

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.)

Prepared By: Justice Appropriations Committee

BILL: CS/SB 4-A

SPONSOR: Committee on Justice Appropriations and Senator Crist

SUBJECT: Juvenile Detention

DATE: December 15, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Heflin</u>	<u>Sadberry</u>	<u>JA</u>	<u>Fav/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

In the 2004 session the legislature enacted SB 2564, creating s. 985.2155, F.S., requiring joint financial participation of the state and counties in the provision of secure juvenile detention. The law has since been challenged in circuit court, and the court has ruled the law to be unconstitutional. This bill amends s. 985.2155, F.S., to remove the responsibility of the CFO to withhold funds from counties which refuse to pay their required share of cost of juvenile detention. The bill also removes language requiring other states to cover the cost of detaining juveniles who are not residents of the State of Florida. In addition, the bill adds language that counties are not responsible for the cost of nonmedical educational and therapeutic services delivered to juveniles in secure detention. The bill appropriates \$65.1 million of nonrecurring general revenue funds for FY 2004-2005 to the Department of Juvenile Justice to operate juvenile detention centers and restore money transferred from other appropriations or received from the counties to meet current operational costs. The bill reenacts, with amendments, the portion of the law requiring counties to pay for pre-adjudication detention and includes a legislative determination that it is a criminal law for the purpose of Section 18 of Article VII of the Florida Constitution. The bill delays the effective date of the current law until July 1, 2005.

This bill substantially amends section 985.2155 of the Florida Statutes.
This bill also amends chapter 2004-263, Laws of Florida.

II. Present Situation:

Current law requires each county to budget for the costs of pre-adjudication detention of juveniles who reside in that county. Counties are responsible for setting aside detention costs at the beginning of each fiscal year and making monthly payments to the state for those costs. The county can collaborate with the state to calculate the expenses by considering the previous fiscal year's costs. In collaboration with the counties, the Department of Juvenile Justice is responsible for publishing the costs which each county is responsible to pay. All revenues received from

counties for the cost of juvenile detention are deposited into the Department of Juvenile Justice's Grants and Donations Trust Fund. Reconciliation to account for differences between the estimated and actual numbers of juveniles detained occurs at the end of each fiscal year. The Department of Juvenile Justice is responsible for quarterly reviews to ensure that the counties are fulfilling their obligation for their share of cost for juvenile detention to the state. If it is determined that a county has failed to pay its share of cost, the Chief Financial Officer is required to withhold state funding, equal to the arrearage amount, from the county.

In the event that a juvenile who is not a Florida resident is detained, current law requires the state to coordinate with the juvenile's state of residency to collect the costs of detention for the period of time prior to final disposition. Furthermore, the state of Florida is required to bear full financial responsibility for the costs of detention if the residency of a juvenile cannot be determined.

Current law defines counties unable to account for the cost of juvenile detention due to the financial burden of such costs as "fiscally constrained counties" according to the definition in s. 288.0656, F.S., and requires the Department of Juvenile Justice to provide available funding to these counties to offset the cost of pre-adjudication detention care for juveniles. The Department is also required to forecast the financial responsibility of each financially constrained county.

The 2004-05 General Appropriations Act, Chapter 2004-268, Laws of Florida, includes a \$68.6 million appropriation to the Department of Juvenile Justice from its Grants and Donations Trust Fund. The revenues for that appropriation were anticipated to be received from the counties for their share of cost for pre-adjudication detention costs pursuant to s. 985.2155, F.S.

III. Effect of Proposed Changes:

Section 1. Amends subsections (3), (7), (9), (10), and (11) of section 985.2155, F.S., effective upon becoming law.

The amendment to subsection (3) removes the responsibility of the state to pay the cost of preadjudication secure detention and states that counties are not responsible for the costs of nonmedical educational or therapeutic services provided in secure detention.

The amendment to subsection (7) removes the responsibility of the Chief Financial Officer to withhold funds from counties that have not remitted payment for their share of cost for detention care for juveniles.

Subsection (9) is repealed to remove the responsibility of the state to negotiate with other states for the payment of costs of detaining juveniles who are not residents of the state of Florida.

Subsections (10) and (11) are renumbered as (9) and (10) respectively.

Section 2. Amends section 3 of Chapter 2004-263, Laws of Florida, to change the effective date of that law from October 1, 2004, to July 1, 2005.

Section 3. Appropriates a lump sum of \$65.1 million in nonrecurring general revenue to the Department of Juvenile Justice for FY 2004-2005 to operate juvenile detention centers and restore any funds transferred from other appropriations or received from the counties for current operational costs of juvenile detention centers.

Section 4. Requires the Governor to adjust the approved operating budget for the Department of Juvenile Justice to reverse the transfers of budget authority authorized in budget amendment EOG #0305 by January 15, 2005. This will restore funds that have been transferred from other programs in the Department of Juvenile Justice to provide temporary funds for detention.

Section 5. States that the legislature determines and declares that this act fulfills an important state interest.

Section 6. Provides an effective date.

The bill includes whereas clauses stating the legislature:

- Finds that county responsibility for detaining juveniles alleged to have committed delinquent acts should begin at referral and end at adjudication;
- Finds that using current residential sources to allow delinquent juveniles to be committed to less restrictive facilities should be further addressed;
- Acknowledges the need to address the discretion of judges in determining placements for delinquent juveniles; and
- Desires to clarify responsibilities of the counties and the state for juvenile delinquency

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

On November 12, 2004, the Circuit Court for the second judicial circuit found s. 985.2155, F.S., requiring counties to pay for juvenile detention, to be unconstitutional, violating the "mandate" provision of the Florida Constitution (Article VII, Section 18). The court found that the law does not meet any of the constitutional exemptions or exceptions and did not pass both houses of the Legislature by a 2/3 vote.

This bill amends that section of law; in particular it republishes in whole and amends subsection (3) of the current law, which states:

(3) Each county or the state shall pay the costs incurred by the county in providing detention care for juveniles for the period of time prior to final court disposition. The department shall develop an accounts payable system to allocate costs that are payable by the counties.

Because subsection (3) is the requirement for counties to expend funds, it is effectively the portion of the law that made the 2004 regular session bill a "mandate." If this special session bill passes each chamber by a 2/3 vote of the membership and if the Legislature determines that this bill fulfills an important state interest, the bill may meet the constitutional exception from the "mandates" provision on bills requiring counties to expend funds. Specifically, the Constitution provides:

SECTION 18. Laws requiring counties or municipalities to spend funds or limiting their ability to raise revenue or receive state tax revenue.—

(a) No county or municipality shall be bound by any general law requiring such county or municipality to spend funds . . . unless the legislature has determined that such

law fulfills an **important state interest** and unless . . . the law requiring such expenditure is **approved by two-thirds of the membership in each house** of the legislature . . .

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:

This legislation appropriates \$65,146,936 in nonrecurring general revenue funds to the Department of Juvenile Justice for FY 2004-05. This amount was estimated based on the anticipated cost of pre-adjudication detention of juveniles for the remainder of this fiscal year. The amount is appropriated to the Department of Juvenile Justice to operate juvenile detention centers for the remainder of FY 2004-05 to restore funds from other appropriations to meet current operational costs of juvenile detention centers, and to restore funds to those counties that paid for the cost of detention. Ten counties, including Brevard, Charlotte, Citrus, Collier, Marion, Nassau, Pasco, Sarasota, St. Johns, and St. Lucie, paid slightly more than \$1 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 958.2155(2)(a), F.S., defines “detention care” to mean “secure detention” for the purposes of county and state joint financial responsibility for the costs of juvenile detention. This bill excludes the costs of “preadjudicatory nonmedical educational or therapeutic services” from the counties’ responsibility, further limiting the current law. This exclusion of “preadjudicatory nonmedical educational or therapeutic services” does not affect the state’s current and continuing funding responsibility for pre-adjudication diversion programs for juveniles.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
