

# 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.)

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Prepared By: Children and Families Committee

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BILL: CS/CS/SB 1978

SPONSOR: Children and Families Committee, Criminal Justice Committee and Senator Crist

SUBJECT: Juvenile Justice

DATE: April 11, 2005

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Collins</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/CS</u>
3.	_____	_____	<u>JA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The committee substitute for committee substitute for Senate Bill 1978 makes the following changes to ch. 985, F.S.:

- Classifies day treatment programs as a minimum-risk non-residential level of commitment, rather than a probation option (as they were before 2000);
- Creates a definition for the term “day treatment,” which provides that day treatment is available during probation, conditional release, or commitment to minimum-risk non-residential level and specifies the type of services that day treatment must include;
- Provides that the period of commitment for juveniles placed in the minimum-risk non-residential level may last up to six months for second degree misdemeanors;
- Requires parents to pay \$1 for each day that their child is in the minimum-risk non-residential level in conformity with current fee requirements for home detention and probation status;
- Allows juveniles committed to a high-risk residential program to have court approved temporary release providing up to 72 hours of community access for family emergencies and in the final 60 days of placement for specified purposes;
- Requires the Department of Juvenile Justice (DJJ) to report the juvenile’s treatment plan progress to the court quarterly, rather than monthly as now required, unless the court requests monthly reports;
- Requires the DJJ to reconvene the Task Force on Juvenile Sexual Offenders and their Victims to re-evaluate the laws, practices, and procedures for serving juvenile sex offenders and their victims;
- Requires the DJJ to establish a Task Force to study the feasibility of a certification system for juvenile justice provider staff;

- Allows the membership of juvenile justice county councils and circuit boards to consist of specified types of representation (rather than mandate it as does current law); and
- Updates several cross-references to conform with changes made by the bill.

This bill would substantially amend the following sections of the Florida Statutes: 985.03, 985.207, 985.208, 985.2311, 985.316, 985.4135, 784.075, 985.231, 985.31, and 985.3141. It would also create two unnumbered sections and repeal section 985.403, F.S.

## II. Present Situation:

In 2000, the Legislature passed CS/SB 1196 (ch. 2000-135, L.O.F.) which, among other things, prohibited community access for juveniles who were committed to a high-risk residential program. s. 985.03(45)(c), F.S. It also removed day treatment as a minimum-risk non-residential commitment program and, instead, made it a community-based option for juveniles who were put on probation. s. 985.03(43), F.S. Day treatment probation programs are for juveniles who are a minimum risk to themselves and the public and who do not require a residential placement. These programs include career programs, marine programs, juvenile justice alternative schools, training and rehabilitation programs, and gender-specific programs.

According to the DJJ, approximately \$13 million is spent each year on day treatment programs, including a 27-site contract with Associated Marine Institutes, three sex offender day treatment programs, and a few independent day treatment programs. Collectively, these contracts provide 1,123 day treatment slots. In most instances, day treatment programs serve the most serious juvenile offenders disposed to probation.

Section 985.2311(1), F.S., requires courts to order the parents of juveniles on home detention, probation, or other supervision status with the DJJ to pay \$1 for each day that he or she is in supervision status. The subsection also requires courts to order the parents of juveniles placed in secure detention or in commitment to pay \$5 for each day that he or she is in the temporary legal custody of the DJJ.

The DJJ provides a certification and training program for its department employees who are juvenile detention officers, probation officers, and residential commitment direct care staff. Contracted providers do not have a similar certification program for employees. All DJJ and provider staff receive a level 2 background screening check (employment history checks, fingerprint-based state and federal criminal record checks, and local criminal record checks).

Section 985.403, F.S., provides for the Task Force on Juvenile Sexual Offenders and their Victims. The section states that the duties of the task force include:

- Recommending standards for specially licensed professionals to work with juvenile sexual offenders and their victims and for certifying programs for the treatment of juvenile sexual offenders and their victims;
- Making recommendations regarding the use of Medicaid;
- Establishing training requirements and curricula for investigators, prosecutors, and judges;
- Assisting communities in establishing community networks;

- Providing an avenue for public awareness regarding the issue of juvenile sexually offending behavior;
- Recommending funding sources for services to be provided;
- Recommending quality assurance standards and outcome measures; and
- Recommending statutory changes to facilitate prosecution of juvenile sexual offender cases.

Representatives of the DJJ have indicated that the task force has not met in more than five years. Further, this task force has been in statute without being reenacted in excess of three years, which is the time limit imposed on statutory task forces under s. 20.03(8), F.S.

### III. Effect of Proposed Changes:

The committee substitute for committee substitute Senate Bill 1978 would create the following definition of “day treatment:”

. . . a non-residential, community-based program designed to provide therapeutic intervention to youth who are placed on probation or conditional release or are committed to the minimum-risk non-residential level. A day treatment program may provide educational and vocational services and shall provide case management services; individual, group, and family counseling; training designed to address delinquency risk factors; and monitoring of a youth’s compliance with, and facilitation of a youth’s completion of, sanctions if ordered by the court. Program types may include, but are not limited to, career programs, marine programs, juvenile justice alternative schools, training and rehabilitation programs, and gender-specific programs.

Further, in newly renumbered s. 985.03(46), F.S., the bill would reinstate the minimum-risk non-residential restrictiveness level that was repealed by the Legislature in 2000. Under the bill, this level would be defined as:

Minimum-risk non-residential.—Programs or program models at this commitment level work with youth who remain in the community and participate at least five days per week in a day treatment program. Youth assessed and classified for programs at this commitment level represent a minimum risk to themselves and public safety and do not require placement and services in residential settings. Youth in this level have full access to, and reside in, the community. Youth who have been found to have committed delinquent acts that involve firearms, delinquent acts that are sexual offenses, or delinquent acts that would be life felonies or first degree felonies if committed by an adult shall not be committed to a program at this level.

In addition, the bill would amend ss. 985.231(1)(a)d.3, and (1)(d), F.S., as follows: (a) strike the term “residential commitment” to authorize a court to commit an adjudicated delinquent juvenile to any restrictiveness level whether residential or non-residential; and (b) specify that minimum-risk commitments for second degree misdemeanors may last up to six months. (This six month time frame is identical to the time frame permitted for probation imposed for a second degree misdemeanor under s. 985.231(1)(a)1.a., F.S.)

The practical effects of the bill's creation of the "day treatment" definition and its reinstatement of the minimum-risk non-residential restrictiveness level are: (a) the court will have a non-residential, day treatment commitment option when disposing of a juvenile's case (currently only ones on probation or in conditional release may be placed in a day treatment program); and (b) the DJJ will be able, pursuant to s. 985.404(4), F.S., to transfer a juvenile placed in a minimum-risk day treatment program to a residential commitment program. Proponents of reinstating minimum-risk state that such transfer authority will enable DJJ to provide immediate consequences, i.e., transfer to a higher restrictiveness level for committed juveniles who fail to satisfactorily progress in day treatment. (Currently, juveniles who fail to satisfactorily progress in probation day treatment may only be moved to commitment after the court holds a hearing, finds a violation of probation, and orders commitment.)

The bill would allow juveniles committed to a high-risk residential program to have temporary release for up to 72 hours of community access for family emergencies and in the final 60 days of placement. Upon court approval, the juvenile could participate in home visits for school or vocational program enrollment, job interviews, visits to transition back into the family, and community service projects. s. 985.03(48), F.S.

The DJJ would be required to report the juvenile's treatment plan progress to the court quarterly, rather than monthly as now required, unless the court requests monthly reports. s. 985.231, F.S.

The bill would amend s. 985.2311(1)(a), F.S., to require courts to order parents of juveniles committed to the minimum-risk level to pay \$1 per day that the juvenile is in such status. This same requirement exists in current law for home detention and probation.

The bill would repeal the Task Force on Juvenile Sexual Offenders and their Victims established in s. 985.403, F.S., as this task force no longer meets and has been in statute without being reenacted in excess of three years, which is the time limit imposed on statutory task forces under s. 20.03(8), F.S.

The bill would reestablish this task force in an undesignated section of law. Under the bill, the DJJ must provide administrative support to the task force, and the Secretary of the DJJ or his or her designee would be required to appoint up to twelve members to the task force. Nine of the members must consist of the following representation: a circuit court judge, state attorney, and public defender, who each have at least one year's experience in the juvenile division; one representative of the DJJ; two representatives of providers of juvenile sexual offender services; one member of the Florida Juvenile Justice Association; one member of the Florida Association for the Treatment of Sexual Abusers; and one victim of a juvenile sex offense.

The bill would also require the task force to make findings that include, but are not limited to: a profile of this state's juvenile sex offenders and of dispositions received; identification of statutes that address these offenders; identification of community-based and commitment programming available for these offenders and of such programming's effectiveness; the appropriateness and rehabilitative efficacy of placing these offenders in residential commitment programs; and identification of qualifications required for staff who serve these offenders. The bill further requires the task force, based on its findings, to make recommendations for how the state's laws,

policies, programs, and funding for juvenile sexual offenders may be improved. These findings and recommendations must be reported to the Governor and Legislature by December 1, 2005.

The bill would also create an undesignated section of law requiring the DJJ to establish, and provide administrative support to, a task force to study the certification of juvenile justice provider staff. The Secretary of the DJJ or his or her designee would be required to appoint up to twelve members to the task force. Eight of the members must consist of the following representation: two representatives of the DJJ; two representatives of providers of juvenile justice services; two members of the Florida Juvenile Justice Association; two provider employees who provide direct care services; and two representatives of the Florida Certification Board.

The bill would require the task force to consider, and make recommendations concerning the occupational levels of staff subject to certification, the criteria that may be used to certify staff, the levels of certification, and a process for testing and validating the effectiveness of any recommended staff certification system. Additionally, the task force would be required to make findings regarding the benefits of a staff certification system for this state's juvenile justice programming and the cost to implement such a system. These findings and recommendations must be reported to the Governor and Legislature by January 1, 2006.

The bill would prohibit task force members from receiving salaries or travel and per diem expenses, and would specify that the task force is dissolved upon submission of its report.

The bill would also amend s. 985.4135(10), F.S., to allow the membership of juvenile justice county councils and circuit boards to consist of specified types of representation. (Currently, this is mandated.) Members of the councils and boards have indicated that it is sometimes impossible to find persons meeting the required representation criteria who are willing to become members.

Finally, several cross-references would be updated to conform with changes made by the bill.

#### **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:**

Day treatment program providers may receive an indeterminate increased number of delinquent juveniles referrals if courts begin selecting the minimum-risk non-residential level of commitment reinstated by the bill, rather than a higher risk residential commitment level. In turn, residential program providers may realize an indeterminate decrease in the number of juveniles referred to their programs.

**C. Government Sector Impact:**

The bill's reinstatement of the minimum-risk non-residential commitment level may result in the DJJ realizing an indeterminate cost savings if courts place youth in the minimum-risk level who otherwise would have been placed in the low-risk residential level. Representatives of the DJJ have indicated that the per diem for day treatment programs is approximately \$27 to \$45, whereas the per diem for low-risk residential is approximately \$78 to \$85.

The bill's creation of two task forces will not generate costs for the salary, travel, or per diem of members as such payments are prohibited by the bill. The DJJ estimates that it will cost \$800 to provide administrative support to the two task forces.

**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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