

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1457 CS
SPONSOR(S): Lopez-Cantera
TIED BILLS:

Youth Custody Officers
IDEN./SIM. BILLS: SB 1398

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|-----------------------|--------------------|--------------------|
| 1) <u>Juvenile Justice Committee</u> | <u>5 Y, 0 N, w/CS</u> | <u>White</u> | <u>White</u> |
| 2) <u>Criminal Justice Appropriations Committee</u> | <u>5 Y, 0 N</u> | <u>DeBeaugrine</u> | <u>DeBeaugrine</u> |
| 3) <u>Justice Council</u> | <u>9 Y, 0 N</u> | <u>White</u> | <u>De La Paz</u> |
| 4) _____ | _____ | _____ | _____ |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

Under current law, a youth custody officer's (YCO's) powers are limited to taking juveniles into custody when the YCO has probable cause to believe that a juvenile has violated conditions of probation, home detention, conditional release, or postcommitment probation, or has failed to appear in court. Thus, if a YCO witnesses any other type of unlawful activity, whether committed by a juvenile in his or her custody or by any other person, the YCO must call a local law enforcement officer (LEO) to address the situation.

The bill amends current law to specify that the aforementioned powers represent the primary duties of a YCO and adds that a YCO, while in the performance of his or her duties, has statewide jurisdiction and the same authority and powers granted to LEOs, except that a YCO may not exercise any authority under the state's uniform traffic control code. Accordingly, under the bill, a YCO may address unlawful activity, other than traffic violations, without contacting a local LEO.

The bill also requires YCOs to be certified as LEOs under ch. 943, F.S.; whereas, under current law, YCOs may also be certified as correctional or correctional probation officers. This change has little practical effect on current practice. According to the Department of Juvenile Justice, all YCOs presently employed are certified as LEOs.

The DJJ states that this bill has no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill expands Youth Custody Officer (YCO) authority by providing that a YCO, while in the performance of his or her duties, has statewide jurisdiction and the same authority and powers granted to law enforcement officers, except that a YCO may not exercise any authority under the state's uniform traffic control code.

B. EFFECT OF PROPOSED CHANGES:

Youth Custody Officers: Section 985.2075, F.S., creates the position of YCO within the Department of Juvenile Justice (DJJ). Subsection (1) authorizes a YCO to take a juvenile into custody if he or she has probable cause to believe that the juvenile has:

- Violated conditions of probation, home detention, conditional release, or postcommitment probation; or
- Failed to appear in court after receiving proper notice.

These are the **only** circumstances under which a YCO is statutorily authorized to take a juvenile into custody. Thus, if a juvenile commits a misdemeanor or felony offense in the officer's presence, he or she may not take the juvenile into custody for the offense or investigate the offense; instead, the YCO must call a law enforcement officer (LEO) from the local jurisdiction to take the juvenile into custody and to conduct the investigation.

Under s. 985.2075(2), F.S., a YCO must:

- Meet minimum qualifications for employment or appointment;
- Be certified under ch. 943, F.S., which provides for correctional, correctional probation, and law enforcement officer certifications; and
- Comply with the continued employment requirements under s. 943.135, F.S., which addresses the continued employment of correctional, correctional probation, and law enforcement officers.

According to data provided by the DJJ, there are 16 YCO positions assigned to nine judicial circuits (the 1st, 4th, 6th, 9th, 11th, 13th, 15th, 17th, and 18th Judicial Circuits). Three of these positions are not presently filled. During Fiscal Year 2004-05, YCOs apprehended 3,801 juveniles, which resulted in the closure of 4,596 cases.

Effect of bill: As discussed above, s. 985.2075, F.S., currently limits a YCO's authority to taking juveniles into custody for probation, home detention, conditional release, or postcommitment probation violations and for failing to appear in court. The bill amends this section to add that a YCO, while in the performance of his or her duties:

- *May file criminal charges and gather evidence for prosecution where the officer has probable cause to believe that a youth, who he or she has taken into custody, has committed violations of criminal law.*
- *Has statewide jurisdiction.*
- *Has the same authority and powers granted to law enforcement officers by law, including the authority to make arrest under ch. 901, F.S.,¹ carry firearms, serve court process, and seize*

¹ Chapter 901, F.S., sets forth Florida's law relating to arrests, including an officer's power to conduct warrantless arrests, "stop and frisk" a person, break into a building, and conduct searches of persons. See, e.g., Section 901.15, F.S. (authorizing an officer to make warrantless arrests under specified circumstances); Section 901.151, F.S. (specifying when an officer may detain a person and search

contraband and the proceeds of illegal activities, except that the YCO may not exercise any power or duty authorized under ch. 316, F.S.,² or in s. 901.15, F.S which deal with traffic infractions.³

Finally, the bill requires YCOs to be certified as LEOs under ch. 943, F.S.; whereas, under current law, YCOs may also be certified as correctional or correctional probation officers. This change has little practical effect on current practice. According to DJJ, all YCOs presently employed are certified as LEOs..

The bill takes effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1. Amends s. 985.2075, F.S., to expand YCO authority to that of a law enforcement officer when the YCO is the performance of his or her duties and to require YCOs to be certified as LEOs.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The DJJ states that this bill will have no fiscal impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may generate an indeterminate cost savings to local law enforcement agencies to the extent that the bill's expansion of YCO powers results in fewer calls to local law enforcement.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

the person for a weapon); Section 901.19, F.S. (specifying when an officer may use necessary and reasonable force to enter a building or property to make an arrest); Section 901.21, F.S. (specifying requirements applicable to the search of an arrested person and surrounding area); and Section 901.211, F.S. (specifying requirements applicable to strip searches of arrested persons).

² Ch. 301, F.S., is this state's uniform traffic control code, which sets forth traffic offenses and provides for enforcement by specified law enforcement agencies in s. 316.640, F.S.

³ Section 901.15(5), F.S., addresses the authority of LEOs to make warrantless arrests subsequent to traffic violations.

STORAGE NAME: h1457e.JC.doc
DATE: 4/11/2006

PAGE: 3

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006, the Juvenile Justice Committee adopted a committee substitute that: (1) provides that YCOs may only exercise law enforcement powers while in the performance of their duties; (2) prohibits YCOs from exercising authority under the state's uniform traffic control code; (3) requires YCOs to be certified as LEOs under ch. 943, F.S.; and (4) reinstates existing law that requires YCOs to inform local law enforcement agencies of their activities.