

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1946

SPONSOR: Criminal Justice Committee and Senator Clary

SUBJECT: Juvenile Justice

DATE: March 24, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>JU</u>	_____
4.	_____	_____	<u>ACJ</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

I. Summary:

- Removes a requirement for forwarding certain secure detention forms to the Office of Economic and Demographic Research (EDR);
- Clarifies the process for making CINS (Children in need of services) court records available to the public, using similar language to that found in ch. 39, F.S., and expands who has the right to inspect and copy official records to include the child's guardian ad litem;
- Clarifies that the general jurisdiction of the court over a juvenile is until a juvenile's 19th birthday, with certain exceptions;
- Allows a youth custody officer to take a juvenile into custody for escaping or absconding from a program and to file charges for crimes committed while taking a juvenile into custody;
- Authorizes juveniles, at the court's discretion, to appear at detention hearings and commitment treatment progress hearings by video teleconference, rather than in person;
- Allows the Department of Juvenile Justice (DJJ) to file an *affidavit*, rather than a *petition*, alleging that a juvenile has violated the conditions of supervision;
- Changes the time frame for reporting commitment treatment progress reports to the court from monthly to quarterly; and
- Expands the authorized entities that can enter into the state contracting process for buying commodities to include contracted provider organizations acting as agents for the DJJ while

they are conducting business related solely to the provision of services to juveniles under ch. 984, F.S., and ch. 985, F.S.

This bill substantially amends the following sections of the Florida Statutes: 287.012, 790.22, 984.06, 985.201, 985.2075, 985.213, 985.215, and 985.231.

II. Present Situation:

Reporting Requirement under s. 790.22, F.S.

Section 790.22, F.S., requires the DJJ to prepare a form for all minors charged with an offense that involves the use or possession of a firearm. The form must include the period of secure detention and relevant demographic information, including the sex, age, and race of the minor, whether or not the minor was represented by private counsel or a public defender, the current offense, the minor's complete record, and any pending cases. The form is provided to the judge for consideration of whether the minor should be continued in secure detention. The statute also requires that this form be sent to the EDR, without client-identifying information. The EDR reports that it does not need these forms any longer because it collects the information another way.

CINS/FINS Court Records

Section 984.06, F.S., governs court records for children in need of services (CINS) and families in need of services (FINS). Chapter 39, F.S., governs court records for dependent children. According to the DJJ, minor differences in the wording of these two statutes have caused different court interpretation which has resulted in some confusion for the clerks in providing records to the public.

Jurisdiction

Section 985.201, F.S., outlines the jurisdictional authority of the court over juveniles. Generally, the jurisdiction of the court over a juvenile does not extend beyond the juvenile's 19th birthday, except in certain circumstances. These circumstances include juveniles participating in the following programs: a conditional release program after being committed to a high or maximum risk commitment program (in which case jurisdiction is until age 22); or a sex offender program, an intensive residential treatment program, a serious or habitual offender program, or a maximum risk program (in all these cases, jurisdiction is until age 21).

Additionally, there are provisions relating to the jurisdiction of the court contained in ss. 985.231, 985.31, and 985.313, F.S. Generally, these other jurisdictional provisions restate the jurisdiction of the court as contained in s. 985.201, F.S. However, there appears to be a conflict between s. 985.201, F.S., and s. 985.231, F.S., as to whether the general jurisdiction of the court extends to the juvenile's 19th birthday or the juvenile's 21st birthday.

Youth Custody Officers

Section 985.2075, F.S., allows youth custody officers to take juveniles into custody if the officer has probable cause to believe that the juvenile has violated the conditions of probation, home detention, conditional release, post-commitment probation, or has failed to appear in court after being properly noticed. Youth custody officers are not authorized to take juveniles into custody for any other reason than those stated above.

Detention

The circumstances in which a juvenile may be taken into custody are described in s. 985.201, F.S. The parameters for the use of detention care, including the circumstances in which it is appropriate to hold a juvenile in secure detention, are outlined in ss. 985.213 and 985.215, F.S. Specific circumstances described in these sections limit the authority of both the DJJ and the court to place or hold a juvenile in any form of detention care. Additionally, s. 985.214, F.S., prohibits the use of detention care in certain circumstances.

If a juvenile is detained, he or she must be given a detention hearing before the judge within 24 hours. At this time, the judge may order the juvenile to be held for up to 21 days pending an adjudicatory hearing on the charge. The purpose of the initial detention hearing is to determine the existence of probable cause and the need for continued detention. The adjudicatory hearing (trial) must be commenced within 21 days, unless the court extends this time limit an additional nine days upon good cause shown that the nature of the charge (capital felony, life felony, first degree felony, or a violent second degree felony) requires additional time for the prosecution or defense of the case.

Following an entry of an adjudication order, the juvenile may remain in detention for up to 15 additional days, unless the court grants a continuance for cause upon motion of the juvenile or state. The 21-day and 15-day time limits do not include periods of delay resulting from a continuance granted for cause. If a continuance is granted, the court must hold a hearing every 72 hours to determine the need for further detention and further continuance of the proceedings. After the disposition hearing (sentencing), a juvenile may be detained for varying time periods pending placement in a residential commitment program.

Currently, juveniles appear in person at detention hearings. They do not appear via video teleconference.

Violation of Probation

Section 985.231, F.S., allows the DJJ or the prosecutor to bring a juvenile before the court on a petition alleging a violation of probation or post-commitment probation. Technically, the DJJ is not the appropriate entity to file a petition because petitions are charging documents that are filed by prosecutors to charge law violations. An affidavit, on the other hand, is an appropriate document for the DJJ to use to allege a probation violation.

Disposition Hearings

Section 985.231, F.S., requires the DJJ to report a committed juvenile's treatment plan progress to the court every month. Currently, juveniles appear in person at these hearings. They do not appear via video teleconference.

Competitive Solicitation

Section 287.042, F.S., requires the Department of Management Services to canvass all sources of supply, establish and maintain a vendor list, and contract for buying, leasing, or acquiring commodities and contractual services required by any agency under competitive bidding or by contractual negotiations. The department is also required to establish purchasing agreements and procure state term contracts for commodities and contractual services. It can restrict purchases

from some term contracts to state agencies in which the inclusion of other governmental entities will have an adverse effect on competition or to those federal facilities in Florida. Private providers of juvenile services under contract with the DJJ are not currently “eligible users” under s. 287.012(12), F.S., which means they are not authorized to purchase from state term contracts.

III. Effect of Proposed Changes:

Reporting Requirement under s. 790.22, F.S.

The bill would remove a requirement for forwarding secure detention forms for juveniles charged with an offense involving the use or possession of a firearm to the EDR (the forms would still have to be completed for detention purposes).

CINS/FINS Court Records

The bill would amend s. 985.06, F.S., to clarify the process for making CINS/FINS court records available to the public, using similar language found in ch. 39, F.S. It would also expand who has the right to inspect and copy official court records to include the child’s guardian ad litem.

Jurisdiction

Sections 985.201 and 985.231, F.S., would be amended to clarify that the general jurisdiction of the court over a juvenile does not extend beyond the juvenile’s 19th birthday. Exceptions to this general jurisdiction would exist for juveniles in intensive residential treatment programs, serious or habitual juvenile offender programs, sex offender programs, and in high-risk or maximum-risk residential programs. The age of jurisdiction for these exceptions would be the juvenile’s 21st birthday, unless the juvenile needed time to complete a high-risk or maximum-risk commitment program and a conditional release program, in which case jurisdiction would extend until the age of 22.

Youth Custody Officer

Youth custody officers under s. 985.2075, F.S., would be authorized to arrest a juvenile who has escaped or absconded from supervision (if the officer has probable cause). The bill would also require the youth custody officer who takes a juvenile into custody and who has probable cause to believe that the juvenile committed a crime during or after taking the juvenile into custody, to file the appropriate petitions and gather evidence for prosecution.

Detention

The bill would amend ss. 985.213 and 985.215, F.S., to allow juveniles, at the court’s discretion, to appear at detention hearings by video teleconference rather than in person, which is currently the practice.

Violation of Probation

Section 985.231, F.S., would be amended to allow the DJJ to file an *affidavit*, rather than a *petition*, alleging that a juvenile has violated the conditions of supervision (only the prosecutor can file a petition). The bill would also clarify that the prosecutor will represent the state in any violation hearing.

Disposition Hearings

Section 985.231, F.S., would be amended to require the DJJ to report a committed juvenile's treatment plan progress to the court quarterly, rather than monthly. It would also allow juveniles, at the court's discretion, to appear at these hearings by video teleconference rather than in person, which is currently the practice.

Competitive Solicitation

The bill would amend s. 287.012(12), F.S., to include as an "eligible user," contracted provider organizations acting as agents for the DJJ while they are conducting business related solely to the provision of services to juveniles under ch. 984, F.S., and ch. 985, F.S. This change would authorize these private providers to enter into the state contracting process for buying commodities.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to estimates by the DJJ, the nonrecurring cost for implementing the telephone/video teleconferencing provisions in FY 2004/05 will be \$312,000. The recurring cost in FY 2004/05 will be \$187,200, and in FY 2005/06, it will be \$374,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Florida Supreme Court in *Amendment to Florida Rule of Juvenile Procedure 8.100(A)*, 796 So.2d 470 (Fla. 2001), declined to adopt a 1996 proposed change to Rule 8.100(a) to allow a judge to decide whether to conduct a detention hearing using audio-video devices rather than requiring the personal appearance of the juvenile. The Court initially authorized the chief judge in several circuits to try a one-year pilot program in which juveniles could participate in an audio-video detention hearing process. After receiving conflicting feedback from interested parties (no opportunity for meaningful private communications between the juvenile and parents, between the parents and public defender, or between the public defender at the detention center and the one in the courtroom vs. video hearings being more efficient and less costly), the Court repealed that rule as adopted on an interim basis in 1999. In a footnote, the Court stated that it was not giving up on the possibility of audio-visual hearings in the future that would not be harmful to juveniles. The Court referred this matter to the Children's Court Improvement Committee to determine whether common ground existed to draft a rule that would be in the best interests of juveniles. *Id.* at 476. To date, no such rule exists.

VIII. Amendments:

None.