

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1743                      Speedy Trial for Juveniles  
**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	16 Y, 0 N	Maynard	De La Paz
3)			
4)			
5)			

---

**SUMMARY ANALYSIS**

Currently, tension exists between a Rule of Juvenile Procedure and a Florida Statute as to when the jurisdiction of the court over a particular juvenile is attained and when the juvenile's right to a speedy trial without demand attaches. Florida Statute 985.219(8) states that jurisdiction of the court attaches when the summons and petition for delinquency are served on the child and a parent or legal guardian or when the child is taken into custody, whichever occurs first. In contrast, Florida Rule of Juvenile Procedure 8.090(a), provides that a child shall be brought to an adjudicatory hearing within 90 days of either 1.) the date the child was taken into custody or 2.) the date the petition was filed. Because a circumstance could arise in which a petition is filed (thereby starting the 90 speedy trial period under the rule) but the child is never brought under the statutory jurisdiction of the court because he or she was never served with a summons or taken into custody or was taken into custody after the ninety day period had run, a petition may be dismissed simply because law enforcement never was able to serve a child or take him into custody within the 90 day time period.

HB 1743 would add a new subsection of the Florida Statutes. The new subsection would change the 90 day speedy trial without demand time period as beginning from when the summons issued upon the filing of a petition is served or from when the child is taken into custody, as opposed to the current rule of juvenile procedure which provides that the 90 days begins from when the child is taken into custody or from when the petition is filed.

The bill would also repeal the current Florida Rule of Juvenile Procedure 8.090 to the extent it is inconsistent with the act. To accomplish this, a two thirds vote of each house of the Legislature would be necessary.

## 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, tension exists between a Rule of Juvenile Procedure and a Florida Statute as to when the jurisdiction of the court over a particular juvenile is attained and when the juvenile's right to a speedy trial without demand attaches. Florida Statute 985.219(8) states that jurisdiction of the court attaches when the summons and petition for delinquency are served on the child and a parent or legal guardian or when the child is taken into custody, whichever occurs first. Florida Rule of Juvenile Procedure 8.090(a), meanwhile provides that a child shall be brought to an adjudicatory hearing within 90 days of either 1.) the date the child was taken into custody or 2.) the date the petition was filed. Because a circumstance could arise in which a petition is filed (thereby starting the 90 day speedy trial period under the rule) but the child is never brought under the statutory jurisdiction of the court because he or she was never served with a summons or taken into custody or was taken into custody after the ninety day period had run, a petition may be dismissed simply because law enforcement never was able to serve a child or take him into custody within the 90 day time period.

The Department of Juvenile Justice estimates that 90% of adjudicatory hearings are already held within 90 days of the date the petition is filed. According to the Department, the most common causes of delays include:

- Incomplete discovery
- Juvenile not appearing a arraignment
- Additional testing or evaluation of youth
- Lack of availability of a key witness
- Juvenile moved prior to summons being issued
- Parent or guardian refused to bring juvenile to court
- Bad address or no one home when summons being served
- Lab results not received
- Conflicting schedules of attorneys
- Competency issues
- Cases in which additional charges are pending

HB 1743 would add a new subsection of the Florida Statutes. The new subsection would change the 90 day speedy trial without demand time period as beginning from when the summons issued upon the filing of a petition is served or from when the child is taken into custody, as opposed to the current rule of juvenile procedure which provides that the 90 days begins from when the child is taken into custody or from when the petition is filed. The bill would also repeal the current Florida Rule of Juvenile Procedure 8.090 to the extent it is inconsistent with the act. To accomplish this, a two thirds vote of each house of the Legislature would be necessary.

C. SECTION DIRECTORY:

Section 1. Renumbers subsections 9, 10, 11, and 12, of Florida Statute 985.219. Creates a new subsection to section 985.219 relating to a juvenile's right to speedy trial.

Section 2. Repeals Fla. R. Juv. Pro. 8.090 to the extent it is inconsistent with this act.

Section 3. Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments

2. Expenditures:

See Fiscal Comments

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:

Although a full fiscal evaluation has not been completed at the time of this analysis, the Department of Juvenile Justice estimates that only 10% of adjudicatory hearings are not held within the 90 day time period proscribed by statutes. Therefore, the fiscal impact of the bill would likely be minimal or inconsequential.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

The Florida Constitution provides that the supreme court is vested with the power to promulgate rules for the procedure and practice in state courts. Ordinarily, the doctrine of separation powers would prevent the Legislature from passing legislation which dealt with procedural matters in the judiciary. However, the Florida Constitution also provides that the legislature may repeal a court rule with a 2/3 vote of each house.

Provided such a vote occurs, there should be no constitutional issues with regard to the Legislature's prerogatives to repeal court rules.

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**