

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1741 Juvenile Sentencing
SPONSOR(S): Committee on Public Safety & Crime Prevention
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Juvenile Justice (Sub)	5 Y, 0 N	Maynard	De La Paz
2) Public Safety & Crime Prevention	18 Y, 1 N	Maynard	De La Paz
3)			
4)			
5)			

SUMMARY ANALYSIS

Currently, under Florida law a judge who is disposing of a juvenile’s delinquency case by committing the youth to the Department of Juvenile Justice may order a particular commitment level, but is prohibited from ordering DJJ to place the youth in a particular program. In the case Department of Juvenile Justice v. J.R., 716 So.2d 872 (Fla 1st DCA 1998) the First District Court of Appeal reviewed a case in which Circuit Judge William J. Gary ordered a youth to a particular facility. The Department of Juvenile Justice appealed the judge’s order, claiming the judge lacked statutory authority. The First District Court of Appeals agreed and reversed the portion of the order requiring placement in a particular facility. See also DJJ v. E.R., J.R., M.C., and C.A., 724 So.2d 129 (Fla 3rd DCA 1998) (Court without statutory authority to order Department of Juvenile Justice to place a youth at a particular facility.)

HB 1741 amends Fla. Statute 985.231(1)(a)(3) to provide the statutory authority for a court, in its discretion, to specify in its order a particular program or facility in which to place a juvenile within the commitment level. Although this bill could conceivably increase the length of time spent by youth in detention centers awaiting placement in a commitment facility and thereby also the costs associated with such a status pending placement, it is unknown how many judges would likely exercise the discretion afforded by the bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1741.ps.doc
DATE: March 20, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

Currently, under Florida law a judge who is disposing of a juvenile's delinquency case by committing the youth to the Department of Juvenile Justice may order a particular commitment level, but is prohibited from ordering DJJ to place the youth in a particular program. In the case Department of Juvenile Justice v. J.R., 716 So.2d 872 (Fla 1st DCA 1998) the First District Court of Appeal reviewed a case in which Circuit Judge William J. Gary ordered a youth to a particular facility. The Department of Juvenile Justice appealed the judge's order, claiming the judge lacked statutory authority. The First District Court of Appeals agreed and reversed the portion of the order requiring placement in a particular facility. See also DJJ v. E.R., J.R., M.C., and C.A., 724 So.2d 129 (Fla 3rd DCA 1998) (Court without statutory authority to order Department of Juvenile Justice to place a youth at a particular facility.)

According to the Department of Juvenile Justice, currently the Department has developed a "Bed Management System." The system allows DJJ staff to assess the needs of committed youths and place them in programs in a timely manner. Also, the Department can evaluate a youth's progress in a particular program and transfer him or her to a different program, pursuant to Florida Statute 985.404. The Department's position is that this system reduces the time a child spends waiting to receive services and also minimizes the time between the date of the offense and the imposition of sanctions.

HB 1741 amends Fla. Statute 985.231(1)(a)(3) to provide the statutory authority for a court, in its discretion, to specify in its order a particular program or facility to place a juvenile within the commitment level.

C. SECTION DIRECTORY:

Section 1. amends 985.231(1)(a)(3) to permit a court in its discretion to place a youth at a particular detention facility.

Section 2. provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments

2. Expenditures:

The Department of Juvenile Justices states that permitting a judge to place a child within a particular facility will significantly hamper its ability to manage its resources and provide appropriate treatment to offenders in custody. Additionally, the Department estimates that the bill could potentially cost \$2,971,100 annually based on commitments during FY 2001-02. This assumes 10,804 commitments and judges in 25% of the cases exercising the discretion afforded by the bill (resulting in 2701 offenders) leading to 10 day delays in placement. The cost per day to maintain a youth a detention center is \$110. However see Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments

2. Expenditures:

See Fiscal Comments

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments

D. FISCAL COMMENTS:

An evaluation of the fiscal impact of this bill on state or local government is not yet available, and it is unknown how many judges would likely order a youth to a specific facility. The bill could have a fiscal impact if the Department was rendered unable to place committed youth according to availability of bed space at facilities statewide. Moreover, programs which became popular with judges may develop waiting lists which could increase the length of time spent by and numbers of youth in detention centers pending placement.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

The Department of Juvenile Justice may argue that the treatment of youth committed to juvenile residential facilities is an executive function of government. Because the Department is vested with the statutory responsibility to provide appropriate treatment to those youth committed into its care and to manage its residential facilities, the argument may be made that permitting judges to dictate specific placements within the Department could violate Separation of Powers.

On the other hand, proponents of the bill could note that the statutes already afford the court an opportunity to "dictate" the commitment level, without any apparent constitutional issues with regard to separation of powers. Under the Department's line of reasoning, a juvenile court judge could not presumably exercise any discretion during the disposition of the case, because whether the youth was committed or placed on probation, that decision would technically impact upon the Department's statutory duty to provide appropriate treatment to youth and manage its residential facilities. Also, arguably the same Legislature which provided the statutory duties of the Department and also the statutory duty of the court to dispose of cases, may expand or contract those duties within the bounds of the state constitution.

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Juvenile Justice maintains that “[g]enerally, the Judges are not as knowledgeable as the Department staff about the types of programs and services offered by the Department, nor would they have information about the availability of beds at the residential facilities. Allowing judges to commit offenders to specific placements could result in inappropriate placements where the services provided in the program do not meet the needs of the offender, or the offender does not meet the criteria for the program.”

On the other hand, for those juvenile court judges who are familiar with specific programs in their area, the increase in utilization rates and waiting lists for particular programs would provide valuable information to policy-makers regarding which programs experienced juvenile court judges prefer to utilize with greater frequency.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES