who are developmentally disabled, sex offenders, or substance abusers, or who have mental health problems. Other level 8 programs are environmentally secure facilities and highly structured boot camps. As of December 31, 1997, there were 1,609 level 8 beds and 452 boot camp beds which represents an increase from last year of about 49% and 18% respectively.

Level 10 programs are for youth who are the highest risk to the community. There are currently three level 10 programs, with a budgeted capacity of 206 beds. Two of the three level 10 programs (which were authorized by the 1994 Legislature) became operational in FY 1996/97, with a third level 10 program opening in December 1997.

DJJ Quality Assurance Program

Section 985.412, F.S., requires the department to establish a quality assurance (QA) program for the purpose of monitoring juvenile justice programs. The department has developed and implemented a QA system where minimum standards of quality are applied annually to all juvenile justice programs. Peer review teams consist of a lead reviewer, peer reviewers, a juvenile justice council or board member, and an educator. These teams conduct QA reviews, reporting on their findings.

Each annual QA report submitted by the department contains a comprehensive description of the population served by each program, a description of services each program provides, and cost information for each program. The department also makes recommendations to either maintain, expand, improve, modify, or eliminate a program or a program component.

In addition, each program presented in the QA report includes a review of indicators such as program management, client admission and orientation, food services, treatment planning process, security and emergency procedures, education, health services, and staff training and development. At the conclusion of each program review,

a QA rating for the program is given. These QA ratings are: poor, below satisfactory, marginal satisfactory, satisfactory, high satisfactory, and superior.

Programs which receive a poor or below satisfactory QA performance rating are given a second QA review within the same calendar year. Those programs under contract to the department (about 85% of the programs and services offered by the department) which still are not meeting minimum QA standards, will have their contract canceled unless extenuation circumstances can be demonstrated. Although not in current statutory language, the department does apply a range of corrective actions when a state-operated program fails to meet minimum QA standards. These actions have included staff realignments, in some cases dismissals, explicit corrective action plans with closer monitoring, and staff training.

According to the department's 1997 Quality Assurance Report, in 1996, forty-five (45), or 9% of the total programs reviewed, were rated below satisfactory. Following a QA re-review, most of the programs improved their performance to at least the marginal satisfactory level. Two providers lost contracts, upon a QA re-review, for their failure to comply with minimum standards. In 1997, twenty-seven (27) programs were rated below satisfactory. QA re-reviews for these programs are still underway and will be reported in the department's 1998 QA report.

Of the 451 programs receiving a QA review for 1997, 4% of the programs received a superior overall performance rating, 19% received a high satisfactory rating, 45% received a satisfactory rating, 27% received a marginal satisfactory rating, 6% received a below satisfactory rating, and 0% received a poor performance rating.

Education Services in Juvenile Justice Programs

Introduction -- A 1994 study of juvenile correctional educational programs conducted by the National Office for Social Responsibility, with funding from the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP), identified several key factors in a successful correctional education program. According to the OJJDP report, educational services for youth in juvenile justice programs is critical to the success of treating juvenile offenders. Classrooms in typical juvenile correctional settings were generally found to reflect an academic model which emphasizes workbook exercises, remediation, drill, and practice in the basic education skills, with classroom management centered on discipline and control. OJJDP identified the following characteristics of an alternative correctional education model:

- A correctional education curriculum features comprehension and complex problem-solving tasks which allow students to develop their cognitive skills.
- The curriculum integrates basic skills allowing students to apply these skills to real-life situations.
- Knowledge sharing is emphasized through cooperative learning, peer tutoring, and team problem solving.
- Teachers model cognitive process by encouraging multiple approaches to problem solving and focusing on dialog and reciprocal learning.

- Reading, writing, and oral expression are interrelated.
- Correctional education programs should employ trained and certified staff with the capacity and resources to provide a full spectrum of special education programs and services.
- Education programs which include vocational and job preparation courses for students who do not return to school following release from a commitment facility.
- Expanded and improved transitional services to bridge the gap from community schools to correctional facilities, and from correctional facilities to community schools, home or independent living.

OJJDP concludes its report by recommending that educational services for youth in juvenile justice programs need evaluation to assist practitioners, legislators, and funding agencies in judging the effectiveness of such programs.

A January, 1998 OJJDP report entitled Beyond the Walls: Improving Conditions of Confinement for Youth in Custody, discusses educational services for juvenile offenders with disabilities. OJJDP cites studies which estimate that between 30 percent and 60 percent of juvenile offenders have some form of learning disability. Estimates of percentages of disabled youth who are incarcerated range from 42 percent to 60 percent. OJJDP cites the federal Individuals with Disability Education Act (IDEA) [20 U.S.C. Sections 1400-1485, also known as P.L. 94-142], which mandates that states must provide a free and appropriate public education for all students with disabilities (including incarcerated juvenile offenders) if the state receives Federal support for educating students with disabilities.

IDEA requires that once a youth has been identified as eligible for special education services, an Individualized Education Plan (IEP) must be developed. If the education program for the youth does not provide all the services established by the IEP, then the program is in violation of the IDEA. IDEA enables parents and guardians of students with disabilities to file complaints or invoke hearings in order to access appropriate education services. OJJDP cites 25 cases from across the states involving special education claims in juvenile corrections litigation [e.g., *Andre H. v. Sobol*, 84 Cir. 3114 (DNE) (S.D.N.Y.); *Johnson v. Upchurch*, No. 86-195 TUC RMB (D. Ariz.); and *Smith v. Wheaton*, No. H-87-190 (PCD) (D. Conn.)].

According to the January 1998 OJJDP report, litigation under IDEA has raised a number of issues, including the ability to reform juvenile correctional education programs, the role of state departments of education in providing oversight and consultation, and the competing interests of rehabilitation and punishment in juvenile facilities.

Florida's Education Services for Youth in Juvenile Justice Programs

Youth held in detention centers or committed to the DJJ, and placed in residential programs, are provided educational services. There are several references in statutes primarily applicable to the DJJ related to the education of youth in detention centers and department-operated and contracted residential commitment programs [(e.g., ss. 985.31(2)(a)6; 985.311(2)(a)6; 985.315; 985.404 (5) and (10); and 985.416, F.S.]

However, local school districts have primary responsibility for education programs for youth in juvenile justice detention and commitment programs.

Section 230.23161(1), F.S., requires that youth in detention, commitment and other juvenile justice rehabilitative programs, whether the programs are state-operated or contracted by the Department of Juvenile Justice, "... shall receive education programs according to rules of the State Board of Education." Youth in juvenile justice programs "...shall be eligible for services afforded to students enrolled in programs pursuant to s. 230.2316 [dropout prevention act] and all corresponding State Board of Education rules."

Section 230.23161(2), F.S., requires a district school board of a county in which the residential or nonresidential juvenile justice program is located to "... provide an appropriate program of instruction and special education services..." for youth in such programs. A local school board is responsible for providing basic, vocational, and exceptional student programs for youth in juvenile justice programs. Such educational programs for youth in juvenile justice programs are intended to "... support the treatment goals and reentry and which may lead to completion of the requirements for receipt of a high school diploma or its equivalent." [s. 230.23161(4), F.S.]

Section 230.23161(5), F.S., requires youth in juvenile justice programs who are of compulsory school attendance age [s. 232.01, F.S.], or who are exempt from compulsory school attendance, but who have not received a high school diploma or its equivalent, to participate in the educational programs.

Local school districts are required to make every effort to recruit teachers who are "... interested, qualified, and experienced..." in working with youth in juvenile justice programs and to provide such youth "... a wide range of educational programs and opportunities." [s. 230.23161(6), F.S.] Local school districts may contract with a private provider for the provision of educational services in juvenile justice programs. [s. 230.123161(7), F.S.]

Section 230.23161(8), F.S., provides legislative intent that a school district shall "... maximize its available local, state, and federal funding..." of educational services in juvenile justice programs. Local school districts are required to fund educational services in juvenile justice programs "... at the same or higher level of funding for equivalent students in the county school system based on the funds generated by state funding through the Florida Education Finance Program for such students."

Section 230.23161(9), F. S., requires each school district to negotiate a cooperative agreement with the DJJ for the provision of education services for youth in juvenile justice programs. The agreement must address matters related to roles and responsibilities, information sharing, maximizing resource allocation, evaluation of youth for educational exceptionalities and special needs, instructional curricula, teacher selection and training, transitioning of youth back to the community, and means to correct deficiencies in the educational services found through a quality assurance process.

Section 230.23161(11), F.S., requires the DOE, in consultation with the DJJ, to establish standards, and a quality assurance process, for the evaluation of educational services in juvenile justice programs.

Section 230.23161(16), F.S., requires the DOE and the DJJ to submit an annual report to the Legislature on:

“... the progress towards developing effective educational programs for juvenile delinquents including the amount of funding provided by local school districts to juvenile justice programs, the amount retained for administration, the status of the development of cooperative agreements, and the results of the quality assurance reviews including recommendations for system improvement.”

In a 1995 report entitled Analysis of Educational Programs in Juvenile Justice Settings, the DOE, as part of the DJJ's quality assurance peer review process, reported on education services for youth in juvenile justice facilities. Based on site visits and interviews with staff and youth in juvenile justice programs, DOE identified a number of issues related to components of education services in juvenile justice programs. For example, the following issues were raised about the curriculum component:

- Although the curriculum used in juvenile justice settings parallel the academic programs in local school districts, the curriculum and service delivery system were not meeting the needs of students in juvenile justice settings.
- Local school district administrators lacked the expertise required to develop curricula for student populations in juvenile justice settings, and they said they were hindered in providing adequate programs by funding requirements.

Other issues raised by DOE in their 1995 report concerned: the lack of teacher competencies needed for teaching students in juvenile justice settings, the lack of an integrated program philosophy, hindering interagency coordination and collaboration, deficiencies in the assessment process, deficient support services, deficiencies in transition planning, difficulty in demonstrating how funds are used for education services in juvenile justice settings, lack of access to and knowledge of district, agency and state policy, and inadequate classroom space.

In a report entitled 1997 Report on the Progress Toward Developing Effective Education Programs in the Department of Juvenile Justice (released in February 1998), DOE addressed numerous issues related to educational services in juvenile justice settings. Based on information from DOE's 1995-96 Dropout Prevention Annual Report of Programs Effectiveness, DOE reports that in FY 1995-96, local school districts delivered educational services to 27,132 youth in juvenile justice facilities. About 60% were enrolled in high school courses, and about 30% took middle school courses. About 74% of the youth were overage for grade placement, which according to DOE, is the factor with the highest correlation to students dropping out of school.

Students in juvenile justice settings also qualified for other special education services, such as services for students with disabilities. Fifty-one percent (51%) of the 6,302 students identified as eligible for exceptional student services (of the 27,132 students served) were identified as emotionally handicapped and thirty-four percent (34%) had a specific learning disability.

As part of DJJ's QA peer review process, DOE contracted for staff to perform QA reviews of education services in juvenile justice programs. Four education standards' areas developed by DOE (transition, service delivery, personnel competencies, and

administration), were used to measure the quality of educational services in juvenile justice settings. In 1997, educational programs in 182 juvenile justice facilities or programs, such as Practical Academic Cultural and Education (PACE) programs, detention, all the way to the residential commitment program level, received a QA peer review.

According to DOE's report, educational services in all DJJ programs scored just above the mid-range score (5 on a 0-9 score rating scale) in satisfactory performance. Educational services in PACE programs scored in the superior performance range, while educational services in detention centers, and level 10 residential commitment programs tended to score in the low satisfactory range.

DOE identified several areas needing technical assistance and improvement in educational services in juvenile justice settings. They include: improving effective transition programs and planning; expanding educational service delivery options or programs; training for education and DJJ staff; and providing staff and teaching materials based on needs assessments.

Funding for Students in Juvenile Justice Programs

The Florida Educational Finance Program (FEFP) is the primary means for funding public schools, including educational programs in juvenile justice settings. FEFP funds for each student FTE is determined by first multiplying the number of full-time equivalent students, by the relevant program cost factors (e.g., 1.526 for students at risk of dropping out of school and 1.920 for a student with a specific learning disability), to obtain a weighted FTE. The weighted FTE is multiplied by a base student allocation (i.e. for 1995-96, it was \$2,854.26), and by a district cost differential, to determine the state and local FEFP dollar amount.

Section 237.34, F. S., specifies district wide FEFP expenditure requirements. The required expenditure level for the FEFP At-Risk Program, which includes dropout prevention, teenage parent, juvenile justice, and English-for-speakers-of-other-languages, is 80%. According to DOE staff, local school districts may spend an average of 80% of FEFP funds for administrative purposes across all programs in any FEFP program.

For the 1997 report, DOE requested local school districts to submit costs for educational services in juvenile justice programs located in their respective districts, and to separate FEFP costs from all other district dropout prevention costs. Although DOE reports FEFP funding for those local school districts submitting cost data, DOE staff cautions that it is difficult to compare FEFP funding for educational services within, and across, juvenile justice programs. FEFP funds are not meant to fund the cost of specific education programs in specific juvenile justice facilities. FEFP funds are intended to fund education services for children in all programs in which the children are served.

According to DOE's 1997 report, FEFP base funding for educational services in juvenile justice programs in local school districts reporting for FY 1995-96 totaled \$34,604,070. The local school districts which reported, expended \$36,617,318, or 105.82% of base funding. The percent of FEFP base funding expended across local school districts reporting, ranged from 52.59% (Bay County), to 142.98% (Hillsborough County). FEFP funds expended in FY 1996-97, as reported by local school districts to DOE, were for

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educational services for 7,451.79 FTEs (students) in juvenile justice programs located in the local school district's reporting.

Education and Literacy Program for Inmates in Department of Corrections' Facilities

Statutory requirement for the Department of Corrections are unlike those for the DJJ. Section 20.315(3), F.S., requires the Secretary of the Department of Corrections to appoint an Assistant Secretary for Education and Job Training, who is responsible for coordinating and delivering education and job training to offenders in correctional programs.

Section 944.801, F.S., establishes a correctional education program in the Department of Corrections. The responsibilities of the correctional education program include:

- developing guidelines for collecting education-related information during the inmate reception process, and disseminating the information to the classification staff of the department;
- cooperating with the DOE to monitor and assess all inmate education programs;
- cooperating with the DOE to develop complete and reliable statistics on each inmate's educational history including the school district where the inmate lived prior to incarceration;
- entering into agreements with public or private school districts, community colleges, or universities for the purpose of providing educational services to inmates;
- ensuring that all correctional education staff are certified in accordance with DOE Standards;
- developing goals and objectives relating to all phases of the correctional education program; and
- requiring that every inmate who has 2 years or more remaining to serve on his or her sentence, and who lacks basic and functionally literacy skills, attend no less than 150 hours of instruction in a correctional adult basic education program.

According to the Department of Corrections' 1996-97 Annual Report, increased reading skills of inmates, as measured by increased grade level, improved from 5.9 to 6.4, following an average of three months participation in the correctional adult basic education program, as part of the mandatory literacy program.

In addition to the mandatory literacy program (s. 944.801, F.S.), the Department of Corrections in FY 1997-98 initiated a Statewide Comprehensive Literacy Program in all state correctional institutions. According to the DOC, this program is a joint effort between the academic and library services. The program trains "free-world" volunteers as facilitators, or tutors of inmates, to assist them in increasing their literacy skills. Also, inmates are trained as tutors, and as trainers of other inmate tutors. In correctional

facilities where the program operates, it is supervised by existing education or library personnel, or by "free-world" volunteers and tutors, or by inmate tutors.

In addition to the network of "free-world" and inmate volunteers and tutors, the Department of Corrections has paid literacy coordinators in about 25 correctional institutions. The rate of pay for these literacy coordinators ranges from \$7.50 to \$12.00 per hour, based on qualifications and experience. All literacy positions receive literacy training through the public libraries, and through state and national Literacy Volunteers of America programs.

B. EFFECT OF PROPOSED CHANGES:

The bill requires the Juvenile Justice Advisory Board (JJAB) to conduct a study to determine the extent and nature of education programs for juvenile offenders. The study will address a broad range of education issues including: funding for educational services; curricula development; assessment of educational needs of juvenile offenders; and staffing related issues.

The JJAB will propose any changes to policy, statutes, programs, and funding methods regarding educational services and programs for juvenile offenders, in a report to the Governor and the Legislature by December 31, 1998. A sum of \$150,000 would be appropriated to the JJAB to conduct the study. The Office of Program Policy Analysis and Government Accountability will conduct a performance review of educational services in juvenile justice facilities as part of the JJAB study.

The bill adds juvenile assessment centers to the section of statute related to coordinating dropout prevention activities with other agencies (s. 230.2316, F.S.), and the section of statute related to educational services in DJJ programs (s. 230.23161, F.S.). The bill requires local school districts to recruit and train teachers who are interested, qualified, or experienced in educating students in juvenile justice settings. Local school districts will be required to coordinate with directors of juvenile justice facilities in jointly selecting teachers for the educational program. Teachers assigned to juvenile justice facilities would be required to receive specialized training, and the local school district's substitute teacher pool would be used for educational services in juvenile justice programs.

Local school districts would be strongly encouraged to contract with a private provider for educational services, and would generate funding for education programs in juvenile justice programs from all appropriate sources.

The DOE is required to promulgate an administrative rule defining "direct education services", and "administrative education services." These definitions will govern the allocation of FEFP funding for education services for youth in juvenile justice programs.

The bill requires that direct education services funding for youth in juvenile justice facilities be no less than ninety-five percent (95%) of the FEFP funds for students in such programs. Where the local school district contracts with another entity for the provision of education services, no less than ninety-five percent (95%) of the funds received shall be spent on direct education services.

The DOE and the DJJ, with the assistance of local school districts and local juvenile justice providers, shall submit an annual report to the Legislature by December 1 on funding of educational services for youth in juvenile justice programs. The report shall document the use of FEFP funds for local school district administrative purposes.

The bill requires the DOE, in consultation with the DJJ to develop a juvenile offender functional literacy program for youth in state-operated and contracted residential commitment facilities. Subject to appropriations, the program will be implemented. Prior to the effective date of the bill, youth of compulsory school attendance age in residential commitment facilities, may participate in the literacy program. Such youth in residential commitment facilities on, or after the implementation of the bill, will be required to participate in the program.

Youth committed to the DJJ, and placed in residential commitment facilities, will receive an assessment. If the youth cannot read at the sixth-grade reading level, he or she will be required to participate in the literacy program. A youth may be exempt from the program if he or she has been diagnosed to have a medical, developmental, or learning disability which would preclude participation in the literacy program. A youth who has a disability may participate in the literacy program if it can be shown that the youth would benefit from participating in the program.

A system of incentives and disincentives will be established at each commitment facility to encourage a youth's participation in the literacy program. Records will be maintained of the youth's progress in the literacy program, and such records will be forwarded to the appropriate education facility upon the youth's release from the commitment facility.

The Juvenile Justice Advisory Board, in consultation with the DOE, will evaluate the literacy program as part of the board's outcome evaluation reporting requirements. The DJJ will develop and implement a research design to determine the impact of the literacy program on recidivism, and submit a report to the Legislature by January 1 of each year.

In its annual cost data report to the Governor and Legislature, the DJJ will be required to submit the report by December 1, rather than February 1. Cost-benefit analysis for educational programs will use data collected by the DOE for its report pursuant to s. 230.23161(16), F.S.

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?

DOE will be required to promulgate a rule defining "direct" and "administrative" education services.

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

Yes. See Section B for details.

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

Yes. There would be situations in which educational services are increased.

- 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?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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?

No.

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?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

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?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 239.23, 230.2316, 230.23161, 237.34, 402.22 and 985.404, F.S. Creates s. 985.317.F.S.

E. SECTION-BY-SECTION RESEARCH:

SECTION 1. Authorizes the Juvenile Justice Advisory Board to conduct a study of educational services in juvenile justice programs; specifies issues and questions to address; requires a report to the Governor and the Legislature by December 1, 1998; appropriates \$150,000 for the study; requires OPPAGA to conduct a performance review of educational services in residential commitment programs.

SECTION 2. Amends subsection (4) of s. 230.23, F. S., related to powers and duties of school board; changing reference from Department of Health and Rehabilitative

Services to Department of Children and Family Services; deleting reference to programs in the DJJ.

SECTION 3. Amends subsection (8) of s. 230.2316, F.S., related to dropout prevention; inserts juvenile assessment centers as an entity for school districts to coordinate dropout prevention programs.

SECTION 4. Amends s. 230.23161, F. S.; specifically recognizes the role juvenile assessment centers have with local school districts in assessing youth in the juvenile justice system; requires local school districts to recruit and train teachers interested, qualified, or experienced in educating students in juvenile justice programs; requires local school districts and directors of juvenile justice programs to jointly select teachers; encourages local school districts to contract for educational services in juvenile justice programs; requires DOE to promulgate a rule defining “direct” and “administrative” educational services; requires local school districts to fund direct education services in juvenile justice facilities at no less than the 95% level; requires contracted education services to expend no less than 95% of funds on direct education services; requires DOE and DJJ to submit annual progress reports on education services in juvenile justice programs by December 1, including funding data and status of specified cooperative agreements; requires DOE to operate education programs in two DJJ training schools.

SECTION 5. Amends s. 237.34, F.S., requiring education services in juvenile justice facilities to be funded at no less than the 95% level.

SECTION 6. Amends s. 402.22, F.S., related to education programs for students residing in residential care facilities operated by the Department of Children and Family Services; changing reference from DHRS to DCFS; deletes reference to programs in DJJ.

SECTION 7. Creates s. 985.317, F.S.; requiring DOE, in consultation with DJJ, to develop a juvenile offender functional literacy program, and subject to appropriations, operate the program in residential commitment facilities; specifies eligibility, assessment, and program requirements; provides options to participate in the program to certain youth, and requires participation in the program for others; requires an evaluation of the program by the JJAB and DJJ.

SECTION 8. Amends s. 985.404(10), F.S.; requires DJJ to submit an annual cost-benefit report to the Legislature by December 1; requires DOE, local providers, and local school districts to collaborate and cooperate with DJJ in developing a cost-benefit analysis of education programs in juvenile justice facilities.

SECTION 9. Provides an effective date of upon becoming law.

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:

N/A

4. Total Revenues and Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

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:

JJAB Education Study

An amount of \$150,000 would be appropriated to the Juvenile Justice Advisory Board to establish a task force and conduct a study of educational services for youth in the juvenile justice system.

Functional Literacy Program for Youth in Residential Commitment Facilities

Neither the DJJ, nor the DOE were able to provide estimates of the number of youth eligible to participate in the functional literacy program established by this bill. The DOE did not provide cost estimates, either. The DJJ provided data relative to the administration and implementation of a functional literacy program to be administered and implemented in state-operated and contracted residential commitment programs. DJJ reports that staff, or instructors, would have to be employed, or contracted, to deliver the literacy program curriculum, and to perform assessments and testing of the participants. DJJ estimates that 80 half-time instructors would be required at an estimated cost of \$2,211,860 for the first year of operation (nine months funding), and \$2,766,000 for each of the subsequent two years.

DJJ estimates that three (3) positions at DJJ headquarters and fifteen (15) positions, one in each of the DJJ service districts, would be needed for the development, implementation, administration, and evaluation of the literacy program in each of the state-operated and contracted residential commitment facilities. The estimated cost for these positions would be \$872,889 for the first year (nine months funding) and \$1,041,409 for each of the next two years.

In addition to staffing requirements for the literacy program, DJJ estimates that significant, but indeterminate, funds would be required for curriculum and testing materials. DJJ is unable to estimate the exact number of youth who would meet the eligibility criteria for the literacy program.

For outcome studies of the impact of the literacy program on recidivism and other outcome measures to be conducted, DJJ estimates that three (3) data/research positions would be needed at DJJ headquarters. DJJ estimates that these positions would cost \$185,698 the first year.

DJJ estimates that total costs for the literacy program will be \$3,270,447 the first year and \$3,992,707 the following year.

FEFP Education Funding for Youth in Juvenile Justice Programs

According to the DOE, to change from an aggregate 80% FEFP expenditure requirement to a 95% FEFP expenditure requirement for youth in juvenile justice programs will fiscally impact those local school districts who are not expending this amount. DOE also believes that raising the expenditure requirement to 95% will reduce the flexibility in the FEFP for local school districts, and would require the reallocation of resources.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or 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 DOE expresses concern that having the DJJ and the Juvenile Justice Advisory Board conducting studies and submitting reports on educational services in juvenile justice programs would have questionable impact since neither of these two entities have educational expertise. DOE does acknowledge that time and resources would be required from DOE and local school district personnel to participate in these studies. DOE believes that the Office of Program Policy Analysis and Government Accountability has the educational expertise to conduct such studies. OPPAGA was initially considered by House Juvenile Justice Committee and Education K-12 Committee staff to conduct the juvenile justice education study in this bill. However, discussions with OPPAGA staff indicated that OPPAGA did not want to be in the position of recommending policy and then subsequently conduct performance reviews on those policy recommendations.

DOE believes that although strengthening requirements regarding personnel qualifications could make the recruitment and placement of teachers in juvenile justice programs more difficult, it should result in an improvement of education services for students in juvenile justice programs. DOE also believes that having teachers jointly selected by local school districts and juvenile justice facility directors is inconsistent with the statutory authority in ss. 230.23161(1) and (2), 230.23(4)(n), and 402.22, F.S., for local school boards to have total control over all school district personnel decisions.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 11, 1998, the proposed committee bill was heard in the Committee on Juvenile Justice. Five amendments to the bill were offered, and adopted by the committee. The amendments did the following:

1. Changed reference from DHRS to DCFS and deleted reference to DJJ in s. 230.23, F.S.
2. Changed reference from DHRS to DCFS and deleted reference to DJJ in s. 402.22, F.S.

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3. Places reference to DJJ programs and DOE's requirement to provide educational services in s. 230.23161, F.S.
4. Changed word from "testing" to "determining" in newly created (1) of s. 230.23161, F.S.
5. Required DOE to develop a juvenile offender functional literacy program, and contingent upon appropriations, implement and administer the program. Prior to the amendment, the development, implementation, and administration were contingent upon appropriations.

The committee bill passed the committee on a 6-1 vote.

At its meeting on April 21, 1998, the Committee on Governmental Operations adopted one amendment. The amendment, offered by Representative Bainter:

provides clarification that the school district shall select teachers in the juvenile justice setting *in consultation with* the director of the juvenile justice facility, rather than by the school district *jointly with* the director of the juvenile justice facility;

provides clarification that teachers are assigned to educational programs *in* juvenile justice settings, rather than assigned *to* juvenile justice programs, per se;

removes from the bill the requirement that teachers in juvenile justice programs receive special training;

removes from the bill the requirement that the DOE shall develop an administrative rule defining certain terms, and the use of those terms governing the allocation of funds generated by state funding;

removes from the bill the provision that the local school district fund the direct educational services at not less than 95 percent of the level of funds generated by state funding through the Florida Education Finance Program (FEFP) for such students;

removes the legislative intent language establishing that such FEFP funds are to be used primarily for direct educational services;

removes the legislative intent language establishing that not less than 95 percent of the funds generated by students of programs in juvenile justice programs be allocated to direct educational services, including funds received by contracted entities;

replaces the term "functional literacy", and "program", with "literacy", and "programs"; and

conforms language and section numbering.

The amendment will travel with the bill.

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VII. SIGNATURES:

COMMITTEE ON JUVENILE JUSTICE:

Prepared by:

Legislative Research Director:

Ken Winker

Ken Winker

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Legislative Research Director:

Russell J. Cyphers, Jr.

Jimmy O. Helms