

STORAGE NAME: h695.ei
DATE: March 16, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION INNOVATION
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 695
RELATING TO: Community Control Programs/Education
SPONSOR(S): Representative Byrd
STATUTE(S) AFFECTED: None
COMPANION BILL(S): SB 1520 (Identical)

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

- (1) EDUCATION INNOVATION
- (2) JUVENILE JUSTICE
- (3)
- (4)
- (5)

I. SUMMARY:

HB 695 requires that a student who is on a community control program attend a night school program, rather than the regular public day school program, if the school district has a night program available. Additionally, the student would be required to work 40 hours per week during the day when he is not in school.

If a student attends day school because a night school program is not available, the identity of the student, the nature of the offense, and the conditions of community control would have to be revealed to the teachers of the student.

The bill does not specify if the student would be required to work the 40 hours if he is in day school because the district does not offer a night school program. Additionally, the bill does not provide any guidance as to where or how the student is to get a job.

The intent of the bill is to remove disruptive students who have violated the law from the classroom. However, since case managers currently have more cases to monitor than they can effectively manage, the enforcement of requiring students to obtain a job would probably be ineffective, unless more case managers are designated or fewer cases are placed on community control programs.

If courses that the student needs to meet graduation requirements are not currently offered in night classes, the school district could incur additional costs to offer those classes.

The fiscal impact is indeterminate at this time.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Requirement for Children to Attend School

Section 232.01, F.S., requires children to attend school regularly during the entire school term. A child who attains the age of 16 years during the school year shall not be required to attend school beyond the date upon which he or she attains that age. Students with special needs are not prohibited from attending school and receive the same educational instruction or its equivalent as other students, but may voluntarily be assigned to a class or program suited to their special needs. Students who are married or pregnant are one example of such a group.

Adult Education

Section 239.301, F.S., provides that the purpose of adult education is to attain basic literacy skills, a high school diploma or its equivalent, and a more employable, productive and responsible life as a citizen. The adult education system is charged with providing academic services to students who demonstrate skills at less than a fifth grade level, students who are seeking a high school diploma or its equivalent, and students who seek improvement through employment, a postsecondary education, or speaking English. Additionally, adult education courses are offered in lifelong learning and recreational activities.

Proceedings Related to Juveniles

Some of the purposes of Chapter 39, F.S., *Proceedings Related to Juveniles*, are outlined in s. 39.001, F.S.

- Assure due process through which children are assured fair hearings
- Recognize, protect, and enforce children's constitutional and other legal rights, while ensuring that public safety interests are adequately protected
- Ensure the protection of society, by providing for a comprehensive assessment of the child's needs so the most appropriate control, discipline, punishment, and treatment can be administered; (The educational condition of a juvenile offender is part of the evaluation information included in a comprehensive assessment as defined in s. 39.01(17), F.S.)
- Assure that adjudication and disposition of child alleged or found to have committed a violation of law be exercised with appropriate discretion and meet constitutional standards of fairness and due process

Section 39.002(3), F.S., provides state policy for juvenile justice and delinquency prevention. Among other things, the juvenile justice system is to:

- Protect the public from acts of delinquent youth

- Provide effective methods of preventing and reducing acts of delinquency with a focus on maintaining and strengthening the family so that youth may remain in their homes or communities
- Develop effective programs to divert youth from the traditional juvenile justice system

To carry out this policy, the state has developed a continuum of programs designed to meet the individual needs of the youth and family and protect the rest of the community from harm. These programs range in restrictiveness according to the risks posed by the needs of individual youth. Youths who pose low risks to the community are to be diverted from juvenile court and placed in community-based diversion programs, while youth who pose higher risks to the community are to go to juvenile court and may be placed in secure facilities.

Community Control

Community control, defined in s. 39.01(16), F.S., and described in s. 39.054, F.S., is the least restrictive of the judicial juvenile justice programs. Community control is the legal status of probation created by law and court order in cases involving a child who has been found to have committed a delinquent act. The program allows youth to remain in their homes under the supervision of the state. It is an individualized program in lieu of commitment to the custody of the Department of Juvenile Justice. Youth placed in Community Control must complete a set of court-ordered sanctions and services. These may include sanctions such as community work hours, restitution, curfew, or letters of apology or services such as individual or family counseling, or substance abuse treatment.

The court has the power to place the child in a community control program under the supervision of the Department of Juvenile Justice (DJJ) for an indeterminate period of time until the child reaches the age of 19 years or sooner if discharged by the court. If a child proves not to be suitable to a community control program, the court can commit the child to the DJJ, or revoke the previous adjudication, impose an adjudication of guilt, classify the child as a youthful offender when appropriate, and impose any sentence which it may lawfully impose, giving credit for all time spent by the child in the DJJ, pursuant to s. 39.059(6), F.S.

The court develops, approves, and orders a plan of community control after appropriate sanctions for the offense are determined. The community control plan must contain rules, requirements, conditions, and programs designed to encourage responsible and acceptable behavior and to promote the rehabilitation of the child and the protection of the community (s. 39.059(7)(f), F.S.). The court may receive and consider any other relevant and material evidence, including other reports, written or oral, in its effort to determine the action to be taken with regard to the child, and may rely upon such evidence to the extent of its probative value even if the evidence would not be competent in an adjudicatory hearing (s. 39.059(7)(g), F.S.).

The court must notify any victim of the offense and the parents, or guardians of the child to attend the hearing (s. 39.059(7)(h), F.S.). Upon completion of the predisposition report, it must be made available to the child's counsel and the state attorney by the DJJ prior to the disposition hearing (s. 39.059(7)(l), F.S.),

Performance Audit of Community Control by Office of Program Policy Analysis and Government Accountability (OPPAGA)

According to a July 19, 1995, performance audit of community control by the Office of Program Policy Analysis and Government Accountability, community control is part of a continuum of programs designed to protect the public from the acts of delinquent youth and deter youth from committing future delinquent acts. These programs range in restrictiveness according to the risks posed by and needs of individual youth. Youth who pose low risks to the community are to be diverted from juvenile court and placed in community-based diversion programs. Youth who pose higher risks are to go to juvenile court and may be placed in secure facilities.

Community control is the least restrictive of the judicial juvenile justice programs. Youth in the program remain in their homes under the supervision of case managers who monitor their compliance with court-ordered sanctions and services. Youth who successfully complete these requirements are discharged from the program. Youth who do not comply are taken back to court.

At the time of the 1995 OPPAGA report, community control was serving many youth who, according to DJJ criteria, could be diverted to non-judicial programs. Of the reviewed cases, 54 percent has low risk scores and could have been diverted from the judicial system. Supporting this finding is the Auditor General's audit report No. 12293, dated May 10, 1994, which found that the state's primary diversion program, the Juvenile Alternative Services Program, was not being used to divert youth from Community Control.

Another finding of the OPPAGA report was that DJJ case managers frequently failed to develop case plans, actively monitor youth's behavior, or routinely assess each youth's progress in meeting court ordered requirements. As a result, case managers did not always know whether youth were completing court-ordered terms and conditions. The report states that monitoring compliance is an essential part of holding youth accountable, first for their criminal action, and then for completing court sanctions. Unless youth are held accountable, court orders will not command their respect or serve as a deterrent. The report expressed concern over whether case managers were visiting youth in their homes or schools and monitoring their behavior in the community.

One of the reasons for the lack of such visits and monitoring was the case loads of case managers. In some instances, a recommended case load could be 32 and the case managers would actually be handling closer to 50 cases. If case loads are geographically spread out, this is also more time-consuming. Time and budget constraints can also limit case work.

Juvenile Justice Advisory Board 1996 Annual Report

The *Juvenile Justice Advisory Board 1996 Annual Report* was published on February 15, 1996. According to the report:

- There was a 14 percent increase in cases on community control from fiscal year 1993-1994 to fiscal year 1994-1995

- Since fiscal year 1983-1984, there has been a 147 percent increase in the number of delinquency cases placed on community control.

Profile of Delinquency Cases and Youths Referred

The following data on cases and youths placed on Community Control is from the *Profile of Delinquency Cases and Youths Referred* prepared by the Bureau of Data and Research, Florida Department of Juvenile Justice, Management Report Number 36, in December 1996.

- Number of cases disposed to Community Control rose 32 percent from 1991-1992 to 1995-1996, but declined 5 percent last year. During the same period, the number of youth placed on Community Control increased 35 percent and declined 3 percent last year.
- In 1991-1992, the percentage of cases placed on Community Control for felony charges was 47 percent and the percentage of youth was 56 percent. By 1995-1996, both the number of cases and youths had declined to 37 percent and 45 percent.
- Burglary is the most common felony offense for cases placed on Community Control, comprising 13 percent of the total and 36 percent of the felony cases referred. The number of youths placed on Community Control for burglary was 2 percent lower than in 1991-1992.
- Shoplifting is the most common misdemeanor offense for cases on Community Control, comprising 10 percent of the total and 23 percent of the misdemeanor cases referred. From 1991-1992 to 1995-1996, the number of shoplifting cases disposed to Community Control increased 45 percent and the number of youths increased by 58 percent. Last year the number of shoplifting cases in Community Control declined 5 percent and the number of youths declined 4 percent.
- Number of youths placed on Community Control for auto theft declined 23 percent last year. The number of youths placed on Community Control for violent felonies grew 20 percent.
- The number of marijuana felony cases placed on Community Control increased 151 percent. The number of non-marijuana felony cases placed on Community Control was 11 percent higher in 1995-1996 than 1991-1992; there was a 7 percent decline last year.
- Number of white male cases placed on Community Control was 30 percent higher than in 1991-1992, while the number of black male cases was 13 percent higher. During the same period, the number of white female cases increased by 107 percent and black female cases increased by 61 percent. While the number of male cases increased 23 percent during the five year period, the number of female cases jumped by 84 percent.
- In 1991-1992, 48 percent of the youths on Community Control were white males, 35 percent were black males, 8 percent were white females and 8 percent were

black females. In 1995-1996, 47 percent were white males, 31 percent were black males, 12 percent were white females and 9 percent were black females.

- Last year, the number of youths placed on Community Control was down 3 percent overall, with a decline of 3 percent for white males and 6 percent for black males. Female placements were up with 4 percent for white females and 1 percent for black females.

The following table indicates total number of cases and youths placed on Community Control for the years of the study.

	Total Cases	Total Youth
1991-1992	26,643	17,974
1992-1993	28,892	19,437
1993-1994	31,904	21,736
1994-1995	36,880	24,969
1995-1996	35,079	24,272

B. EFFECT OF PROPOSED CHANGES:

HB 695 requires that a student who is on a community control program attend a night school program, rather than the regular public day school program, if the school district has a night program available. Additionally, the student would be required to work 40 hours per week during the day when he is not in school.

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The intent of the bill is to remove disruptive students who have violated the law from the classroom. However, since case managers currently have more cases to monitor than they can effectively manage, the enforcement of requiring students to obtain a job would probably be ineffective, unless more case managers are designated or fewer cases are placed on community control programs.

If courses that the student needs to meet graduation requirements are not currently offered in night classes, the school district could incur additional costs to offer those classes.

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?

The Department of Education has general rulemaking authority to make rules for all education programs.

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

Although the school district is not required in HB 695 to create a night school program, if they have a program, they would be required to accept the student in the program. The bill does not specify whether the district would be required to offer the same courses as the student would be taking if attending public school during the day.

The case manager would have additional monitoring responsibilities to ensure that the student was attending night school and working during the day.

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

Not applicable.

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

Not applicable.

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

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

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

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?

No.

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

Students who are on community control programs would be required to transfer to night classes if a program is offered in the school district.

5. Family Empowerment:

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

Not applicable.

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

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

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

- 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:

HB 695 does change a program involving public education for students on community control; however, no one has any decision making power for whether it is in the best interest of the student to change to night school. The change to night school is required and does not consider any information regarding the specific situation of the student, information from the parents, the case manager, nor the school teachers, principal, or counselors.

(1) parents and guardians?

Parents and guardians have no input as to whether the student is transferred to a night program or remains in the daytime public school program.

(2) service providers?

The school has no choice as to whether the student is transferred to the night program or remains in the daytime public school program.

(3) government employees/agencies?

The Department of Juvenile Justice nor the case manager does not have a choice as to whether the student transfers to night school.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 Establishes legislative intent of creating a positive and safe learning environment for children and keeping disruptive children off the streets at the times when they are most likely to engage activities which violate the law.

Requires students in a community control program to attend an adult and community night public education program if school district has such a program available.

Requires the student in such a program to work 40 hours per week.

Requires disclosure of student's identity, committed offense, and conditions of community control to teachers of students who attend day school and are in community control program.

Section 2 Provides an effective date of July 1, 1997.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

If more case managers are required to monitor the requirements of students in the community control program working during the day and attending school at night, there will be a need for an increase in the number of case managers.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Indeterminate at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

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:

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.

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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:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Legislative Research Director:

Ouida J. Ashworth

Peter C. Doherty