

# 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: SB 130

SPONSOR: Senator Klein

SUBJECT: Juveniles/Prosecution as Adults

DATE: December 11, 1998      REVISED: 01/07/99      \_\_\_\_\_

|    | ANALYST       | STAFF DIRECTOR | REFERENCE | ACTION                 |
|----|---------------|----------------|-----------|------------------------|
| 1. | <u>Barrow</u> | <u>Cannon</u>  | <u>CJ</u> | <u>Fav/1 amendment</u> |
| 2. | _____         | _____          | <u>FP</u> | _____                  |
| 3. | _____         | _____          | _____     | _____                  |
| 4. | _____         | _____          | _____     | _____                  |
| 5. | _____         | _____          | _____     | _____                  |

## I. Summary:

Senate Bill 130 would authorize a state attorney to use his or her discretion to directly file an information against any child who was 14 or 15 years of age at the time they allegedly committed the offense of grand theft of a motor vehicle.

This bill substantially amends section 985.227 of the Florida Statutes.

## II. Present Situation:

There are two ways in which a juvenile may be involuntarily prosecuted in adult court: through a waiver or a direct-file information. A state attorney may request an involuntary waiver hearing to transfer a juvenile to adult court and the court determines whether certain facts exist that warrant the transfer of a juvenile to adult court. A state attorney may also directly file an information, which is the formal charging document in adult court, if certain criteria are met.

There are two sets of criteria in which a state attorney may directly file an “information” on a juvenile: discretionary and mandatory. Under discretionary and mandatory direct files, the statutes set up groups of criteria that must be present depending on the age of the juvenile, the crime being charged, prior convictions, and prior residential commitments, in order to file a direct information.

### Discretionary Direct Files

Discretionary direct files are those situations where the state attorney may file a direct information, which subjects the juvenile to adult prosecution. Following are the two statutorily authorized scenarios in which the state attorney may file an information on a juvenile.

Scenario #1:

- ▶ If a child who was 14 or 15 years of age at the time the offense was committed, **AND**

- ▶ it is the state attorney's judgement and discretion that the public interest requires that adult sanctions be considered or imposed, **AND**
- ▶ the offense being charged is:
  - ▶ arson,
  - ▶ sexual battery,
  - ▶ lewd or lascivious assault or act in the presence of a child,
  - ▶ robbery,
  - ▶ kidnapping,
  - ▶ aggravated child abuse,
  - ▶ aggravated assault,
  - ▶ aggravated stalking,
  - ▶ aggravated battery,
  - ▶ murder,
  - ▶ manslaughter,
  - ▶ discharging a bomb,
  - ▶ armed burglary,
  - ▶ burglary of an occupied dwelling,
  - ▶ carrying or attempting to use a weapon or firearm during the commission of a felony,**OR**
  - ▶ grand theft.

Scenario #2:

- ▶ If a child was 16 or 17 years of age at the time the alleged offense was committed, **AND**
- ▶ it is the state attorney's judgement and discretion that the public interest requires that adult sanctions be considered or imposed.

In statutorily authorized Scenario #2, generally speaking, the crime charged must be a felony; however, the crime charged may be a misdemeanor if the juvenile has had at least 2 prior delinquent adjudications (or adjudications withheld) with one of those priors being a felony.

### **Mandatory Direct Files**

Mandatory direct files are those situations where the state attorney must file a direct information, which subjects the juvenile to adult prosecution. Following are the three statutorily authorized scenarios in which the state attorney must file a direct information on a juvenile.

Scenario #1:

- ▶ If a child was 16 or 17 years of age at the time the alleged offense was committed, **AND**
- ▶ the juvenile has been previously adjudicated delinquent for any one of the following offenses:
  - ▶ murder,
  - ▶ sexual battery,
  - ▶ armed or strong-arm-robbery,
  - ▶ carjacking,
  - ▶ home-invasion robbery,
  - ▶ aggravated battery, or
  - ▶ aggravated assault, **AND**
- ▶ the juvenile is currently charged with a second or subsequent violent crime against a person.

**Scenario #2:**

- ▶ Regardless of a child's age at the time of the alleged offense,
- ▶ the juvenile has been previously adjudicated delinquent of a felony on at least 3 separate occasions, **AND**
- ▶ because of those adjudications, the juvenile was previously committed to a residential commitment program at least 3 times.

**Scenario #3:**

- ▶ Regardless of a child's age at the time of the alleged offense,
- ▶ the juvenile is alleged to have committed an act involving the stealing of a motor vehicle, such as grand theft auto or carjacking, **AND**
- ▶ while the juvenile was in possession of the stolen motor vehicle, the juvenile caused serious bodily injury to or the death of any other person (except for the juvenile or co-defendants committing the auto theft).

**Motor Vehicle Theft**

Motor vehicle theft is defined in s. 812.014, F.S. Grand theft of a motor vehicle is a third degree felony if the value of the vehicle is under \$20,000. The offense becomes a second-degree felony, however, if the value of the motor vehicle is \$20,000 or more, but less than \$100,000. Grand theft auto is renowned for being a prevalent juvenile crime. However, according to the Juvenile Justice Accountability Board, auto theft declined 30 percent among juveniles between FY 1993-94 and FY 1996-97.

**III. Effect of Proposed Changes:**

Senate Bill 130 broadens current law pertaining to discretionary direct file informations on 14- and 15-year-old juveniles by including the offense of grand theft of a motor vehicle. It would authorize a state attorney to use his or her discretion to directly file an information against any child who was 14 or 15 years of age at the time they allegedly committed the offense of grand theft of a motor vehicle. If a juvenile of 14 or 15 years of age is alleged to have committed the offense of grand theft auto, the state attorney may, but is not required to, file an information to prosecute the juvenile in adult court. In order for a state attorney to file a direct information on a 14 or 15 year-old juvenile, it would have to be the judgement and discretion of the state attorney that the public interest requires that adult sanctions be considered or imposed when such juveniles are charged with grand theft auto.

If the state attorney uses his or her discretion and files a direct information on a 14- or 15-year-old juvenile for grand theft auto, adult sanctions are not guaranteed to be imposed by the adult court judge. In fact, the adult court judge upon a finding of guilt could still adjudicate the juvenile delinquent and impose juvenile sanctions. The judge will use his or her discretion to make that determination. However, once a juvenile has adult sanctions imposed upon him or her, the juvenile must be subsequently prosecuted as an adult for future criminal offenses.

**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:

None anticipated.

C. Government Sector Impact:

It is anticipated that there will be a negative fiscal impact upon the Department of Corrections for an increased demand for the number of prison beds and the increased number of offenders that will be placed on some form of community supervision as a result of being prosecuted as an adult and obtaining adult sanctions for committing grand theft auto. The 1998-99 Criminal Justice Impact Conference anticipates the following impacts on both populations:

| <u>Fiscal Year</u> | <u>Prison Beds</u> | <u>Supervision Population</u> |
|--------------------|--------------------|-------------------------------|
| FY 1999-00         | 37                 | 204                           |
| FY 2000-01         | 95                 | 224                           |
| FY 2001-02         | 136                | 227                           |
| FY 2002-03         | 154                | 227                           |
| FY 2003-04         | 164                | 228                           |

The conference’s impact estimate for SB 130 (1999) was determined to be identical to the impact of SB 1354 (1998). Data used by the impact conference were obtained from the Department of Juvenile Justice. Additional data were utilized from the Department of Corrections inmate and probation admissions files for FY 1996-97 and from the sentencing guidelines database for scoresheets with sentence dates in FY 1996-97. During FY 1996-97, of the 14- and 15-year-olds convicted of auto theft, 2,764 did not have a disposition of

transferred to adult court, which would be those who would be subject to a discretionary transfer if this bill was to pass.

Current law provides for 16- and 17-year-olds to be transferred to adult court for auto theft at the state attorney's discretion. In FY 1996-97, 15 percent of the 16- and 17-year-olds were transferred to adult court for auto theft offenses. Applying the same distribution of transfers to the 14- and 15-year-olds results in an estimated 415 being transferred to adult court. The impact conference noted that this estimate may be slightly high.

The actual sanction imposed is within judicial discretion. In order to estimate a prison bed and supervision impact, the impact conference looked at the disposition of offenders under 18 years old sentenced in FY 1996-97 for grand theft auto to derive penalty ratios: 24.9 percent got prison, 54.9 percent got probation and community control, and 20.2 percent got a non-DOC sanction. This ratio was then applied, with other factor allowances, to provide the above-listed cumulative impact upon the prison system and the community supervision population.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Criminal Justice:

Requires that a 14 or 15 year old have a prior adjudication for grand theft of a motor vehicle before a state attorney has the discretion to direct file on a subsequent charge of grand theft of a motor vehicle. (WITH TITLE AMENDMENT)