

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1933 (PCB PS 03-05) Department of Juvenile Justice
SPONSOR(S): Committee on Public Safety & Crime Prevention
TIED BILLS: **IDEN./SIM. BILLS:** SB 1470

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Juvenile Justice (Sub)	4 Y, 0 N	Whittier	De La Paz
2) Public Safety & Crime Prevention	12 Y, 0 N	Whittier	De La Paz
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 1933 does the following:

- Authorizes DJJ contracted private providers to enter into state contracts for purchases of commodities for purposes solely related to services for youth pursuant to Chapters 984 and 985, F.S.;
- Removes a reporting requirement to the Office of Economic and Demographic Research;
- Revises definition of “child in need of services” to specify that a child in need of services means a child for whom there is no current supervision by DJJ or DCF for an adjudication of dependency or delinquency *at the time a petition for a child in need of services is filed*;
- Clarifies the process for making CINS (Children-in-Need-of Services) court records available to the public, using similar language to that found in chapter 39, F.S., and expands the persons having the right to inspect and copy official records to include the child’s guardian ad litem;
- Clarifies the age of court and department jurisdiction for juvenile justice youth;
- Authorizes Youth Custody Officers to take youth into custody for escaping or absconding from a program, and to file charges for crimes committed while taking a youth into custody;
- Authorizes the use of telephones or video teleconferencing for detention hearings, other than the initial detention hearing, at which the child’s personal appearance is required;
- Removes a reporting requirement for submitting guidelines for filing an information on a juvenile for adult prosecution;
- Authorizes the department to file an affidavit alleging that a child has violated conditions of supervision; and
- Prohibits the Department of Juvenile Justice from adopting any rule renaming any juvenile justice program and provides that the paragraph shall apply retroactively.

There appears to be minimal fiscal impact to state and local governments.

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

STORAGE NAME: h1933.ps.doc
DATE: April 25, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

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

B. EFFECT OF PROPOSED CHANGES:

Section 1: The Department of Juvenile Justice (DJJ or department) contracts with private providers for approximately 85 percent of its services. These organizations, although acting as agents for DJJ, do not receive commodities, such as equipment and supplies, through the state contract which is administered by the Department of Management Services.

This section amends s. 287.042, F.S., to include in the list of authorized entities utilizing the state contracting process for purchase of commodities, and exempts from the competitive bidding process, contracted provider organizations acting as agents for DJJ while conducting business related solely to the provision of services to youth pursuant to chapters 984 and 985, F.S.

Section 2: Currently, s. 790.22, F.S. requires DJJ to complete a form for all minors charged with a firearm offense. The form must be forwarded to the Office of Economic and Demographic Research (EDR).

This bill deletes the requirement that the form be forwarded to EDR. According to EDR, this requirement has "been on the books for over 10 years, and no one has ever asked for the information." According to the department, a paper transfer of information is no longer necessary since the automation of juvenile records through the Juvenile Justice Information System (JJIS) and the information is obtainable through departmental reports.

Section 3: Currently, if a petition has been filed on a child in need of services for truancy and the child is subsequently referred for delinquency, the truancy petition case is left unresolved until disposition of the charges in the petition for delinquency. This may include successful completion of a diversion program or even completion of a program for felony charges. This could delay resolution of the truancy petition case for several months, possibly even until after the end of the school year.

This section revises definition of "child in need of services" to specify that a child in need of services means a child for whom there is no current supervision by DJJ or DCF for an adjudication of dependency or delinquency *at the time a petition for a child in need of services is filed*. The effect of this change will allow pursuit of a truancy petition notwithstanding the subsequent filing of a petition for delinquency.

Section 4: Currently, statutory authority for inspecting the court records required by Chapter 984, F.S., for dependent and at-risk youth, utilizes the permissive term “may.” This section amends s. 984.06(3), F.S., to contain similar language to s. 39.0132(3), F.S., concerning court records for truant, runaway and ungovernable youth. According to the department, while these subsections may currently appear identical in meaning, minor differences in the language have led to differing interpretation by the courts and have caused confusion for the clerks in providing records to the public. The bill clarifies certain procedures by changing “may” to a mandatory “shall have the right to,” and should eliminate any confusion for the clerks of court in their authority to provide certain records.

In accordance with s. 984.06, F.S., the court must keep all court records required by Chapter 984, F.S., separate from other records of the circuit court and are not open to public inspection unless upon order of the court. Current statutory exemptions to this provision include:

- the child and parents or legal custodians of the child and their attorneys;
- law enforcement agencies; and
- the department (DJJ) and its designees.

The bill expands the persons having the right to inspect and copy official records to include the child’s guardian ad litem.

Section 5: Currently, the statutes provide that the age of jurisdiction for the juvenile courts is age 19, except under certain circumstances, such as to allow the child to participate in a juvenile conditional release program, in which case the court has jurisdiction until the child reaches age 22. However, in the disposition section of the statutes (s. 985.231, F.S.), the department has jurisdiction to supervise a child only until the child completes a program or turns 21.

The new language provides that the age of jurisdiction for the juvenile courts is age 19, except for youth who are referred to a sex offender program, intensive residential treatment program, serious or habitual offender program, or a maximum risk program, in which case the age of jurisdiction shall be 22. This clarifies that the periods of jurisdiction of both the court and the department are the same.

Section 6: Youth custody officers¹ within the Department of Juvenile Justice (DJJ) may currently take a youth into custody if there is probable cause to believe

- that the child has violated the conditions of probation, home detention, conditional release, or postcommitment probation, or
- has failed to appear in court after being properly noticed.

The bill adds two situations to this list: probable cause to believe

- that the delinquent youth committed to the department has escaped from a facility, or
- has absconded from the supervision of the department.

¹ Youth Custody Officers are sworn law enforcement personnel of the DJJ, empowered to take youth into physical custody.

It provides that a youth custody officer, who takes a youth into custody for any of the above violations and who has probable cause to believe a *new* criminal law violation has occurred, shall file the appropriate criminal violations and gather any evidence for prosecution during or after taking the youth into custody.

Sections 7 and 8: The bill allows youths in detention to appear at court hearings, other than the initial detention hearing, via telephone or video conference. Currently, this is not authorized.

Section 9: Each judicial circuit in the state is required to develop written policies and guidelines to govern determinations for filing an information on a juvenile and to submit these documents to the Governor, the President of the Senate, and the Speaker of the House once a year. Specifications for these determinations are specifically provided in statute. The bill repeals the annual reporting requirement.

Section 10: Currently, statutes authorize the department or the state attorney to bring a child before the court on a petition alleging a violation of the program. Petitions allege delinquent acts that are violations of state law, and are authorized to be filed by state attorneys only. The department is not an appropriate entity to file a petition, since petitions are charging documents by which state attorneys prosecute law violations by juveniles. The court rule provides that any party with knowledge of a violation of probation may file an affidavit with the court. An affidavit alleges an act which constitutes a violation of a term of the child's probation and may be filed by anyone with knowledge of the violation. Language is amended to allow the department to file an *affidavit* alleging that a child has violated the conditions or supervision.

Additionally, this section clarifies that the supervision of the department extends until the child is discharged from a commitment program or until the child reaches the age of 19, with the exceptions provided in s. 985.201(4)(b). See Section 5 for list of exceptions. It also extends until the age of 22, the period of the department's supervision for the purpose of completing sex offender and serious or habitual offender programs.

Section 11: Recently, the department began utilizing a new naming convention for juvenile residential programs and facilities, changing the names as the programs were bid out. Low and moderate risk programs were changed by adding "Residential Facilities" and high and maximum risk programs were changed by adding "Juvenile Correctional Facilities" to the end of program or facility names.

This section prohibits the department from adopting any rule renaming any juvenile justice program and provides for retroactivity.

Section 12: This section provides that the act become effective on July 1, 2003.

C. SECTION DIRECTORY:

Sections 1-11 amend the following statutes respectively. See Effect of Proposed Changes for details.

s. 287.042, F.S.

s. 790.22, F.S.

s. 984.03, F.S.

- s. 984.06, F.S.
- s. 985.201, F.S.
- s. 985.2075, F.S.
- s. 985.213, F.S.
- s. 985.215, F.S.
- s. 985.227, F.S.
- s. 985.231, F.S.
- s. 985.01, F.S.

Section 12: Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None or minimal.
2. Expenditures: None or minimal.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None or minimal.
2. Expenditures: None or minimal.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: N/A
2. Other: N/A

B. RULE-MAKING AUTHORITY:

The bill prohibits the department from adopting any rule renaming any juvenile justice program and provides for retroactivity.

C. DRAFTING ISSUES OR OTHER COMMENTS: N/A

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.