

**STORAGE NAME:** h0083B.frc.doc  
**DATE:** October 24, 2001

**HOUSE OF REPRESENTATIVES**  
**FISCAL RESPONSIBILITY COUNCIL**  
**ANALYSIS**

**BILL #:** HB 83B (PCB FRC 01-12B)  
**RELATING TO:** Department of Juvenile Justice  
**SPONSOR(S):** Fiscal Responsibility Council  
**TIED BILL(S):**

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

- (1) FISCAL RESPONSIBILITY COUNCIL YEAS 18 NAYS 8
  - (2)
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

The bill deletes provisions of Chapter 984 and 985, F.S., relating to the placement of children in need of services (CINS) in staff-secure or physically-secure shelters.

The bill revises provisions of Chapter 984 and 985, F.S., related to juvenile detention in settings other than secure detention facilities to provide for detention supervision through the use of electronic monitoring.

The bill creates s. 985.2035, F.S., which limits the authority of the court to commit certain misdemeanor offenders to the Department of Juvenile Justice for residential placement.

The fiscal impact of this bill is reflected in the current House Budget Reduction Proposal for Special Session "B" and includes the following:

	FY 01-02GR	FY02-03GR
• Secure CINS/FINS Shelters	(2,298,000)	(4,596,000)
• Home Detention	(5,012,648)	(5,012,648)
• Transition of Services -- certain misdemeanants	(4,814,587)	(19,258,348)

The bill takes effect January 1, 2002, except that provisions related to the commitment of certain misdemeanor offenders takes effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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" for an explanation of the "Present Situation."

C. EFFECT OF PROPOSED CHANGES:

Please refer to the "Section-By-Section Analysis" for an explanation of the "Effect of Proposed Changes."

D. SECTION-BY-SECTION ANALYSIS:

**Sections 1 and 2.**

The bill amends the definition of "detention care" provided in ss 984.03(18) and 985.03(18), F.S. Presently, "detention care" is defined to include not only the temporary care of a juvenile offender in a state-operated secure detention facility, but the "temporary care" by the state in a child's own home or in a nonsecure setting. The Department of Juvenile Justice (DJJ) reports that nonsecure detention is seldom used and that the agency is not funded for this activity. As amended, the definition of "detention care" deletes references to "nonsecure detention" and "home detention" and instead provides that "detention care" may include the supervision of the offender through the use of electronic monitoring in conjunction with a court-ordered condition of confinement to a designated residence during designated hours.

Sections 984.03(19) and 985.03(19), F.S., which provide a definition for "detention center or facility" are amended to provided that such centers or facilities must be secure facilities, in conformity with the amendments to ss. 984.03(18) and 985.03(18). Section 984.03(47) and 985.03(47), F.S., which provide a definition for "secure detention center or facility," are amended to provide a definition of "secure detention."

The amendments to the detention issues are consistent with the House Budget Reduction Proposal for Special Session "B" concerning the issue of home detention.

Additionally, section 1 of the bill amends the definition of "shelter" as provided in s. 984.03(49), F.S., to remove language relating to facilities that provide 24-hour continual supervision for the temporary care of certain children in needs of services (CINS). This amendment conforms with statutory changes reflected in section 3 of the bill.

### **Section 3.**

Section 984.225, F.S., provides that, “[s]ubject to specific legislative appropriation, the court may order that a child adjudicated as a child in need of services be placed for up to 90 days in a staff-secure shelter” under certain circumstances. Section 984.226, F.S., provides that “[s]ubject to specific legislative appropriation, the Department of Juvenile Justice shall establish physically secure settings designated exclusively for the placement of children in need of services who meet” specified criteria.

The bill repeals ss. 985.225 and 984.226, F.S., consistent with the House Budget Reduction Proposal for Special Session “B” concerning the issue of secure shelters. DJJ’s contracted provider for services to children and families in need of services (CINS / FINS) reports that the bill will maximize their ability to provide services with available funds as reflected in the House Budget Reduction Proposal for Special Session “B.”

### **Section 4, 5,6, and 7.**

Section 984.09, F.S., relates to the court’s authority to punish a CINS youth who is found to be in contempt of court. Section 985. 216, F.S., relates to the court’s authority to punish a delinquent child who is found to be in contempt of court. Sections 316.635(4) and 318.143(2), F.S., relate to the court’s authority to punish minors found to be in contempt of court in cases involving certain traffic violations.

The bill amends these sections to conform with the repeal of ss. 985.225 and 985.226, F.S., as reflected in section 3 of the bill and with the amendments to the definition of “detention care”, as reflected in section 1 and 2 of the bill.

### **Sections 8, 12, 13, 14, 15,16, and 17.**

The bill amends ss. 216.136(8)(a); 985.207(1); 985.213(1),(2)(b), and (3)(a); 985.214(1); 985.215(1), (2), (5)(a), (c), and (d), (6)(a), (8), (9), (10)(a) and (b), and (11)(b); 985.231(1)(a); and 985.404(10)(a), F.S., to conform with the amended definition of “detention care,” as reflected in sections 1 and 2 of the bill.

### **Section 9.**

Section 984.14, F.S., relates to the placement of a CINS youth into shelter care. The bill amends this section to reflect the repeal of s. 984.225, F.S., as provided in section 3 of the bill.

### **Sections 10 and 11.**

Section 985.231, F.S., provides for the powers of the court to dispose of delinquency cases. Under current law, the court has unlimited authority to place any offender who has been adjudicated delinquent into residential commitment care, irrespective of the offense that is before the court for disposition or the offense history of the offender. Residential commitment care may be as follows:

- Low risk residential – average length of stay is 137 days; average per diem cost is \$85;
- Moderate risk residential – average length of stay is 215 days; average per diem cost is \$75;
- High risk residential – average length of stay is 345 days; average per diem cost is \$95;

- Maximum risk residential – average length of stay is 548 days; average per diem cost is \$131.

The bill amends s. 985.231, F.S., to limit the power of the court to place certain misdemeanor offenders in a residential commitment program pursuant to the provisions of newly created s. 985.2035, F.S.

The bill creates s. 985.2035, F.S. to provide that the court may not commit a juvenile offender for residential placement for an offense that would be a misdemeanor if committed by an adult unless that offender has been adjudicated within the past year for an offense that would be a felony if committed by an adult. The court is provided authority to place such offenders in structured day-treatment probation programs that include onsite school instruction. If the offender is found to have violated the conditions of such probation, the court may order the offender to a consequence placement of up to 28 days in a residential program. For purposes of conformity, references in current law to “consequence units” are deleted in favor of the “consequence placement” contemplated in this section. If an offender subsequently violates the conditions of probation, the court may revoke the probation order and commit the offender pursuant to s. 985.231, F.S.

The creation of s. 985.2035, F.S. and the amendment to s. 985.231, F.S., are consistent with the House Budget Reduction Proposal for Special Session “B” concerning the transition of services for certain misdemeanor offenders.

### **Section 18.**

The bill takes effect January 1, 2002, except that provisions in sections 10 and 11 of the bill, which relate to the commitment of certain misdemeanor offenders, take effect upon becoming law.

## III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The fiscal impact of this bill is reflected in the current House Budget Reduction Proposal for Special Session “B” and includes the following:

	FY 01-02GR	FY02-03GR
• Secure CINS/FINS Shelters	(2,298,000)	(4,596,000)
• Home Detention	(5,012,648)	(5,012,648)
• Transition of Services for certain misdemeanors	(4,814,587)	(19,258,348)
• Consequence Units	(2,709,225)	(2,709,224)

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:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

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**DATE:** October 24, 2001

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VII. SIGNATURES:

FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

Staff Director:

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Jim DeBeaugrine

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