

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 961                      Relating to Juvenile Drug Courts  
**SPONSOR(S):** Negron  
**TIED BILLS:**                              **IDEN./SIM. BILLS:** SB 1622

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Juvenile Justice (Sub)	4 Y, 0 N	Maynard	De La Paz
2) Public Safety & Crime Prevention	17 Y, 0 N	Maynard	De La Paz
3) Judiciary		Birtman	Havlicak
4) Judicial Appropriations (Sub)			
5) Appropriations			

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### SUMMARY ANALYSIS

There are a number of programs created by statute which seek to divert youth arrested for delinquent acts from prosecution. For example, Teen Courts are not specifically defined by statute, but in the counties in which they exist they serve as a delinquency diversion program as an alternative to formal prosecution in circuit court. Under s. 938.19, F.S., county governments are authorized to fund Teen Courts through a \$3 fine for specified violations of the law. Under s. 943.0582, F.S., a Teen Court participant may have his or her arrest record expunged. Currently, although a statute exists which provides a delinquency pretrial intervention program for certain drug felonies, there is currently no provision in statute for juvenile drug courts.

HB 961 would amend s. 938.19, F.S. to give counties the option of creating and funding Teen Courts or Juvenile Drug Courts with the assessment of a \$3 court cost for specified violations of the law. The bill also provides that Teen Courts and juvenile drug courts are diversion programs for the purposes of possible record expungement under s. 943.0582, F.S. and for possible referral during post-arrest screening by a Juvenile Probation Officer under s. 985.21, F.S.

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

**STORAGE NAME:** h0961c.ju.doc  
**DATE:** April 11, 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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

There are a number of programs created by statute which seek to divert youth arrested for delinquent acts from prosecution. For example, s. 985.306, F.S. provides a delinquency pretrial intervention program for juveniles charged with second or third degree felony violations of ch. 893, F.S. (Drug Abuse Prevention and Control) who have not been previously adjudicated for a felony or admitted to a delinquency pretrial intervention program. At the end of successful completion of such a program, the court may dismiss the charges. Youths who have not successfully completed the program are either continued in the program, or ordered to be prosecuted through the normal channels. The programs exist if approved by the chief judge or alternative sanctions coordinator of the circuit “to the extent that funded programs are available.” Misdemeanor violations of ch. 893, F.S. are not eligible for these programs as described by the statute.<sup>1</sup>

Teen Courts are not specifically defined by statute, but in the counties in which they exist they serve as a delinquency diversion program as an alternative to formal prosecution in circuit court. To participate, a child must waive his or her right to a speedy trial, and admit the offense. According to an internet website for Florida Teen Court, “Teen Court is a program that gives first-time offenders between the ages of 10 and 17 a second chance, yet holds them accountable for their actions. A juvenile law violator must stand before a jury of their peers, plead guilty and accept whatever sanctions they impose. Teens ages 13 to 17 act as Defense Attorney, Prosecuting Attorney, Bailiff, Clerk and Jury. The only participating adult in the courtroom is the Judge. If the offender pleads guilty, accepts the sentence, and successfully completes the sanctions, their record is cleared. Teen Court is based on the philosophy that a juvenile law violator is less likely to continue to be an offender when a jury of their peers decides the punishment.”<sup>2</sup> Under s. 938.19, F.S., county governments are authorized to fund Teen Courts through the assessment of a \$3 court cost for specified violations of law. Under s. 943.0582, F.S., a Teen Court participant may have his or her arrest record expunged.

HB 961 would amend s. 938.19, F.S. to give counties the option of creating and funding Teen Courts or Juvenile Drug Courts, or both, with the assessment of a \$3 court cost for a violation of a state criminal statute, municipal ordinance, county ordinance, or a violation of the Uniform Traffic Laws. The bill also provides that Teen Courts and juvenile drug courts are diversion programs for the purposes of possible record expungement under s. 943.0582, F.S. and for possible referral during post-arrest screening by a Juvenile Probation Officer under s. 985.21, F.S.

<sup>1</sup> The charges of Possession of Less Than 20 Grams of Cannabis and Possession of Drug Paraphernalia are examples of misdemeanor violations of ch. 893, F.S.

<sup>2</sup> www.flteencourt.org

If the county operates both a teen court and a juvenile drug court, the bill requires the chief judge of the circuit to specify to the clerk of the court the amount to be remitted to each program.

C. SECTION DIRECTORY:

Section 1. Amends s. 938.19, F.S., to include juvenile drug courts to be funded by the assessment of court costs for teen courts.

Section 2. Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Unless the State makes an appropriation for a Teen Court or Juvenile Drug Court Program, there is no impact on State expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

County governments would have the option of assessing the \$3 fine for motor vehicles to fund Teen Courts or Juvenile Drug Courts.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons convicted of specified criminal statutes, municipal ordinances, or county ordinances will be required to pay an additional \$3.

D. FISCAL COMMENTS:

Revision 7 to Article V of the State Constitution directs state government to assume the cost of the state court system, to be fully effectuated by July 1, 2004. The Legislature is in the process of defining the state court system to determine which programs and services are part of the state court system.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Because county governments are not mandated to fund juvenile drug courts, there is no mandates issue.

2. Other:

**Unconstitutional delegation of legislative power:** Florida's Separation of Powers doctrine provides that "No person belonging to one branch shall exercise any powers appertaining to either of

the other branches unless expressly provided herein.”<sup>3</sup> The doctrine prevents the Legislature from delegating its constitutional duties, and requires the Legislature to promulgate standards sufficient to guide agencies in their duties.<sup>4</sup> The power to appropriate state funds is a legislative function, and is to be exercised only through duly enacted statutes.<sup>5</sup> To the extent that the bill gives chief judges the duty to specify to the clerk the amount to be remitted to each program in the event that a county has both a teen court and a juvenile drug court, the bill might be found to unconstitutionally delegate legislative power to the judicial branch.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

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<sup>3</sup> See Article II, Section 3 of the State Constitution.

<sup>4</sup> See *Avatar Development Corporation v. State*, 723 So.2d 199 (Fla. 1998).

<sup>5</sup> See Article VII, Sections 1(c) and (d) of the State Constitution, and *Chiles v. Children*, 589 So.2d 260 (Fla. 1991) in which the Florida Supreme Court determined that the Legislature could not grant the Governor discretionary authority to reapportion the state budget, even when a budget shortfall was imminent. “Only the Legislature, as the voice of the people, may determine and weigh the multitude of needs and fiscal priorities of the State of Florida.” *Id* at 267.