

STORAGE NAME: h0911s1b.jj
DATE: March 17, 2000

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

BILL #: CS/HB's 911 & 487

RELATING TO: Juvenile Justice

SPONSOR(S): Committee on Juvenile Justice and Representatives Patterson, Rayson & Others

TIED BILL(S): SB 1192 (I)

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

- (1) JUVENILE JUSTICE YEAS 12 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The committee substitute bill amends several sections of the Florida Statutes that concern the juvenile justice system. The committee substitute bill conforms the catch-line of s. 784.075, F.S., to the substance of the section. The remainder of the proposed committee bill amends sections relating to juvenile court jurisdiction, juvenile detention, juvenile case processing, juvenile contempt of court, and alternative sentencing.

Amendments having a potentially significant effect on the juvenile justice system appear in the following sections of the committee substitute bill:

Section 2 -- The requirements for detaining a child in need of services in a staff secure shelter are relaxed. This amendment is anticipated to facilitate maximum utilization of funds which have already been appropriated to DJJ for this purpose.

Section 3 -- The court's ability to retain jurisdiction is expanded for purposes of allowing a child with a high-risk or maximum-risk commitment to receive conditional release (i.e., aftercare) services. The court's ability to retain jurisdiction is also expanded in cases involving a child who has been committed to a juvenile prison or residential sex offender program.

Section 4 -- Law enforcement officers and "authorized agents" of DJJ are authorized to take into custody any child who has failed to appear or who is believed to be in violation of DJJ supervision conditions.

Section 5 -- This section conforms time for producing and filing the probable cause affidavit or written report associated with a juvenile arrest, regardless of whether the child is released or detained.

Section 6 -- The requirements for detaining a child charged with a domestic violence offense are relaxed. Authority is provided to score any underlying offense during risk assessment.

Section 7 -- A child may be placed in secure detention for failure to appear in certain circumstances, for up to 72 hours in advance of the next scheduled court date. Law enforcement agencies must present certain juvenile cases to the state attorney within 8 days after the child's placement in secure detention. Secure pretrial detention may be extended an additional 9 days in certain cases, upon a showing of good cause.

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The committee substitute bill shall take effect upon becoming law.

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:

Please refer to the "SECTION-BY-SECTION ANALYSIS" at Paragraph II-D, below.

C. EFFECT OF PROPOSED CHANGES:

Please refer to the "SECTION-BY-SECTION ANALYSIS" at Paragraph II-D, below.

D. SECTION-BY-SECTION ANALYSIS:

Section 1.

The committee substitute bill amends s. 784.075, F.S. The substantive section was amended during the 1999 legislative session to include juvenile probation officers in the group of personnel upon whom committing a battery is defined as a third degree felony offense. However, the "catch line" for s. 784.075, F.S., was not contemporaneously amended. The committee substitute bill amends the "catch line" for s. 784.075, F.S., to include juvenile probation officers.

Section 2.

The committee substitute bill amends s. 984.225, F.S., which relates to the court's powers of disposition in cases involving children in need of services. Under current law, s. 984.225(1), F.S., empowers the court to order that a child adjudicated as a child in need of services be placed for up to 90 days in a staff-secure shelter if one of the following two prerequisite circumstances is found:

- (a) The child's parent, guardian, or legal custodian refuses to provide food, clothing, shelter, and necessary parental support for the child and the refusal is a direct result of an established pattern of significant disruptive behavior of the child in the home of the parent, guardian, or legal custodian; or
- (b) The child refuses to remain under the reasonable care and custody of his or her parent, guardian, or legal custodian, as evidenced by repeatedly running away from home. The court may not order that a child be placed in a staff-secure facility unless:

1. the child has failed to successfully complete an alternative treatment program or to comply with a court-ordered sanction; and
2. the child has been placed in a residential program on at least one prior occasion pursuant to a court order under this chapter.

The committee substitute bill provides for staff-secure placement of a child adjudicated as a child in need of services if one of three prerequisite circumstances is found. Under the committee substitute bill, the first circumstance is detailed in paragraph (a) of s. 984.225(1), F.S., and is identical to current law. The second circumstance relaxes the prerequisite findings presently specified in paragraph (b) of s. 984.225(1), F.S., as follows:

- (b) The child refuses to remain under the reasonable care and custody of his or her parent, guardian, or legal custodian, as evidenced by repeatedly running away from home and failing to comply with a court order; or

The committee substitute bill provides a new paragraph (c) for the subsection, which tracks the language currently found in subparagraphs 1 and 2. Under the committee substitute bill, the third circumstance under which a child in need of services may be held in staff-secure placement is where:

- (c) The child has failed to successfully complete an alternative treatment program or to comply with a court-ordered sanction and the child has been placed in a residential program on at least one prior occasion pursuant to a court order under this chapter.

Pursuant to the committee substitute bill, s. 984.225, F.S., only applies after other alternative, less-restrictive remedies have been exhausted. If the court orders that a child be placed in a staff-secure shelter, the Department of Juvenile Justice ("DJJ") must verify to the court that a bed is available for the child. If DJJ verifies that a bed is not available, DJJ must place the child's name on a waiting list. The child who has been on the waiting list the longest will get the next available bed.

Section 3.

The committee substitute bill amends s. 985.201, F.S., which relates to the court's jurisdiction in juvenile cases. Generally, the court retains jurisdiction, unless relinquished by its order, until the child reaches 19 years of age, with the same power over the child that the court had prior to the child becoming an adult. See s. 985.201(4)(a), F.S. Section 985.201(4)(a) specifies exceptions to the general jurisdiction of the court in juvenile cases, which are found in ss. 985.31(relating to serious or habitual juvenile offenders) and 985.313 (relating to offenders placed in juvenile correctional facilities or juvenile prisons).

The committee substitute bill provides a new paragraph (b) and amends paragraph (c) of s. 985.201(4), F.S. The new paragraph (b) provides that a court may retain jurisdiction over a child who has been committed to DJJ for placement in a high-risk or maximum-risk residential program, including the programs specified in the amended s. 985.201(c), F.S. Pursuant to the new s. 985.201(b), .S., the court may retain jurisdiction for the purpose of allowing the child to participate in a juvenile conditional release (i.e., aftercare) program pursuant to s. 985.316, F.S. If the child is not successful in the conditional release program, DJJ may use the transfer procedures specified in s. 985.404, F.S. Under this authority, DJJ could transfer the child back to a commitment program.

The committee substitute bill renumbers current paragraph (b) of s. 985.201, F.S., as paragraph (c), for purposes of conformity. The paragraph enumerates the circumstances under which the court may retain jurisdiction over a juvenile offender up to the child's 21st birthday. Under current law, the court may retain jurisdiction solely for the purpose of allowing the child to complete an intensive residential treatment program for offenders 10 to 13 years of age or a program for serious or habitual juvenile offenders. Under the amended paragraph (c), the court may also retain jurisdiction to allow the child to complete a residential commitment program in a juvenile prison or a residential sex offender program.

Section 4.

The committee substitute bill amends s. 985.207(1), which outlines the circumstances under which a child may be taken into custody. Under current law, paragraph (c) of s. 985.207(1), F.S., provides that a child may be taken into custody for failing to appear at a court hearing after being properly noticed. The committee substitute bill specifies that law enforcement officers and "authorized agents" of DJJ are the parties empowered to take into custody a child who has failed to appear into custody. DJJ reports plans to contract the services of off-duty law enforcement officers to act as "authorized agents" pursuant to this amendment.

Under current law, paragraph (d) of s. 985.207, F.S., authorizes a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child's community control, home detention, or aftercare supervision or has absconded from commitment to take such child into custody. Under the committee substitute bill, this authority is extended to "authorized agents" of DJJ. The amended paragraph includes postcommitment community control violations among the circumstances that allow a child to be taken into custody.

Section 5.

The committee substitute bill amends s. 985.211, F.S., which relates to release or delivery of a child from custody. Under current law, s. 985.211(1), F.S., provides that a child taken into custody shall be released from custody as soon as is reasonably possible. Section 985.211(3), F.S., provides that if the child is released, the person taking the child into custody shall make a written report or probable cause affidavit to the appropriate juvenile probation officer within 3 days, stating the facts and the reason for taking the child into custody. Under the committee substitute, the time for making the report is reduced to within 24 hours after such release.

The committee substitute also amends s. 985.211(6)(a), F.S. Under current law, a copy of the probable cause affidavit or written report by a law enforcement agency must be filed, by the law enforcement agency making such affidavit or written report, with the clerk of the circuit court for the county in which the child is taken into custody or in which the affidavit or report is made within 24 hours after the child is taken into custody and detained, within 1 week after the child is taken into custody and released, or within 1 week after the affidavit or report is made, excluding Saturdays, Sundays, and legal holidays. The committee substitute specifies that a copy of the probable cause affidavit or written report made by the person taking the child into custody shall be filed, by the law enforcement agency which employs the person making such affidavit or written report, with the clerk of the circuit court for the county in which the child is taken into custody or in which the affidavit or report is made within 24 hours after the child is taken into custody and released, or within 1 week after the affidavit or report is made, excluding Saturdays, Sundays, and legal holidays.

Together, these amendments to s. 985.211, F.S., conform the time for producing and filing the probable cause affidavit or written report associated with a juvenile arrest, regardless of whether the child is released or detained. The effects of these amendments should be to ensure that all juvenile arrest cases can be similarly processed through the juvenile justice system whether the arrested juvenile was ultimately released or held in detention care. Support for this section of the committee substitute has been expressed from representatives of DJJ, state attorneys, public defenders, and law enforcement.

Section 6.

The committee substitute bill amends s. 985.213, F.S., which outlines the circumstances in which the court may place a child in detention care. Subsection (2)(a) of s. 985.213, F.S., provides that all determinations and court orders regarding placement of a child into detention care shall comply with the requirements of the section and shall be based on a risk assessment of the child, unless the child is placed into detention care as provided in subparagraph 3(b). Subparagraph 3(b) of s. 985.213(2), F.S., describes the court's authority to detain a child who is charged with committing a domestic violence offense, but who does not otherwise meet the general detention criteria outlined in the risk assessment instrument.

Under current law, the court may place a child charged with committing a domestic violence offense in secure detention, even if that child does not score out for detention on the risk assessment instrument, if the court makes specific written findings that:

- a. The offense of domestic violence which the child is charged with committing caused physical injury to the victim;
- b. Respite care for the child is not available; and
- c. It is necessary to place the child in secure detention in order to protect the victim from further injury.

However, the child may not continue to be held in secure detention under this subparagraph for more than 48 hours unless ordered by the court. After 48 hours, the court must hold a hearing if the state attorney or victim requests that secure detention be continued. The child may continue to be held in secure detention if the court makes a specific, written finding that secure detention is necessary to protect the victim from further injury. The court's continued ability to hold the child in secure detention is limited by the provisions of s. 985.215, F.S. (providing that a child may not be held in secure, nonsecure, or home detention care for more than 21 days unless an adjudicatory hearing for the case has been commenced by the court).

The committee substitute bill authorizes the court to place a child charged with committing an act of domestic violence in secure detention even where there is no finding that the offense has resulted in physical injury to the victim. However, under the committee substitute bill, the court must still make findings that respite care for the child is not available and that it is necessary to place the child in secure detention in order to protect the victim from injury. Where current law addresses the court's ability to continue to hold the child in secure detention beyond an initial period of 48 hours, the committee substitute bill addresses the court's ability to continue to hold the child in detention care -- be it secure detention, or otherwise.

DJJ does not predict a significant fiscal impact associated with relaxing the detention criteria for youth charged with committing domestic violence offenses. The committee substitute bill may enable DJJ and providers of social services to intervene in domestic

violence situations before a victim suffers an injury. In cases where a child is detained pursuant to this provision, DJJ anticipates that the affected family members could receive services associated with the child being placed in detention care.

The committee substitute bill provides a new subparagraph 4(b) to s. 985.213(2). The new subparagraph allows the court to score the risk assessment instrument to include the underlying charge of any child who is under the supervision of DJJ at the time the child is charged with a new offense. This provision should ensure that the court's decision to place a child in detention care for a current offense include consideration of whether that child is currently on community control, home detention, nonsecure detention, aftercare, postcommitment community control, or commitment status with DJJ. Pursuant to this provision, an offender who commits a new offense while under the DJJ supervision should score out higher on the risk assessment instrument than an offender who commits the same offense but is not under DJJ supervision.

The risk assessment instrument referred to in s. 985.213, F.S., is a product of DJJ and a workgroup whose membership is specified in s. 985.213(b)1. The decision to detain a child rests largely on the scored risk assessment instrument. The risk assessment instrument workgroup includes circuit judges, prosecutors, and public defenders. The committee substitute bill addresses the membership of the risk assessment instrument workgroup, providing for the inclusion of sheriffs and chiefs of police.

Section 7.

The committee substitute bill amends s. 985.215, F.S., which relates to juvenile detention. Subsection (2) of s. 985.215, F.S., describes the circumstances in which a child taken into custody and placed into nonsecure or home detention care or detained in secure detention care prior to a detention hearing may continue to be detained by the court. The committee substitute bill provides new paragraphs (i) and (j) for s. 985.215(2), F.S., which describe an additional circumstances in which the court may order a child to remain in detention care. Under the committee substitute bill, a child who is detained on a judicial order for failure to appear may be held in secure detention for up to 72 hours in advance of the child's next scheduled court hearing, regardless of the scored risk assessment instrument if:

The child has willfully failed to appear, after being properly noticed, for an adjudicatory hearing in the case; or

The child has willfully failed to appear, after being properly noticed, for two or more hearings of any nature in the case.

The court presently has authority to punish a child who willfully fails to appear for a scheduled court hearing through its contempt powers, as specified in s. 985.216, F.S. However, contempt powers cannot be exercised until the child is present before the court. DJJ estimates that about 10% of juveniles who are not held in detention care subsequently fail to appear at a court hearing. The child's failure to appear may cause delay in the resolution of the child's case. If the case is set for adjudicatory hearing when the child fails to appear, subpoenaed witnesses must be compensated for their appearance and asked to appear again for a subsequent hearing. In the context of an adjudicatory hearing, not only does the child's failure to appear result in delay, but there are additional detriments associated with the unnecessary costs and inconvenience of witnesses. DJJ reports that, last year, 25% of youth who were the subject of pick up orders committed a new crime of violence prior to the pick up order being served. The amendment to s. 985.215, F.S.,

should help ensure that the child appears before the court and should also expedite the resolution of pending juvenile cases involving juvenile defendants who fail to appear.

The committee substitute bill also amends subsection (5) of s. 985.215, F.S., which specifies duration of stay in detention care under various circumstances. The committee substitute bill provides a new paragraph (b) for s. 985.215(5). The new paragraph requires the arresting law enforcement agency to complete and present its investigation of an offense for which a child has been charged and placed in secure pretrial detention care to the appropriate state attorney's office within 8 days of the child's placement in secure detention. However, the agency's failure to do so does not entitle the child to release from secure detention, nor to the dismissal of charges. The investigation must, at a minimum, include police reports, any supplemental reports, any witness statements, and any evidence collection documents.

Supporters of this amendment are reported to include representatives on behalf of law enforcement, state attorneys, and public defenders. The amendment should facilitate the juvenile justice system's ability to resolve cases involving juveniles held in secure pretrial detention prior to the expiration of detention time, as limited in s. 985.215(5)(b), F.S.

Under current law, s. 985.215(5)(b), F.S., provides that a child may not be held in secure, nonsecure, or home detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced by the court. The proposed committee bill adds a new paragraph (f) to s. 985.215(5), F.S., which provides that, upon good cause being shown that the nature of the charge requires additional time for the prosecution or defense of the case, the court may extend detention time for 9 additional days if the child is charged with an offense that would be a capital, life, or first degree felony, or second degree felony involving violence if committed by an adult.

Finally, this section of the proposed committee bill substitute deletes an obsolete reference to juvenile assignment centers.

Section 8.

The committee substitute bill amends s. 985.216(2), F.S., which relates to the court's authority to punish contempt of court. Under current law, a delinquent child or a child in need of services may be placed in a secure detention facility for purposes of punishment for direct or indirect contempt of court if alternative sanctions are unavailable or inappropriate, or if the child has already been ordered to serve an alternative sanction but failed to comply with the sanction. Current law provides that such youth may be placed in a secure detention facility for 5 days for a first offense or 15 days for a second or subsequent offense.

The committee substitute bill gives the courts express discretion to limit the time periods that a delinquent child or child in need of services may be held in secure detention for contempt of court. If alternative sanctions are unavailable or inappropriate, or the child has already been ordered to serve an alternative sanction but failed to comply with the sanction then the committee substitute bill allows that child to be placed in a secure detention facility not to exceed 5 days for a first contempt finding and not to exceed 15 days for a second or subsequent contempt.

Section 9.

The proposed committee bill substitute provides a new subsection (4) for s. 985.219, F.S., which relates to process and service. Under current law, s. 985.219, F.S., does not specify time frames within which law enforcement agencies are to serve process. The committee substitute bill provides that:

Law enforcement agencies shall act upon subpoenas received and serve process within 7 days after arraignment or as soon thereafter as is possible, except that no service shall be made on Sundays.

Supporters of this section of the proposed substitute committee bill anticipated that this requirement would facilitate the resolution of pending juvenile cases by reducing delays attributable to process and service. There is no known opposition to this section of the committee substitute bill.

Section 10.

The committee substitute bill amends subsection (1)(d) of s. 985.231, F.S., which relates to the court's powers of disposition in delinquency cases. The amendment incorporates the exceptions to jurisdiction as amended by section 3 of the committee substitute bill.

Section 11.

The committee substitute bill amends s. 985.233(4), F. S., which provides sentencing alternatives to the court in cases involving juveniles who have been prosecuted as adults. In those cases, s. 985.233(4), F.S., provides that the court may either sentence the child as an adult pursuant to paragraph (a) or stay adjudication of guilt and sentence the child as a juvenile pursuant to paragraph (b). If the child is initially sentenced to juvenile sanctions but proves not to be suitable to a community control program or for a treatment program under the provisions of subparagraph 2(b), the court may impose an adjudication of guilt, classify the child as a youthful offender when appropriate, and impose any sentence which it may lawfully impose, giving credit for all time spent by the child in DJJ, pursuant to the provisions of paragraph (c) of s. 985.233(4), F.S. Current law does not describe any circumstances in which a child might be found unsuited for juvenile sanctions.

The committee substitute bill broadens the circumstances in which a child may be found not to be suited for juvenile sanctions. The committee substitute bill amends s. 985.233(4)(c), relating to the impositions of adult sanctions upon the failure of any juvenile sanction specified in paragraph (b) rather than subparagraph 2(b). The committee substitute bill includes commitment program placement among the circumstances in which a child may be later found not suited for juvenile sanctions. If the child proves unsuitable for juvenile sanctions under the committee substitute bill, DJJ shall provide the sentencing court with a written report outlining the basis for its objections. DJJ shall provide a copy of the report to the state attorney and to the defense counsel, and set the matter for hearing within 30 days. The proposed committee bill describes several circumstances in which a child could be found unsuited for juvenile sanctions, including when the child commits a new violation of law while under juvenile sanctions. Upon hearing, the court may impose an adjudication of guilt, classify the child as a youthful offender when appropriate, and impose any sentence which it may lawfully impose, giving credit for all time spent by the child in DJJ, pursuant to the provisions of paragraph (c) of s. 985.233(4), F.S.

Section 12.

The proposed substitute committee bill is set to take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

There are several anticipated expenditures associated with the committee substitute bill. The most significant anticipated expenditure is associated with the provisions of the committee substitute bill which provide additional circumstances for holding a child in detention care. Please refer to the "Fiscal Comments," at Paragraph III-D, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The following sections of the committee substitute bill may have fiscal consequences:

Section 2.

The committee substitute bill relaxes the requirements for placing children in need of services in a staff-secure shelter. DJJ anticipates that this provision will allow maximum utilization of the funds that have already been appropriated for this purpose.

Section 3.

The committee substitute bill extends the court's jurisdiction over certain offenders to allow participation in aftercare or conditional release programs. Additional circumstances are specified when the court may retain jurisdiction over a child until the child's 21st birthday. There may be a fiscal impact associated with providing these services to youth who, under current law, are beyond the jurisdiction of the court by reason of age. DJJ anticipates that

this section of the committee substitute bill will affect an average of 146 youth annually. At an average cost of \$15 per youth served per day, the annual fiscal impact is expected to be \$799,350.00

Section 4.

The committee substitute bill allows law enforcement officers and “authorized agents” of DJJ to take youth into custody under circumstances related to failure to appear or violations of supervision. DJJ anticipates expenditures associated with training staff in minimum safety techniques for purposes of carrying out this function. DJJ anticipates expending funds in the amount of \$444,456.00 to hire certified law enforcement officers to act as “authorized agents” of DJJ for these purposes. This funding is included as part of the Governor’s Proposed Budget Request.

Section 5.

The committee substitute bill relaxes the requirements for detaining a child charged with a domestic violence offense who does not otherwise score secure detention. DJJ anticipates that this section will have minimal costs and may be absorbed within the existing detention capacity.

This section of the committee substitute bill also allows any underlying offense to be scored as part of the risk assessment if the child is charged with a new offense while under DJJ supervision. There may be a fiscal impact associated with this provision to the extent that scoring the underlying offense increases the likelihood that the child will score secure detention. However, DJJ reports that this was standard practice until a court ruled that the agency did not have legal authority to do so. DJJ does not anticipate that this provision will actually have an impact since all previous budget projections have included detention screening based on the underlying charge.

Section 7.

This section of the committee substitute bill has the most significant anticipated fiscal consequences. Provisions of this section which relate to holding youth in detention care for failure to appear and to extending the time a child may be held in pretrial secure detention care will likely result in an increase in the detention population and related expenditures.

With regard to secure detention for youth who have failed to appear in certain circumstances, the committee substitute bill provides that such child may be detained up to 72 hours in advance of the child’s next scheduled court appearance. There is no similar provision in current law. DJJ anticipates that 10% of youth who are not held in detention care subsequently fail to appear at a court hearing. There are costs associated with a child’s failure to appear associated with delay in the resolution of the child’s case, rescheduling of proceedings, and compensating subpoenaed witnesses for multiple appearances. DJJ also reports that, last year, 25% of youth who were the subject of pick up orders committed a new crime of violence prior to the pick up order being served. Although there may be additional expenditures associated with providing detention care for

youth who have failed to appear in certain circumstances, there may be cost-savings associated with the cost of proceedings and with crime prevention.

With regard to the extension of detention time in certain circumstances, the committee substitute bill provides for an additional 9 days of detention, upon a showing of good cause, in the most serious felony cases. The Governor's Proposed Budget Request includes \$4,345,000.00 for this provision. The funding request is based on a prediction that, annually, 2,223 youth would likely be subject to the committee substitute bill's detention extension provision. If 2,223 youth are detained an additional 9 days each on an annual basis, then a total of 20,007 additional detention days must be serviced with DJJ beds each year. To calculate the daily bed need resulting from the detention extension provision, the 20,007 annual additional detention days must be divided by the number of days in a year (365). This calculation reveals a daily need for 55 additional detention beds to accommodate a 9-day detention extension for 2,223 youth annually. DJJ estimates the average cost to construct a physically secure bed at \$79,000.00. The cost for 55 detention beds is \$4,345,000.00. No recurring costs for operating these beds are anticipated in the Governor's Proposed Budget Request.

Section 8.

The committee substitute bill gives the courts discretion to impose secure detention sanctions for punishment of contempt of court for periods of time not to exceed the durations specified under current law. To the extent that this section of the committee substitute bill results in courts imposing contempt sanctions of shorter duration, there may be a cost-savings.

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.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Six bills relating to juvenile detention issues were referred to the House Committee on Juvenile Justice. The bills overlapped on several sections of ch. 985, Pt II, F.S. Although there was some consistency between the bills on some of the overlapping matters, the bills primarily presented conflicting approaches on juvenile detention issues. In an effort to identify the underlying concerns addressed by each bill and to develop consistent, comprehensive legislation, the House Committee on Juvenile Justice held a series of workshops on the six bills.

Each of the six sponsoring members, along with the supporters of the individual bills, joined the Committee in workshopping the bills. The Committee heard from each sponsoring member of each bill. The Committee also heard from proponents and opponents of each bill. House Bill 157 and House Bill 297 were supported by prosecutors. House Bill 689 was considered a "public defender bill." House Bill 493 was supported by the Police Benevolent Association. House Bill 487 shared many similarities with House Bill 493. House Bill 487 also met with the approval of the Florida Sheriff's Association. House Bill 911 is supported by the Department of Juvenile Justice ("DJJ") and the Governor's Office.

Over the course of three workshops on the six bills, the Committee worked with the sponsoring members, and proponents and opponents of the bills to identify the areas of consistency among the bills. Areas of conflict were also identified, concerns were discussed, and consensus was developed on a single approach to resolving the juvenile detention issues.

The committee substitute bill for House Bills 911 and 487 represents the consensus that was developed during the workshops. Although the committee substitute bill stands in for only two of the original six bills, five of the sponsoring members are co-sponsors of the committee substitute bill.

The committee substitute bill brings together many of the issues raised in the six bills that were originally before the Committee. House Bill 911 was the most comprehensive of all of the six bills. The committee substitute bill uses House Bill 911 as a starting point and "rolls" the consensus areas identified in the workshops into a single bill as follows:

Section 1.

The "catch line" for s. 784.075, F.S., is amended to conform to the substance of the section. This section is identical to section 1 of House Bill 911.

Section 2.

The requirements for detaining a child in need of services in a staff-secure shelter are relaxed. This section is nearly identical to section 3 of House Bill 911. The only difference between the two bills is found in paragraph (b) of s. 984.225(1). House Bill 911 describes a child who refuses to remain under the reasonable care of his or her parent as being evidenced by repeatedly running away. At the request of DJJ, and with the consent of the sponsoring member, the committee substitute bill amends paragraph (b) of s. 984.225(1) to describe a child who refuses to remain under the reasonable care of his or her parent as being evidenced by repeatedly running away “and failing to comply with a court order.” This amendment should encourage parents to seek the assistance of the courts prior to the court entering an order to place the child in a staff-secure shelter. This provision is intended to be a last resort, used only upon the failure of less-restrictive remedies.

Section 3.

The court’s ability to retain jurisdiction is expanded in cases involving a child who has been committed to a juvenile prison or residential sex offender program. This provision of the committee substitute bill is identical to section 4 of House Bill 911. The committee substitute bill also expands the court’s ability to retain jurisdiction for purposes of allowing a child with a high-risk or maximum-risk commitment to participate in aftercare services. The provision was included at the request of several juvenile court judges. It was considered by the Committee, the sponsoring member, and DJJ to be a friendly amendment to a narrower provision in House Bill 911.

Section 4.

Law enforcement officers and “authorized agents” of DJJ may take into custody any child who has failed to appear or who is believed to be in violation of conditions of DJJ supervision. The section of the committee substitute bill is identical to section 5 of House Bill 911.

Section 5.

This section conforms the time for producing and filing a probable cause affidavit or written report associated with a juvenile arrest, regardless of whether the child is released or detained. This section of the proposed committee substituted bill originated in House Bill 493. There was consensus that this provision would facilitate the resolution of juvenile cases in a timely manner and would compliment and support other provisions of the committee substitute bill relating to juvenile detention.

Section 6.

The requirements for detaining a child charged with a domestic violence offense are relaxed. Authority is provided to score any underlying offense during the child’s risk assessment. These two provisions are identical to section 6 of House Bill 911. House Bill 487 addresses the risk assessment instrument and the risk assessment workgroup. This section of the committee substitute bill does draw from section 1 of House Bill 487 by including law enforcement representatives as part of the risk assessment workgroup. However, prior to the time the House Committee on Juvenile Justice took up House Bill 487, many of the risk assessment issues raised in the bill had already been addressed over the course of several meetings between DJJ and the current risk assessment instrument workgroup. The recommendations of the

workgroup were presented to the Committee and considered in connection with the committee substitute.

Section 7.

A child may be placed in secure detention for failure to appear in certain circumstances, for up to 72 hours in advance of his or her next scheduled court date. This provision of the committee substitute bill draws together failure to appear concerns from House Bill 297 and section 7 of House Bill 911. Drawing from House Bill 493, the committee substitute bill requires law enforcement agencies to present certain juvenile cases to the state attorney within 8 days of the child's placement in secure detention. There was consensus that this provision would facilitate the resolution of juvenile cases in a timely manner and would compliment and support other provisions of the committee substitute bill relating to juvenile detention. The committee substitute bill addresses concerns raised in House Bill 689 by providing that a child may not be held in detention care for more than 21 days, unless an adjudicatory hearing has been commenced in good faith. However, the committee substitute bill allows for the extension of detention time for up to an additional 9 days in more serious cases, upon good cause being shown that the extension is needed for the prosecution or defense of the case. This provision draws together section 2 of House Bill 487 and section 2 of House Bill 493.

Section 8.

This section of the committee substitute bill is identical to section 8 of House Bill 911, and identical in effect to section 3 of House Bill 689. The court is given express discretion to limit the length of secure detention placement for a delinquent child or a child in need of services who has been found to be in contempt of court.

Section 9.

Juvenile process must be served within a time certain. This provision of the committee substitute bill is similar in effect to section 3 of House Bill 487.

Section 10.

This section of the proposed committee substitute bill conforms cross-references associated with section 2 of the substitute bill.

Section 11.

The circumstances in which a child may be found unsuited for juvenile sanctions are broadened. This section of the committee substitute bill is similar in effect to section 10 of House Bill 911, however the committee substitute bill specifies procedures for invoking this provision.

The proposed committee substitute bill does not include any provisions found in section 2 of House Bill 911. Section 2 of House Bill 911 relates to the calculation of an adult offender's prior record and expands the time frame in which an offender's prior juvenile record may be included in the calculation. This provision was omitted from the committee substitute bill out of concern that such a provision could raise a constitutional issue related to the single-subject requirements of Article III, section 6, of the Florida Constitution.

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VII. SIGNATURES:

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Prepared by:

Staff Director:

Lori Ager

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