

# 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: Criminal Justice Committee

BILL: CS/SB 1738

SPONSOR: Criminal Justice Committee and Senator Wise

SUBJECT: Juvenile detention

DATE: April 21, 2005

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Dugger/Cellon	Cannon	CJ	Fav/CS
2.		JU	
3.		JA	
4.			
5.			
6.			

## I. Summary:

Committee Substitute for Senate Bill 1738 would remove from the Department of Juvenile Justice (DJJ) the responsibility of supervising a youth placed on home detention pending adjudication, disposition, or placement. Instead of the DJJ having this supervision responsibility, the youth's parent, guardian, or custodian would have it under the bill. Consequently, the parent would no longer be responsible, under the bill, for paying the \$1 a day fee to DJJ, formerly collected to help defray the cost of home detention.

The bill would also make electronic monitoring of youths placed on home detention permissive rather than mandatory. (According to the DJJ, electronic monitoring of youths on home detention is not currently funded under its budget.)

The bill provides for the court to hold a child for up to sixty days while the child awaits dispositional placement.

The bill also provides that the court may, regardless of the risk assessment, hold a child in secure detention under certain enumerated circumstances.

This bill substantially amends the following sections of the Florida Statutes: 985.03, 985.215, 985.231, and 985.2311.

## II. Present Situation:

Section 985.215, F.S., provides criteria for determining whether a youth taken into custody can be held in detention. To be detained, a youth must meet the statutory criteria, as well as reach a certain score on the risk assessment instrument, which is completed by a juvenile probation

officer (except that a youth may be put into secure detention for committing domestic violence or possessing or discharging a firearm on school property regardless of the risk assessment instrument results).

If a youth scores as a high risk to public safety, he or she may be placed in secure detention. If he or she scores as a low risk, he or she may be placed in nonsecure or home detention, or he or she may be released. If put in home detention, the youth is released to the custody of the parent, guardian, or custodian under the DJJ's supervision pending adjudication, disposition, or placement. If the court orders a more restrictive detention placement than the risk assessment instrument indicates, the court must give clear and convincing written reasons for so doing.

The following youths are eligible to be held in detention under the statutory criteria:

- A youth alleged to be an escapee or absconder from a commitment or probation program;
- A youth wanted in another jurisdiction for a felony offense;
- A youth requesting to be detained for his protection;
- A youth charged with committing domestic violence;
- A youth charged with possessing or discharging a firearm on school property;
- A youth charged with a capital felony, a life felony, a first degree felony, a second degree felony that does not involve a drug violation, or a violent third degree felony, including any such offense involving the use or possession of a firearm;
- A youth charged with a second or third degree felony drug offense or a non-violent third degree felony *and* the youth meets one of five additional "qualifiers" (has a record of failing to appear, has a record of prior violations, has been released pending commitment placement, has a record of violence, or is found to possess a firearm);
- A youth alleged to have violated the conditions of probation or conditional release supervision (in which case the youth may only be held in a consequence unit, if available, and if one is not available, home detention with electronic monitoring must be used); and
- A youth willfully fails to appear who has previously failed to appear at an adjudicatory hearing or failed to appear at two or more court hearings of any nature, regardless of the risk assessment instrument results (however, the youth may only be held up to 72 hours in advance of the next scheduled court hearing).

Following an entry of an adjudication order, the youth may remain in detention for up to 15 additional days, unless the court grants a continuance for cause upon motion of the youth 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 youth may be detained for varying time periods pending placement in a residential commitment program. Youths in home detention care or nonsecure detention care may be placed on electronic monitoring under s. 985.215(10)(a)2., F.S. A youth placed in home or nonsecure detention care with electronic monitoring, while awaiting placement in a low-risk or moderate-risk program, may be held in secure detention for 5 days, if there has been a violation. s. 985.215(10)(b), F.S.

In addition, if a youth violates probation or postcommitment probation, the court may place him or her on home detention with electronic monitoring under s. 985.231, F.S. (if a residential consequence unit is unavailable). According to the DJJ, electronic monitoring of youths on home detention is not funded under its budget.

### **III. Effect of Proposed Changes:**

Committee Substitute for Senate Bill 1738 would remove from the Department of Juvenile Justice (DJJ) the responsibility of supervising a youth placed on home detention pending adjudication, disposition, or placement. Instead of the DJJ having this supervision responsibility, the youth's parent, guardian, or custodian would have it under the bill. Thus, if a youth violated a home detention order, the parent, guardian, or custodian would become responsible for notifying the court.

The bill would also make electronic monitoring of youths placed on home detention permissive rather than mandatory, including juveniles who violate the conditions of probation or postcommitment probation. In other words, it would become optional, depending upon whether electronic monitoring was funded or not. (According to the DJJ, electronic monitoring of youths on home detention is not currently funded under its budget.)

The bill would allow a judge to hold youths in secure detention, regardless of the risk assessment instrument, if they are before the court on:

- Their third felony arrest
- Aggravated battery on a school board employee
- A charge where they endangered the public in the act of fleeing from lawful arrest

It also allows the judge to hold a youth who has previously failed to appear in the same case.

The bill also allows the court to hold a youth in secure detention, on the Court's own Motion, when the youth has been committed to a moderate-risk residential program, for up to 60 days, awaiting placement.

Finally, the bill would clarify that the youth's parents would not have to pay the cost-of-care fee while a youth is on home detention (\$1 per day.)

**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 the DJJ, the bill will result in no fiscal impact as far as the electronic monitoring portion of the bill is concerned, because electronic monitoring is not being funded currently. However, the counties and DJJ believe the costs for detention of youth provided for in the bill will be substantial.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

None.

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

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