

**STORAGE NAME:** h1505a.jj

**DATE:** March 31, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
JUVENILE JUSTICE  
ANALYSIS**

**BILL #:** HB 1505

**RELATING TO:** Juveniles

**SPONSOR(S):** Representative Barreiro

**COMPANION BILL(S):** SB 1178

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

- (1) JUVENILE JUSTICE YEAS 10 NAYS 3
  - (2) COMMITTEE ON CRIME AND PUNISHMENT
  - (3) CRIMINAL JUSTICE APPROPRIATIONS
  - (4)
  - (5)
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**I. SUMMARY:**

HB 1505 would statutorily authorize law enforcement agencies and local school boards to initiate and conduct pre-arrest diversion programs to divert juveniles from custody of the Department of Juvenile Justice (DJJ) or from judicial handling. As part of the diversion program, a youth may be required to surrender or refrain from applying for a driver's license. Unsuccessful completion of the program could result in having one's driver's license suspended or withheld for up to 90 days.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Legislature established youth diversion programs in part III of Chapter 985, the Juvenile Justice continuum. The programs include civil citation, Neighborhood Restorative Justice Center, community arbitration and the Juvenile Alternative Services Program (JASP). A variety of non-judicial sanctions can be imposed such as restitution to the victim, community service hours, letter of apology to the victim, curfew, jail tour, forfeiture of a driver's license, instruction to avoid contact with co-defendants or inappropriate friends or acquaintances, and referrals to local social service agencies.

**Civil Citation Program**

The civil citation process is used for youth who commit nonserious delinquent acts to ensure swift and appropriate consequences. Local communities, with the agreement of the chief judge, state attorney, public defender, and law enforcement officials, can establish an alternative to judicial handling of nonviolent juveniles. A law enforcement officer is authorized to issue a civil citation to a juvenile who admits to committing a misdemeanor and who has not committed more than two misdemeanors. The officer can require the juvenile to perform up to 50 hours of community service, as well as to participate in any necessary intervention services. Intervention services can include family counseling, urinalysis monitoring, substance abuse treatment, and mental health treatment services. The juvenile's progress is then monitored to ensure compliance with the program. Failure to comply with the program results in the juvenile being referred to the intake office of the Department of Juvenile Justice (DJJ).

**Neighborhood Restorative Justice Center**

"First-time nonviolent juvenile offenders" can participate in this program through a Neighborhood Restorative Justice Center established by the state attorney. To be able to participate, juveniles must take responsibility for their actions which resulted in the violation. Victims are also invited to participate in the program. Sanctions can include the following: making restitution to the victim and/or community; performing work for the victim and/or community; participating in counseling, education, or treatment services; suspending the juvenile's driver's license; or referring the case to the state attorney to initiate legal proceedings. Successful completion of the program means that the state attorney does not initiate criminal proceedings against the juvenile.

**Community Arbitration**

Community arbitration for juveniles at the county level is also provided for in s. 985.304, F.S. (Supp.1998). Juveniles eligible for this process have committed local ordinance violations, misdemeanors, or certain nonviolent third degree felonies. A law enforcement officer, a juvenile probation officer (at the request of the parent), the state attorney, or court may refer the complaint to be handled by community arbitration. Sanctions similar to the ones above apply in this program as well. Juveniles successfully completing the required sanctions will not have a petition filed against them in juvenile court.

**Juvenile Alternative Services Program (JASP)**

JASP is designed to prevent future delinquency. Youth charged with minor offenses can avoid adjudication if they successfully complete the program requirements. Unsuccessful completion of the program could result in judicial action.

### **Prosecutorial Diversions - Walker Plan**

Under the Walker Plan, the state attorney may divert a case in lieu of prosecution if certain conditions are agreed upon by the youth. These conditions may include a curfew, letter of apology, counseling, restitution, and community service. If a youth unsuccessfully completes the program, the state attorney may resume prosecution of the case.

Florida statutes also allow for pre-trial intervention incases involving narcotics offenses if a youth has not been previously adjudicated on felony charges and he offense does not involve the dealing or selling of controlled substances. This intervention focuses on substance abuse education and treatment intervention lasting no less than one year. Upon successful completion of the program, the court may dismiss the charges.

According to the DJJ, approximately 43,460 youths, ages 15-17, were handled non-judicially in calendar year 1997-98. Currently, the department provides contracted diversion services in all 15 districts. Many existing diversion programs are not expressly provided for in statute.

#### **B. EFFECT OF PROPOSED CHANGES:**

HB 1505 would statutorily authorize another juvenile diversion program for at-risk youth. The bill would allow a law enforcement agency or a school district to establish a pre-arrest diversion program for youth alleged to have committed delinquent acts. As part of the program, a youth may be required to have his driver's license suspended for up to 90 days. If the juvenile does not have a driver's license, he would be required to refrain from applying for one for 90 days. Any juvenile unsuccessfully completing the program could have his driver's license and a written statement detailing the violation sent to the Department of Highway Safety and Motor Vehicles (DHSMV). Upon receipt, the DHSMV would suspend or withhold a youth's driver's license for up to 90 days.

#### **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?

Yes, local law enforcement agencies or school districts may establish a pre-arrest diversion program for youth alleged to have committed delinquent acts.

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

No, participation in the program is voluntary.

(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?

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?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

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

N/A

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

N/A

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:

Creates section 985.300, Florida Statutes

E. SECTION-BY-SECTION ANALYSIS:

Section 1, creates the Pre-arrest diversion programs, authorizing law enforcement agencies and local school boards, to initiate and conduct pre-arrest diversion programs to divert youth from judicial handling.

Section 2, provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

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:

N/A

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 bill states that the program will forward a youth's driver's license with a written notice detailing the violation to the DHSMV. The program is not defined as whether it will be a central office for all programs started by a law enforcement agency or a school board or whether each program will be responsible for its own administration. In addition, no employee is designated to be responsible for forwarding notices to the DHSMV.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HB 1505 passed out of the Committee on Juvenile Justice's full committee meeting on March 30, 1999, with two amendments.

1) Amendment 1, allows a law enforcement agency or school district, in cooperation with the state attorney, to establish a pre-arrest diversion program. As part of the program, a youth alleged to have committed a delinquent act may be required to surrender his or her driver's license or refrain from applying for a driver's license for up to 90 days. The state attorney may notify the DHSMV in writing to suspend the driver's license of any youth not successfully completing the program.

2) Amendment 2, limits the parameters of any pre-arrest diversion program started under the provisions of HB 1505 to non-violent third degree felonies only.

VII. SIGNATURES:

COMMITTEE ON JUVENILE JUSTICE:

Prepared by:

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