

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 1454

INTRODUCER: Criminal Justice Committee and Senator Wise

SUBJECT: Juvenile Sex Offenders

DATE: March 30, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>JA</u>	_____
4.	_____	_____	<u>WM</u>	_____
5.	_____	_____	<u>RC</u>	_____
6.	_____	_____	_____	_____

I. Summary:

The bill implements selected recommendations made by the Task Force on Juvenile Sexual Offenders and their Victims (Task Force) in its January 2006 final report to the Governor and Legislature. Specifically, the bill:

- Requires courts to order and consider the results and recommendations of psychosexual evaluations of all juvenile sexual offenders (current law is discretionary, subject to appropriation).
- Specifies more comprehensive requirements for psychosexual evaluations than those provided in current law (e.g., the evaluation must address the juvenile's substance abuse and mental health history and include an intellectual, personality, trauma, and physiological assessment).
- Requires that psychosexual evaluations be conducted by statutorily certified juvenile sexual offender therapists (current law specifies that such evaluations may be conducted by psychologists, therapists, or psychiatrists).
- Recreates the Task Force so that it may continue its review of the state's juvenile sexual offender laws and submit a second report that discusses each state law addressing juvenile sexual offenders, identifies specific statutory criteria that must be met before a juvenile sexual offender can be classified and placed, and provides a comprehensive plan for implementation of its recommendations.

II. Present Situation:

Currently, s. 985.03(32), F.S., defines a juvenile sexual offender as a juvenile who has been found to have committed a violation of any of the following laws:

- Ch. 794, F.S., proscribing sexual battery.
- Ch. 796, F.S., proscribing prostitution.
- Ch. 800, F.S., proscribing lewdness and indecent exposure.
- S. 827.071, F.S., proscribing sexual performance by a child.
- S. 847.0133, F.S., proscribing the provision of obscenity to minors.
- Any felony violation of law or delinquent act involving juvenile sexual abuse, which means any sexual behavior¹ that occurs without consent, without equality, or as a result of coercion.

After an adjudicatory hearing for a juvenile sexual offender, the court may either: (1) treat the offender as it would any other juvenile found to have committed a delinquent act (withhold adjudication and place the offender on probation or adjudicate the offender and impose probation or commitment²); or (2) treat the offender as a juvenile sexual offender. Under the second option, the court, subject to specific appropriation, may:

- Order an examination of the juvenile sexual offender by a psychologist, therapist, or psychiatrist, if the offender has no recent history of a comprehensive assessment focused on sexually deviant behavior.³ The report of this exam must include: (a) the offender's account of the incident and the official report of the investigation; (b) the offender's offense history; (c) a multidisciplinary assessment of the offender's sexually deviant behaviors by a psychologist, therapist, or psychiatrist; (d) an assessment of the offender's family, social, educational, and employment situation; and (e) an assessment of the offender's amenability to treatment and relative risk to the victim and community.⁴
- Impose a juvenile sexual offender community-based treatment alternative disposition. In order to utilize this alternative disposition, the court must first consider: (a) a proposed plan of the community-based treatment from the DJJ; (b) whether the offender and community will benefit from imposition of community-based treatment; and (c) the victim's or victim's family's opinion of whether the offender should receive community-based treatment. Upon finding that a community-based alternative disposition is appropriate, the court may place the offender on community supervision for up to three years and impose conditions that require the offender to: (a) undergo outpatient juvenile sexual offender treatment; (b) remain within prescribed geographical boundaries; and (c) comply with all requirements of the treatment plan. If the offender violates any condition or if the court finds that the juvenile is failing to make satisfactory progress in treatment,

¹ The subsection further states that, "Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts." s. 985.03(32), F.S.

² ss. 985.228 and 985.231, F.S.

³ s. 985.231(3), F.S.

⁴ s. 985.231(3)(a) and (b), F.S.

the court may revoke the community-based treatment alternative and commit the offender to the DJJ.⁵

- Commit the juvenile sexual offender to the DJJ for placement in a juvenile sexual offender commitment program under s. 985.308, F.S. This section authorizes the DJJ, subject to appropriation, to operate or contract for juvenile sexual offender commitment programs, which must include educational components, life management training, substance abuse treatment, and intensive psychological treatment.

2005 Task Force on Juvenile Sexual Offenders and their Victims: During the 2005 Regular Session, the Legislature enacted ch. 2005-263, L.O.F., which created the Task Force on Juvenile Sexual Offenders and their Victims (Task Force). The law directed the Governor to appoint up to 12 members to the Task Force, who were to include, but were not limited to: a circuit court judge with at least 1 year's experience in the juvenile division, a state attorney with at least 1 year's experience in the juvenile division, a public defender with at least 1 year's experience in the juvenile division, one representative of the Department of Juvenile Justice, 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 sexual offense. The Governor made appointments satisfying these requirements, except that the Task Force was unsuccessful in finding a member who was a victim of a juvenile sexual offense.⁶

The law directed the Task Force to make findings and recommendations as follows:

- Findings that included, but were not limited to: identification of statutes that address juvenile sexual offenders; a profile of the acts committed by each juvenile placed in juvenile sexual offender programming in this state between July 2000 and June 2005 and an assessment of the appropriateness of those placements based upon the acts committed; identification of community-based and residential commitment programming available for juvenile sexual offenders and an assessment of such programming's effectiveness; and identification of qualifications required for staff who serve juvenile sexual offenders.
- Recommendations that included, but were not limited to: suggestions for the improvement of the state's laws, policies, programs, and funding for juvenile sexual offenders; and identification of criteria that should be satisfied prior to placement of a juvenile in juvenile sexual offender programming.

The Task Force held five meetings and a series of conference calls in 2005 to execute its duties, and issued a final report of its findings and recommendations on January 18, 2006. This report contained 18 findings with numerous related recommendations in the areas of: (1) Response to Victims; (2) Prevention and Awareness; (3) Evaluation and Assessment; (4) Treatment and Supervision; (5) Legal Issues; and (6) Interagency Collaboration.⁷

⁵ s. 985.231(3), F.S.

⁶ *Juvenile Sexual Offenders and Their Victims: Final Report*, Task Force on Juvenile Sexual Offenders and their Victims, January 18, 2006, p. 5.

⁷ *Id.* at 19-38.

The Task Force report identified its priority recommendations as follows:

- The Legislature should:
 - Reinststate the \$2.4 million that was cut from the community-based sexual offender treatment budget in 2000, in order to make such treatment available in each judicial circuit.
 - Fund a Sexual Abuse Intervention Network in each judicial circuit at an annual cost of \$100,000 per circuit.
 - Require and fund comprehensive psychosexual evaluations by qualified sexual offender practitioners for all juvenile sexual offenders.
 - Amend ch. 985, F.S., to change the term “Juvenile Sexual Offender” to “Juveniles with Sexual Behavioral Problems.”
 - Fund long-term counseling services for sexual abuse victims under 18 years of age.
- The DJJ should only contract with qualified sexual offender practitioners for the conduct of psychosexual evaluations.
- The Secretary of the DJJ should appoint a workgroup to study and make recommendations regarding the reallocation of juvenile sexual offender treatment resources from high-risk residential programs to lower risk residential or community-based programs.⁸

Additionally, Task Force representatives indicated during the presentation on its report at the House Juvenile Justice Committee meeting on February 8, 2006, that the Task Force should be recreated in 2006, as it did not have sufficient time in 2005 to thoroughly complete the duties required by ch. 2005-263, L.O.F. For example, the Task Force was unable to identify and review all laws applicable to juvenile sexual offenders and to make detailed findings and recommendations regarding the criteria that should be satisfied prior to placement in juvenile sexual offender programming.

III. Effect of Proposed Changes:

The bill implements selected recommendations made by the Task Force as follows:

Section 985.03, F.S., is amended to define the following terms:

- “Psychosexual evaluation,” to mean an evaluation by a qualified sexual offender practitioner, which addresses, at a minimum, a juvenile sexual offender’s: (a) account of the incident and the official report of the investigation; (b) sexual development and sexual delinquency history and treatment; (c) behavioral and delinquency history; (d) substance abuse and mental health history and treatment; (e) intellectual, personality, trauma assessment; (f) physiological assessment if appropriate (g) family, social, educational, and employment situation; (h) risk for committing a future act of sexual

⁸ *Id.* at 3.

delinquency or physical harm to himself, herself, the victim, or other persons; (i) culpability assessment; (j) diagnosis; and (k) amenability to treatment, including treatment recommendations specific to his or her needs.

- “Qualified Sexual Offender Practitioner” to mean a professional who is eligible to practice juvenile sexual offender therapy under s. 490.0145 or s. 491.0144,⁹ and who: (a) possesses at least at least 55 hours of post-graduate degree continuing education courses in one or more specified areas¹⁰ and at least 2000 hours of post-graduate degree supervised practice in the evaluation and treatment of persons who have committed sexually delinquent acts; or (b) is directly supervised by a juvenile sexual offender therapist who satisfies the enumerated education and practice requirements.

Sections 985.229 and 985.23(2), F.S., are amended to require the court to order the DJJ to conduct or arrange for a psychosexual evaluation of a juvenile sexual offender. Further, the bill specifies that the results and recommendations of the psychosexual evaluation are to be provided to the court in the offender’s predisposition report (PDR), if a PDR is completed, or in writing at least 48 hours prior to the disposition hearing, if a PDR is not completed.

Section 985.231(3), F.S.,¹¹ is amended to require a court to consider a juvenile sexual offender’s psychosexual evaluation prior to imposition of a community-based juvenile sexual offender treatment program. It also repeals current law’s description of a comprehensive assessment focused on sexual deviancy, given the more comprehensive definition of “psychosexual evaluation” added by the bill to the chapter’s definition section.

In addition, the bill recreates the Task Force on Juvenile Sexual Offenders and their Victims for the period of August 1, 2006, until January 1, 2007, in order to permit it to continue its review of the state’s juvenile sexual offender laws. The bill requires the 2006 Task Force to consist of the same membership required for the 2005 Task Force, as described above, except that one member must be a victim advocate, rather than a victim of a juvenile sexual offender.

The bill requires the 2006 Task Force to do the following:

⁹ Under ss. 490.0145 and 490.0144, F.S., only a person who is licensed as a psychologist, clinical social worker, marriage and family therapist, or mental health counselor and who possesses education and training requirements specified in rule may practice juvenile sex offender therapy. *See* Rule 64B19-18.0025 (requiring the following for psychologists: coursework or training in child behavior and development, child psychopathology, and child assessment and treatment and 30 hours training in juvenile sex offender assessment and treatment); and Rule 64B4-7.007 (requiring the following for clinical social workers, marriage and family therapists, or mental health counselors: education and training in child development and psychopathology, developmental sexuality, interaction between sexuality, sexual arousal patterns, sexual dysfunctions, disorders, and deviancy, victim empathy, use/misuse of defense mechanisms, compulsivity management, social resilience, group therapy, and legal, ethical, and forensic issues in juvenile sexual offender treatment, and 20 hours of continuing education every two years in the aforementioned subjects).

¹⁰ The areas of continuing education specified by the bill are: DSM-IV diagnoses related to sexual offenders; etiology of sexual deviance; science-based sexually delinquent evaluation and risk assessment and treatment techniques; use of plethysmographs, visual reaction time, and polygraphs in the evaluation, treatment, and monitoring of juveniles who have committed sexually delinquent acts; evaluation and treatment of special populations; or legal and ethical issues in the evaluation and treatment of juveniles who have committed sexually delinquent acts.

¹¹ The bill also makes technical changes to s. 985.231(3), F.S., so that: (a) the terms, “community-based juvenile sexual offender treatment program” and “offender” are consistently used; and (b) the obsolete term “community supervision” is replaced by the current term “probation.”

- Review the findings and recommendations contained in the reports of the 1995 Task Force on Juvenile Sex Offenders and Victims of Juvenile Sexual Abuse and Crimes and of the 2005 Task Force¹² and to identify each recommendation that has not yet been implemented.
- Determine which recommendations remain appropriate for implementation and make additional recommendations, if warranted, for the improvement of the state's laws, policies, programs, and funding for juvenile sexual offenders.
- Submit a report to the Governor and Legislature by January 1, 2007, that discusses each state law addressing juvenile sexual offenders, identifies specific statutory criteria that should be satisfied before a juvenile is classified as a sexual offender or placed in sexual offender programming, and sets forth a comprehensive plan for implementation of the Task Force's recommendations.

Finally, the bill requires the DJJ to provide administrative support for the 2006 Task Force and states that Task Force members shall be entitled to reimbursement for travel and per diem expenses under s. 112.061, F.S.

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:

Based upon data set forth in the Task Force's report, the estimated fiscal impact for the psychosexual evaluations required by this bill is \$530,000. This figure is based upon a cost of \$1200 per evaluation multiplied by 696 (the number of youth found to have

¹² The 2005 Task Force report set forth the recommendations of the 1995 Task Force in Appendix II. *Id.* at 43-48.

committed felony and misdemeanor sexual delinquency crimes in Fiscal Year 2004-2005) less \$304,500 (the amount that the DJJ had available for juvenile sexual offender evaluations in Fiscal Year 2004-2005).

The bill authorizes members of the Task Force on Juvenile Sexual Offenders and their Victims to receive reimbursement from the DJJ for travel and per diem expenses. Data on the fiscal impact of this authorization has been requested from the DJJ.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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