

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 2164

SPONSOR: Senator Mitchell

SUBJECT: Juvenile Detention

DATE: March 24, 1999

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 2164 revises the detention criteria in s. 985.215, F.S. (Supp. 1998), to allow a judge to continue to detain a youth charged with a second or third degree felony drug offense or a non-violent third degree felony offense if the judge makes written findings of fact that the youth presents a clear and present danger to the community.

The bill would also give the court some discretion in the time periods it has to order a delinquent youth to serve in detention or a CINS youth to serve in a staff-secure shelter for committing contempt of court.

This bill substantially amends sections 985.215 and 985.216 of the Florida Statutes.

II. Present Situation:

Section 985.215, F.S. (Supp. 1998), provides criteria for determining whether a youth taken into custody can be held in detention. To be detained, a youth must meet the statutory criteria, as well as reach a certain score on the risk assessment instrument, which is completed by a juvenile probation officer. If a youth scores as a high risk to public safety, he or she may be placed in secure detention. If he or she scores as a low risk, he or she may be placed in nonsecure or home detention, or he or she may be released.

The following youths are eligible to be held in detention under the statutory criteria:

- ▶ A youth alleged to be an escapee or absconder from commitment or community control;
- ▶ A youth wanted in another jurisdiction for a felony offense;
- ▶ A youth requesting to be detained for his protection;

- ▶ A youth charged with committing domestic violence;
- ▶ A youth charged with a capital felony, a life felony, a first degree felony, a second degree felony that does not involve a drug violation, or a violent third degree felony, including any such offense involving the use or possession of a firearm;
- ▶ The youth is charged with a second or third degree felony drug offense or a non-violent third degree felony *and* the youth meets one of five additional “qualifiers” (has a record of failing to appear, has a record of prior violations, has been released pending commitment placement, has a record of violence, or is found to possess a firearm); or
- ▶ A youth is alleged to have violated the conditions of community control or aftercare supervision.

If a youth is detained, he or she must be given a detention hearing before the judge within 24 hours. At this time, the judge may order the youth to be held for up to 21 days pending an adjudicatory hearing on the charge. The purpose of the initial detention hearing is to determine the existence of probable cause and the need for continued detention. The adjudicatory hearing (trial) must be commenced within 21 days.

Following an entry of an adjudication order, the youth may remain in detention for up to 15 additional days, unless the court grants a continuance for cause upon motion of the youth or state. The 21-day and 15-day time limits do not include periods of delay resulting from a continuance granted for cause. If a continuance is granted, the court must hold a hearing every 72 hours to determine the need for further detention and further continuance of the proceedings. After the disposition hearing (sentencing), a child may be detained for varying time periods pending placement in a residential commitment program.

Under s. 985.216, F.S. (Supp. 1998), a delinquent youth who has been held in direct or indirect contempt of court may be placed in a secure detention facility for 5 days for a first offense or 15 days for a second or subsequent offense, or in a secure residential commitment facility. A child in need of services (CINS) who has been held in direct or indirect contempt of court may be held for the same time periods (5 and 15 days respectively), but not in a secure detention facility. The CINS youths are required to be placed in a staff-secure shelter or a staff-secure residential facility, or if such placement is unavailable, in a mental health facility or substance abuse facility for assessment.

III. Effect of Proposed Changes:

Senate Bill 2164 would revise the detention criteria in s. 985.215, F.S. (Supp. 1998), by adding an additional “qualifier” that a court could look to in justifying the continued detention of a youth who was charged with a second or third degree felony drug offense or a non-violent third degree felony offense. This additional qualifier would allow a judge to continue to detain a youth charged with a second or third degree felony drug offense or a non-violent third degree felony offense if the judge makes written findings of fact that the youth presents a clear and present danger to the community.

The bill would also give the court some discretion in the time periods it has to order a delinquent youth to serve in detention or a CINS youth to serve in a staff-secure shelter for committing contempt of court. Instead of being required to order 5 days for a first offense of contempt and 15 days for a subsequent offense, the bill would allow the judge to order placement “not to exceed 5 days” for a first offense and “not to exceed 15 days” for a subsequent offense.

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.

C. Government Sector Impact:

According to the Department of Juvenile Justice, the **additional qualifier language** would authorize the court to detain youths that have been found by a judge in a written order to pose a clear and present danger to the community. Based on data from FY 97/98, potentially 21,616 youths could meet this qualifier. If 10 percent of these youths met the revised qualifications, this would result in 2,162 additional youths being detained, at an **estimated total cost of \$8,255,264.**

The department calculated this cost by using the cost of detention (\$94 per day) for 13 days (average length of stay per youth in detention) x 2,162 youths for **recurring operational costs of \$2,641,964.** The new detentions would generate a need for 77 beds to be built (2,162 x 13 days equals 28,106 resident days divided by 365 days) at a **non-recurring cost of \$5,613,300** (77 x \$72,900).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
