

STORAGE NAME: h1677.jj

DATE: March 21, 2000

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

BILL #: HB 1677

RELATING TO: Children/Secure Facility

SPONSOR(S): Representative Patterson

TIED BILL(S):

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

- (1) JUVENILE JUSTICE
 - (2) JUDICIARY
 - (3) CRIMINAL JUSTICE APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

Placement in a Physically Secure Program-- The bill amends s. 984.226, F.S., to expand the pilot program in the Seventh Judicial Circuit to be a statewide program for certain children in need of services (CINS) children.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Placement in a Physically Secure Facility-- Section 984.226, F.S., authorizes the court to place a child who has been adjudicated a child in need of services in a physically secure facility, if the child has run away from a staff-secure facility or has committed at least two prior acts of direct or indirect contempt. In 1997, the Legislature created this section to require DJJ to establish a pilot program within a single judicial circuit for the purpose of operating one or more physically secure facilities within existing resources as an alternative to placement in a staff-secure facility. This pilot program (Discovery Center) was established within the Seventh Judicial Circuit, encompassing Flagler, Putnam, St. Johns, and Volusia counties. According to DJJ, the program has been underutilized in large part because of the eligibility requirements and the limited geographical area. Currently, the length of stay in this facility is limited by statute to up to 5 days for a first placement and up to 15 days for subsequent placements.

Under current law, prior to commitment in a physically secure facility, the child must be afforded all rights of due process required under s. 985.216, F.S. Currently, the child must be represented by counsel at each court appearance and if the child is deemed indigent, the court must appoint counsel. However, the court may request reimbursement of attorney's fees and costs from the non-indigent parent. The law further requires that the child receive appropriate assessment, treatment, and educational services that are designed to eliminate or reduce the child's truant, ungovernable, or runaway behavior. In addition, the child and family must be provided with family counseling and other support services necessary for reunification under s. 984.226, F.S.

Section 984.226, F.S., also required the Juvenile Justice Accountability Board (JJAB) to monitor the operation of the Discovery Center pilot program and to issue a preliminary report to the Legislature by December 1, 1998, and to issue a final report jointly with DJJ by December 1, 1999. In its final report, the JJAB concluded the following: continued testing of physically secure placements for certain CINS children; placements should be made for a time period not exceeding 90 days along with a judicial review; and DJJ should be allowed to contract for physically secure space in other appropriate facilities that have available space.

C. EFFECT OF PROPOSED CHANGES:

Placement in a Physically Secure Facility-- The bill amends s. 984.226, F.S., to expand the pilot program in the Seventh Judicial Circuit to be a statewide program. The bill allows the court to place an adjudicated CINS child in a physically secure setting if the child has failed to appear for placement in a staff-secure shelter or failed to comply with a valid court order and has been found to be in direct or indirect contempt of court or run away from a staff-secure shelter following such placement. (A technical conforming amendment is made in s. 984.09, F.S., to change "facility" to "setting.")

The bill expressly provides that the child must be represented by counsel unless the record affirmatively demonstrates by clear and convincing evidence that the child knowingly and intelligently waived the right to counsel after being fully advised by the court. The court retains the authority to appoint counsel for the child. Nothing precludes the court from requesting reimbursement of attorney's fees and costs from the non-indigent parent or legal guardian.

The bill deletes the provision allowing the court to place a child who has been adjudicated a child in need of services in a physically secure facility, if the child committed at least two prior acts of direct or indirect contempt. The bill also requires DJJ or an authorized representative to verify bed availability. If a bed is not available, the child shall go on a waiting list for placement in the physically secure facility.

The bill allows that the child be placed in a physically secure setting for up to 90 days, with an additional 30-day extension if the court finds that reunification with the family could be achieved within that extension period. The bill states the court shall review the child's placement once every 45 days as provided in s. 984.20, F.S. The bill allows that at any time during the placement of a CINS child in a physically secure setting, DJJ or an authorized representative may submit to the court a report that recommends: the child has received all services available and is ready for reunification with a parent or guardian; or the child is unlikely to benefit from continued placement and is more likely to have his or her needs met in a different type of placement.

The bill states, prior to commitment in a physically secure facility, the child must be afforded all rights of due process required under s. 985.216, F.S. The bill further requires that the child receive appropriate assessment, treatment, and educational services that are designed to eliminate or reduce the child's truant, ungovernable, or runaway behavior. In addition, the child and family must be provided with family counseling and other support services necessary for reunification. s. 984.226, F.S.

Under the bill, if the child requires mental health treatment or residential care for a developmental disability, or if DJJ finds inadequate support from the parents, the court will direct that the child be transferred to DCFS. The bill also deletes the requirement that the JJAB monitor the pilot program and submit a report by December, 1999.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority of municipalities or counties to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill would not reduce the percentage of a state tax shared with counties or municipalities. Therefore, it would not contravene the requirements of Article VII, Section 18 of the Florida Constitution.

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V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON JUVENILE JUSTICE:

Prepared by:

Staff Director:

J. Travis Coker

Lori Ager