

STORAGE NAME: h0455a.jj

DATE: April 11, 1997

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

BILL #: HB 455

RELATING TO: Children/Adult Sanctions

SPONSOR(S): Representative Warner and Others

STATUTE(S) AFFECTED: 39.052, F.S. and 39.059, F.S.

COMPANION BILL(S): SB 1282(I)

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

(1) JUVENILE JUSTICE YEAS 4 NAYS 0

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I. SUMMARY:

This bill would remove the requirement that the court's decision to impose adult sanctions on a juvenile who has been prosecuted as an adult be in writing. Thus, as a result of the bill, the court's decision to impose adult sanctions on a juvenile would be presumed appropriate, without it being put in writing and without it specifying the enumerated criteria that the court would still be required to consider when deciding whether to impose juvenile or adult sanctions under s. 39.059(7)(c), F.S.

This bill would amend s. 39.059, Florida Statutes, and reenact s. 39.052, Florida Statutes.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

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 and 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 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)(c), F.S., as a basis for its decision to impose adult sanctions.

Several District Courts of Appeal have construed s. 39.059, F.S., as requiring a written decision, but not requiring that the court give specific findings of fact as to the reasons. *Saffold v. State*, 21 Fla. L.W. 1964 (Fla. 2nd DCA August 28, 1996) (the "absence of a written order imposing adult sanctions compels us to remand this matter for resentencing in accordance with...section 39.059(7)(d)"; *Roberts v. State*, 677 So.2d 1 (Fla. 5th DCA 1996) (held that adult sanctions could not be imposed on the juvenile without a written order supporting the court's decision); *Grayson v. State*, 671 So.2d 855 (Fla. 4th DCA 1996) (finding that while the court's decision to impose adult sanctions is presumed appropriate, the statute specifies that "any decision to impose adult sanctions must be in writing"); and *Bridgewater v. State*, 668 So.2d 1092 (Fla. 1st DCA 1996) (rejected the appellant's argument that the written findings needed to be specific, but did agree that the court order imposing adult sanctions needed to be in writing pursuant to s. 39.059(7)(d).

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

Section 921.241, F.S. (Supp. 1996), requires that every judgment of guilty or not guilty of a felony be in writing, signed by the judge, and recorded by the clerk of the court.

B. EFFECT OF PROPOSED CHANGES:

The bill would remove the requirement that the court's decision to impose adult sanctions on a juvenile who has been prosecuted as an adult be in writing. As a result of the bill, the court's decision to impose adult sanctions on a juvenile would be presumed appropriate, without it being put in writing and without it specifying the

enumerated criteria that the court would still be required to consider, but not document, when deciding whether to impose juvenile or adult sanctions under s. 29.059(7)(c), F.S.

The bill would not affect the requirement under s. 921.241, F.S. (Supp. 1996), that every judgment of guilty or not guilty of a felony be in writing, signed by the judge, and recorded by the clerk of the court.

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?

No.

(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?

Not applicable.

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

Not applicable.

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

Not applicable.

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?

No.

4. Individual Freedom:

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

Not applicable.

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

Not applicable.

5. Family Empowerment:

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

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

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

Not applicable.

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

Not applicable.

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?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION RESEARCH:

SECTION 1. Amends s. 39.059(7)(d), F.S.; requires the court in imposing adult sanctions for juvenile offenders transferred to adult court to not have to put in writing the decision or enumerate the reason for the decision.

SECTION 2. Reenacts s. 39.052(3)(a), F.S. (1996 Supplement); for the purpose of incorporating the amendment to s. 39.059, F.S.

SECTION 3. Provides 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:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

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3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require local governments to spend or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that local governments have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with local governments.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The bill was heard by the Committee on Juvenile Justice on April 10, 1997. There were four amendments to the bill that passed. In addition to retaining the substance of the bill as filed and subsequently passed by the committee, the amendments do the following:

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- Clarifies that a presentence report prepared by DOC for youth transferred to adult court is required for felony sentencing hearings.
- Deletes requirements that the court develop, approve, and order a plan for community control for youth transferred to adult court.
- Clarifies that youth transferred to adult court and are given juvenile sanctions may be committed to DJJ up to age 21.

VII. SIGNATURES:

COMMITTEE ON JUVENILE JUSTICE:

Prepared by:

Legislative Research Director:

Ken Winker

Ken Winker