

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1290

SPONSOR: Senator Horne

SUBJECT: Schools/Juvenile Justice

DATE: April 5, 1999

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>deMarsh-Mathues</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill provides significant changes for juvenile justice education programs. The bill defines the school year for juvenile justice programs in chapter 228, F.S., as a 12 month period, consisting of 250 days of instruction, with authorization to decrease the minimum number of days of instruction by up to 10 days for teacher planning. The bill makes the following changes related to governance:

- requires the State Board of Education to adopt an administrative rule that includes specific components, including the interagency collaborative process; academic expectations; transition services; procedures for the transfer of education records; and contract requirements.
- designates the Department of Education as the lead agency for juvenile justice education programs.
- requires the Department of Education and the Department of Juvenile Justice to each designate a coordinator for juvenile justice education programs to serve as a point of contact for resolving issues not addressed by local school boards.

The bill requires the development of model contracts for the delivery of education services to youth in Department of Juvenile Justice programs, as well as model procedures for moving youth in and out of these programs. The bill revises the current quality assurance provisions in law.

Additionally, the bill provides for the following:

- a study by the Juvenile Justice Accountability Board of the nature and extent of education programs for juvenile offenders committed by the court to the Department of Juvenile Justice and for juvenile offenders under court supervision in the community.
- a review of existing education facilities in Department of Juvenile Justice facilities, with an appropriation of \$100,000 for the review.
- provisions for funding juvenile justice education programs and alternative FTE surveys for Department of Juvenile Justice programs experiencing fluctuations in student enrollment.
- funding for Department of Juvenile Justice programs beyond the 180 day school year and summer school must be specified in the General Appropriations Act.

- notice requirements related to the siting of new juvenile justice facilities, requests for proposals, and award of contracts for the construction or operation of commitment or detention facilities.
- subjects schools that provide educational services to youth in juvenile justice programs to requirements in current law, including the provisions for statewide programs of educational assessment and for school improvement plans.

This bill amends: s. 228.041, F.S.; s. 228.051, F.S.; s. 228.081, F.S.; s. 229.57, F.S.; s. 229.58, F.S.; s. 229.592, F.S.; s. 230.23, F.S.; s. 230.23161, F.S.; s. 235.1975, F.S.; s. 237.34, F.S.; s. 985.401, F.S. s. 985.413, F.S.; and s. 985.404, F.S. The bill creates new language in currently unspecified sections of the statutes.

II. Present Situation:

Section 230.23161, F.S., provides for educational services in juvenile justice programs. Students participating in Department of Juvenile Justice commitment, detention, or rehabilitation programs must receive educational programs according to State Board of Education rule. These are programs under chapter 985, F.S., which are sponsored by a community-based agency or those that are operated or contracted for by the department. These students are eligible for services offered to students enrolled in dropout prevention programs and all corresponding State Board of Education rules. The school board of the county in which the facility is located provides the basic, vocational, and exceptional student programs appropriate for each student. School districts may contract for the services offered through private providers. Programs must be conducted according to the applicable law related to the operation of public schools and State Board of Education rule.

The law (s. 230.23161(4), F.S.) provides that school programming in juvenile justice detention, commitment, and rehabilitation programs must be made during the regular school year and the summer school by the local school district. The law specifies the contents of the educational program and provides that participation in programs by students of compulsory school attendance age is mandatory. Students in juvenile justice programs must be provided with a wide range of educational programs and opportunities, including textbooks, technology, instructional support, and resources available to students in public schools.

School districts are required to recruit teachers who are qualified, interested, or experienced in educating students in juvenile justice programs. The law provides for the selection of teachers assigned to educational programs in juvenile justice settings.

The law authorizes school districts to contract with private providers to deliver educational programs to youths placed with the Department of Juvenile Justice. Funding is based on the Florida Education Finance Program for all students in juvenile justice facilities. Funding by local school districts must be at the same or higher level of funding for equivalent students in the county school system. School districts are required to negotiate a cooperative agreement with the Department of Juvenile Justice on the delivery of education services to youths under the jurisdiction of the department. The law specifies the contents of the agreement. This agreement does not, however, preclude the development of an operating agreement or a contract between the school district and providers for each juvenile justice program in the school district.

The law requires the Department of Education and the Department of Juvenile Justice to establish standards and a comprehensive quality assurance review process and schedule to evaluate the educational component in juvenile justice programs. The law also contains provisions related to the siting of facilities to meet the instructional needs of the students.

The law allows Department of Juvenile Justice detention and commitment programs to be designated as second chance schools, with admission governed by chapter 985, F.S. The law provides for annual reporting to the Legislature by the Department of Education, after consultation with the Department of Juvenile Justice and others, on the progress toward developing effective education programs for juvenile delinquents.

The district school boards are not charged rent, maintenance, utilities or overhead on facilities. Maintenance, repairs and remodeling of existing facilities are provided by the Department of Juvenile Justice. The Department of Education retains the authority to adopt rules necessary to implement the provisions of s. 230.23161, F.S.

The procedure for calculating the Florida Education Finance Program (FEFP) allocation for each school district is specified in s. 236.081, F.S., if the allocations are not determined in the General Appropriations Act or a substantive bill implementing the appropriations act. A full time equivalent (FTE) for Florida Education Finance Program funding purposes is one student in membership in one or more FEFP programs for a school year or its equivalent. For the purposes of calculating the FTE student membership, a student is considered in membership under s. 236.013(4), F.S., until withdrawal or the 11th consecutive school day of absence.

A student is eligible for FTE membership if both of the following conditions are satisfied:

- The student is in program membership at least 1 day during the survey period in an approved course, excluding non-instructional activities, and
- The student is in attendance at least 1 day during the survey period or one of the six scheduled meetings preceding the survey period on which students were in attendance in school.

To determine FTE membership, the law requires a program membership survey of each school by the district during each of several school weeks. The district's FTE membership must be calculated and currently maintained in accordance with the Commissioner of Education's regulations. The rule governing student membership surveys (Rule 6A-1.0451, F.A.C.) requires at least four FTE student membership surveys during the year. The law (s. 236.081(1)(a), F.S., specifies that the number of FTE student membership surveys may not exceed nine in a fiscal year. The four survey weeks for the 1998-99 school year are: July 6-10, 1998; October 5-9, 1998; February 1-5, 1999; and June 21-25, 1999.

Related Legislative Studies

Recently, the Legislature directed the Juvenile Justice Accountability Board and the Office of Program Policy Analysis and Government Accountability to conduct independent reviews of education programs in juvenile justice facilities. The reports provide numerous findings and recommendations for improving educational funding and services for committed youth.

Office of Program Policy Analysis and Government Accountability (OPPAGA) - Review of Education Services in Juvenile Justice Residential Facilities (Report #98-28)

OPPAGA conducted a performance review of the education services offered to youth in the 150 juvenile justice residential facilities. OPPAGA's report noted the following:

- Most juvenile justice students enter residential programs performing below their grade level in reading and math but improve by at least one grade level during their stay. While some students make dramatic gains of three years or more, most youth remain below their age-appropriate grade level upon release.
- Because many juvenile justice youth will not return to school upon release, education programs need to increase access to vocational education and General Education Diplomas (GEDs).
- In residential juvenile justice education programs, 83% of teachers are certified; however, more Exceptional Student Education (ESE) teachers are needed.
- Most education programs offer a range of basic subjects and meet corrections standards for student/teacher ratios. However, at over 25% of facilities, the number of days that instruction is not available due to summer vacation and other breaks is a problem.
- The success of residential education programs is not determined by whether school districts provide education services directly or hire contractors. Both models can succeed with the support and active participation of the school district and the juvenile justice facility.
- School districts are responsible for educational services in residential commitment facilities, but are not held accountable for their performance.
- Many youth also have histories of chronic truancy. According to the Department of Juvenile Justice, over 66% of youth admitted to commitment programs had not been attending school regularly at the time of their admission. Thus, most youth entering residential programs have serious educational problems.

OPPAGA made a number of recommendations related to accountability, exceptional student education and remedial services, student records, days of instruction, and vocational education and GEDs.

Juvenile Justice Accountability Board- Report of Findings on the Education of Juvenile Offenders

The Legislature (chapter 98-186, L.O.F.) directed the Board to conduct a study to determine the extent and nature of education programs for juvenile offenders committed by the court to the Department of Juvenile Justice (DJJ) and for juvenile offenders under court supervision. The Board was directed to analyze existing juvenile justice education policy, statutes, programs, services and resources and identify new directions for juvenile justice education. The Board's report identified numerous findings, including many of those identified in the OPPAGA study. The findings included the following:

Education outcomes:

- Many school districts do not track data on academic outcomes for students in juvenile justice facilities.
- There are no data currently available that interpret the effect of the qualifications, ratios, and numbers of guidance and evaluation personnel on the performance of students in juvenile justice education programs.
- The requirements for students to participate in statewide testing programs are not uniformly followed in juvenile justice education programs across school districts.
- There are no data currently available regarding the impact of Second Chance School waivers on student performance.
- More research is needed to determine whether the needs of ESE students are appropriately met in juvenile justice education programs.

Education programs and facilities:

- Education facilities in juvenile justice program sites are frequently inadequate for the number and diverse needs of the students served.
- School districts and providers need accurate information and training regarding the appropriate use of the GED/HSCT Exit Option.
- School districts use a wide variety of curricular materials in juvenile justice education programs.
- Year-round programming is available in some areas of the state.
- There is no statutory limit on the length of summer school sessions.

Education funding:

- School districts negotiate a variety of funding arrangements with juvenile justice facilities.
- The funding of juvenile justice education programs by local school boards varies widely across the state.
- Funding for year-round education programming in juvenile justice commitment and detention programs is not uniformly available across school districts.

School districts' roles:

- School districts vary in their monitoring of provider contracts.
- Some school districts do not monitor contracts and provide technical assistance to providers in the design and implementation of education programs.
- Quality assurance visits are the main sources of technical assistance available to school district and provider staff.
- Accurate cost report data from the DOE for juvenile justice education programs remains unavailable 16 months after the close of the 1996-97 school year.
- District reporting practices regarding services to ESE students need improvement.
- School districts vary in the provision of transportation services to students served in juvenile justice facilities.
- The assignment of individual school numbers to juvenile justice facilities sets the stage for requiring each location to develop a school improvement plan and meet the additional expectations for education reform.

Collaboration:

- Relationships among local education agencies, DJJ and commitment services providers are a key component of the operation of the education programs in commitment and detention facilities.

- The timeliness of transfer of education records when a student enters and leaves a commitment or detention facility, as well as the appropriate contents of the records, is a statewide concern.
- Transition procedures and the responsibilities of the parties involved are unclear in most parts of the state.
- Few school districts appear to comply with the requirement for selecting teachers in consultation with the director of the juvenile justice facility.
- Providers and DJJ staff vary in their knowledge about negotiating education contracts and agreements.
- The responsibilities of school districts and providers in regard to the provision of contracted services are not well defined.

The board's recommendations related to: education accountability, outcomes, facilities, programs, and funding; governance; contracts; quality assurance; records and transition from facilities; education options; assessment; and the task force.

III. Effect of Proposed Changes:

Section 1. The bill amends s. 228.041, F.S., to provide definitions for juvenile justice providers and the school year for juvenile justice programs. The school year for juvenile justice programs is defined as a 12 month period, consisting of 250 days of instruction. The school board may decrease the minimum number of days of instruction by up to ten days for teacher planning. Juvenile justice providers are the Department of Juvenile Justice or any organization (e.g., a private, public, or other government organization) under contract with the department that provides treatment, care and custody, or educational programs for youth in juvenile justice intervention, detention or commitment programs.

Section 2. The bill amends s. 228.051, F.S., relating to organization and funding of required public schools, to specify that public schools must provide 13 consecutive years of instruction for youth in the Department of Juvenile Justice programs, as may be required by law.

Section 3. The bill amends s. 228.081, F.S., relating to other public educational services, to require the Department of Education to make recommendations for an administrative rule. The State Board of Education must adopt administrative rules prescribing expectations for high quality, effective educational programs for youth in Department of Juvenile Justice (DJJ) programs. The rule must articulate policies and standards for these education programs and must include the following:

- the interagency collaborative process needed to ensure effective programs with measurable results;
- responsibilities of the Department of Education, the Department of Juvenile Justice, school districts, and providers of education services to youth in Department of Juvenile Justice programs;
- academic expectations;
- service delivery options for school districts;
- specific assessment procedures;
- recommended instructional programs;
- funding requirements;

- qualifications and selections procedures for instructional staff;
- transition services;
- procedures and time frames for the transfer of education records upon entrance or exit from a facility;
- requirements for maintenance and transmittal of academic transcripts for Department of Juvenile Justice youth;
- contract requirements;
- performance expectations for providers and school districts;
- roles and responsibilities of the school districts in securing workforce development funds;
- a series of graduated sanctions for school districts; and
- other aspects of program operations, including clarification on how the GED is to be delivered to students in juvenile justice programs.

The assessment procedures must include specific components, including appropriate academic and vocational assessments administered at program entry and exit which are selected by the Department of Education, in partnership with representatives of the Department of Juvenile Justice, school districts, and providers.

By January 1, 2000, the Department of Education, in partnership with the Department of Juvenile Justice, school districts, and providers must develop model contracts for the delivery of appropriate education services to youth in Department of Juvenile Justice programs. The model is for use in developing future contracts. The bill specifies the content of the contracts. The Department of Education must ensure that appropriate school district personnel are trained and held accountable for managing and monitoring contracts for education programs for youth in juvenile justice residential and nonresidential facilities.

The two agencies must also develop model procedures for moving youth into and out of Department of Juvenile Justice (DJJ) programs. Also, the agencies must develop standardized required content of education records as part of a youth's commitment record and develop model procedures for securing the education record. The roles and responsibilities of the juvenile probation officers and others involved with the withdrawal of students from school and assigned to a commitment or detention facility must be included. School districts must respond to certain requests for student education records. The Department of Education must ensure that school districts notify students in juvenile justice residential and non-residential facilities of attendance requirements and the option to attain a general education development diploma (GED) prior to release from the facility. School districts must waive GED testing fees for youth in DJJ residential programs. The districts must, upon request, designate certain schools as GED testing centers, subject to GED testing center requirements.

The Department of Education must establish and operate a mechanism to provide quality assurance reviews of all juvenile justice education programs. The department must also provide technical assistance and related research to school districts and providers on how to establish, develop, and operate educational programs that exceed the minimum quality assurance standards.

Section 4. The bill amends s. 229.57, F.S., relating to a statewide assessment program. The Commissioner of Education must include schools providing educational services to youth in DJJ programs in the existing requirements for a statewide program of educational assessment in public

schools. Students served in DJJ programs must participate in the student achievement testing program as part of the statewide assessment program. The Department of Education must develop or select and implement a common battery of assessment tools that reflect criteria in specific state standards.

Section 5. School boards are authorized, under s. 229.58, F.S., to establish a district advisory council to develop and monitor a district school improvement plan for schools providing education services to youth in DJJ programs.

Section 6. The bill amends s. 229.592, F.S., relating to the implementation of the state system of school improvement and education accountability. The bill amends legislative intent language to subject schools providing educational services to youth in DJJ programs to the existing requirements for the statewide school improvement plan.

The bill adds schools providing educational services to youth in DJJ programs to the existing requirements for the Commissioner for the following:

- a system for data collection and analysis to improve information about the educational success of individual students and schools;
- a school improvement program that analyzes information to identify schools in need of improvement;
- a method of delivering services to assist school districts and improve schools; and
- annual reporting requirements associated with recommendations of the Florida Commission on Education Reform and Accountability that lists schools for which school boards have developed assistance and intervention plans.

The bill adds schools providing educational services to youth in DJJ programs to the existing requirements for the Department of Education to provide technical assistance and training. The bill prohibits the department from releasing funds from the Educational Enhancement Trust Fund to any district in which a school operating to provide educational services to youth in DJJ programs for the following reasons: the district does not have an approved school improvement plan; or the district does not comply with school advisory council membership composition requirements.

Section 7. The bill amends s. 230.23, F.S., relating to the powers and duties of school boards, to allow a school board to establish a district school improvement plan which includes all schools in the district providing educational services for youth in DJJ programs. In addition, the bill expands current requirements for school boards to provide information about student performance and educational programs to include schools providing educational services for youth in DJJ programs. For these schools, the school board must report on the elements specified in s. 230.23161(21), F.S., relating to 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.

Section 8. The bill amends s. 230.23161, F.S., relating to educational services in Department of Juvenile Justice programs. The bill provides legislative findings related to the rehabilitation of adjudicated delinquent youth in the custody of the Department of Juvenile Justice in detention or commitment facilities. The Department of Education is designated as the lead agency for juvenile justice education programs. The Department of Education and the Department of Juvenile Justice must each designate a Coordinator for Juvenile Justice Education Programs to serve as a point of

contact for resolving issues not addressed by local district school boards. The positions will ensure each department's participation in:

- training, collaborating, and coordinating with the Department of Juvenile Justice, local school districts, educational contract providers and juvenile justice providers;
- collecting information on the academic performance of students in juvenile justice commitment and detention programs and reporting on results;
- developing protocols that provide guidance to school districts and providers in all aspects of education programming; and
- prescribing the roles of program personnel.

The bill provides that appropriate students served in the Department of Juvenile Justice programs must have access to GED instruction to prepare them for the GED test. Students participating in GED preparation programs must be funded at the weighted cost factor for DJJ programs in the FEFP.

The bill provides an exception to the requirements for participation in education programs by students of noncompulsory school attendance age who have not received a high school diploma or its equivalent. A student is not required to participate if the student files the formal declaration required in s. 232.01(1)(c), F.S., and is afforded the opportunity to attain a GED prior to the release from a facility.

Academic improvement plans must be developed for students scoring below the level specified in local school board policy in certain subject areas or below the level specified by the Commissioner on statewide assessments. The bill specifies the contents of the plans. The bill requires each school district to maintain academic records for each student enrolled in juvenile justice facilities. The bill specifies the contents of the records for certain courses completed. Schools must include certain academic information in the discharge packet when the student leaves the facility. The Department of Education must ensure that all school districts make provisions for high-school-level committed youth to earn credits toward graduation while in facilities. The bill provides for transfer of credits.

The school district's planning and budgeting process must include the needs of DJJ programs in the district's plan for expenditures for state categorical and federal funds. Juvenile justice education programs must be funded through the Florida Education Finance Program with a weighted cost factor for Department of Juvenile Justice programs, in accordance with s. 236.081, F.S., with an exception for students with disabilities. These students must be funded at the higher of the weights for which the students qualify. Funding for students in DJJ programs beyond the 180 day school year and summer school must be specified in the General Appropriations Act. The bill specifies which DJJ programs will receive the weighted cost factor, including those operated through a contract with the Department of Juvenile Justice and those under the purview of the Department of Juvenile Justice quality assurance standards for education.

School districts are permitted and required to request an alternative FTE survey for DJJ programs that experience fluctuations in student enrollment. FTE count periods must be prescribed in State Board of Education rule. The bill specifies when the summer school period begins for students in DJJ programs. Students must be funded for no more than 25 hours per week of direct instruction. The Department of Education must develop a method to capture all direct instructional time provided to students during the summer school period.

The Department of Education, in consultation with the Department of Juvenile Justice and others, must establish quality assurance standards for educational components of residential and nonresidential juvenile justice facilities. The standards must rate school district performance as a provider and a contractor. The rating for the education component must be disaggregated from the overall score and reported separately. The Department of Education must develop and implement a quality assurance review process and schedule. The bill requires the quality assurance site visits to be conducted at the same time. The Department of Education, in consultation with school districts and providers, must establish minimum thresholds for standards and key indicators for education programs in juvenile justice facilities.

School districts are given opportunities to comply with performance standards. However, there are sanctions, including cancellation of the contract and loss of funds for failure to comply, unless extenuating circumstances are documented.

Section 9. The bill creates s. 235.1975, F.S., related to cooperative development of educational facilities in juvenile justice programs. The Department of Management Services, in consultation with the Department of Education and the Department of Juvenile Justice, is required to conduct a review and analysis of existing education facilities in DJJ facilities to determine the adequacy of the facilities for educational use. The information is used to generate a 3-year plan that must be submitted to the Legislature, the Governor, and the Secretary for the Department of Juvenile Justice. The plan must be sufficiently detailed to allow for the development of a fixed capital outlay request. The bill provides an appropriation of \$100,000 in nonrecurring general revenue to the Department of Education for the study.

The Department of Juvenile Justice must provide early notice to school districts for the siting of new juvenile justice facilities. School districts must include specific student projections in annual estimates. The bill provides for consultation with the school districts on the types of students expected to be assigned to commitment facilities. The bill provides for notice by the Department of Juvenile Justice to the Department of Education related to requests for proposals for the construction or operation of commitment or detention facilities. The bill also provides for notice to school districts. The Department of Juvenile Justice must provide notice to school superintendents related to the award of a contract for the construction or operation of commitment or detention facilities.

Section 10. The bill amends s. 237.34, F.S., relating to cost accounting and reporting, to require school districts to expend at least 90 percent of the funds generated by juvenile justice programs on the aggregate total school costs for the programs.

Section 11. The bill amends s. 985.401, F.S., to require the Juvenile Justice Accountability Board to study the extent and nature of education programs for juvenile offenders committed by the court to the Department of Juvenile Justice and for juvenile offenders under court supervision in the community. The board is required to use a subcommittee acting as a task force to assist with the study. The bill specifies minimum issues for inclusion in the study.

Section 12. The bill amend s. 985.413, F.S., to require the district juvenile justice boards to provide advice on educational services. The bill makes a technical correction to the Juvenile Justice Accountability Board's name.

Section 13. The bill requires the Department of Education to work with the Department of Juvenile Justice and local school districts to develop a plan for education programs in detention centers and submit the plan to the Legislature and Governor prior to January 1, 2000. The bill specifies the contents and direction of the plan.

Section 14. The bill amends s. 985.404, F.S., relating to administering the juvenile justice continuum, to renumber s. 230.23161(17), F.S., as s. 230.23161(21), F.S., to correspond to changes in the bill.

Section 15. The bill provides an effective date (upon becoming a law).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private providers under future contracts with the Department of Juvenile Justice or local school districts will be subject to provisions of the bill and related future administrative rules.

C. Government Sector Impact:

State

For FY 1999-2000, the bill provides an appropriation of \$100,000 to the Department of Education for a study by the Department of Management Services on educational facilities.

The Department of Education anticipates the need for three FTEs (3 Program Specialist IV positions) to conduct the quality assurance visits and to offer on-site technical assistance to school districts and their DJJ districts:

Salary (10% above salary rate) and Benefits	\$ 54,998
Expenses	\$ 5,236
Operating Capital Outlay	\$ 3,302
Travel	\$ 8,000
Total per position	\$ 71,563
TOTAL (\$71,563 x 3)	\$ 214,689

Local school district costs

Based on the extended school year of 250 days for juvenile justice programs, the Department of Juvenile Justice anticipates that school districts will receive approximately \$6.3 million in additional funding.

The Department of Education estimates a fiscal impact of \$15 million for the extended school year, with the following explanation. According to the Department of Education, it is an approximate impact and does not reflect a deduction for any services currently funded through the FEFP for those districts with DJJ programs that exceed 180 days and the districts' traditional summer school. Furthermore, there is no increase in WFTE for DJJ students eligible for ESE services and funded at a higher weighted cost factor. The department's estimate is based on 34,368 students served in DJJ programs during the 1997-98 school year by local school districts.

School districts would be required to waive the cost of GED testing fees. According to the Department of Education, the following reflects the costs for scoring the test: \$17 for a full test, \$5 for one test, and \$4 for tests two through five. The Department of Education recommends local school districts work with their communities and public-private partnerships to offset GED costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.