

# 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: Criminal Justice Committee

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BILL: CS/SB 646

SPONSOR: Criminal Justice Committee and Senator Campbell

SUBJECT: Juvenile Offenders

DATE: March 22, 2005

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cannon	CJ	Fav/CS
2.	_____	_____	JA	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This committee substitute amends s. 958.045, F.S., to clarify that a youthful offender who completes basic training and then violates probation may be sentenced to any of the four options that were originally available to the sentencing court and not simply a limited 364 day sentence. Although courts have conceded that it was probably not the intention of the Legislature, a reading of ss. 958.04(2) and 958.045(5)(c) F.S., together has been construed to limit to 364 days the period of incarceration that may be imposed on a probation violator who has completed basic training. This legislation seeks to remedy that incongruity.

Sections 958.045 and 958.11, F.S., currently contain language and references to positions that are now obsolete. The committee substitute seeks to replace specific references to outdated titles with the phrase “the department.”

The committee substitute amends sections 958.045 and 958.11, Florida Statutes.

## II. Present Situation:

Chapter 958, F.S., the Youthful Offender Act, is designed to provide a sentencing alternative for an offender who: (1) is at least 18 years old or is being prosecuted as an adult, (2) is found guilty or who has pled to a felony which was committed before his or her 21st birthday, and (3) has not been previously classified as a youthful offender or found guilty of a capital or life felony. The Youthful Offender Act is designed to provide a rehabilitative sentencing alternative to young people that will increase their chances of returning to society by providing them with enhanced skills while preventing their association with older and more experienced criminals while confined.

If a person is classified as a youthful offender there are only four dispositions available to the sentencing court: probation or community control; incarceration that does not exceed 364 days as a condition of probation or community control; a split sentence which allows incarceration followed by probation or community control; or commitment to the custody of the department.

Under s. 958.045, F.S., the department is required to provide a rigorous basic training program for youthful offenders which must last at least 120 days. If an offender successfully completes this program, the court must modify the sentence imposed and place the offender on probation. If the offender violates the conditions of probation, then the court, pursuant to s. 958.045(5)(c), F.S., may "... revoke probation and impose any sentence that it might have originally imposed as a condition of probation." However, s. 958.04(2)(b) F.S., provides that one of the sentencing options that a court may originally impose is "...a period of incarceration as a condition of probation..." for up to 364 days. In trying to interpret this confusing language of s. 958.045, F.S., the Third District Court of Appeals has concluded in *Blaxton v. State*, 868 So.2d 620, 621 (Fla. 2004) that:

The language of section 958.045(5)(c) may warrant further review by the legislature. We doubt that the legislature actually intended the result this language has created.

According to the Department of Corrections, approximately 200 inmates successfully complete the basic training program each year and are released on supervision. Of these 200 inmates who successfully complete the program, 22 percent violate the conditions of their supervision and receive a county jail sanction.

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

This committee substitute amends s. 958.045(2), F.S., to expand the notice provision for state attorneys. Currently the department does not notify the state attorney when the department seeks court approval to place an offender into the basic training program who has been designated as a youthful offender by the sentencing court. This language specifies that the department must notify the state attorney when a court declared or department designated youthful offender is recommended for basic training.

Section 958.045(5)(c), F.S., is amended to remove the phrase "as a condition of probation." This change will permit the court to sentence a youthful offender who has violated probation after successfully completing basic training to any of the four dispositions originally available to the sentencing court.

Section 958.045, F.S., and s. 958.11, F.S., are amended to delete obsolete references and terms and to substitute the phrase "department."

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

This clarification in the statute might raise ex post facto issues for inmates who are arguably disadvantaged by receiving longer sentences for violations of probation.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference met on March 18 to consider the impact this legislation would have. They determined that this committee substitute would have a state prison impact. Specifically, they found the fiscal impact to be indeterminate, but minimal. This legislation might result in more probation violators being sentenced to longer sentences which would be served in prison rather than jail. Accordingly, prisons would experience an increase in their populations while jails might experience a decrease.

**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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