

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 4157 Juvenile Justice
SPONSOR(S): Criminal Justice Subcommittee; Thurston
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 618

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	15 Y, 0 N, As CS	Williams	Cunningham
2) Judiciary Committee			

SUMMARY ANALYSIS

HB 4157 repeals and amends numerous sections of ch. 985, F.S., to remove obsolete language and to more accurately reflect current practices of the Department of Juvenile Justice (DJJ). Specifically the bill:

- Repeals the definition of “serious or habitual juvenile offender program” (SHOP) in s. 985.03(48), F.S., the legislative intent language relating to SHOP in s. 985.02(5), F.S., the statute implementing this program in s. 985.47, F.S., and references to juvenile placement in SHOPS in ss. 985.14 and 985.441, F.S.
- Repeals two statutes implementing the intensive residential treatment program for offenders under 13 years of age (JR.SHOP) in ss. 985.483 and 985.486, F.S.
- Deletes references in s. 985.494, F.S., to the SHOPS, JR. SHOPS, the early delinquency intervention program, and the STAR programs and provides that a child adjudicated delinquent for committing a felony must complete two different high risk residential commitment programs as a prerequisite to being placed in a maximum risk residential program.
- Repeals s. 985.445, F.S., relating to cases involving grand theft of a motor vehicle, to delete the obsolete references to the sheriff’s training and respect program.
- Repeals the definition of “training school” from s. 985.03, F.S.
- Repeals s. 985.636, F.S., which authorizes the Secretary of the DJJ to designate inspectors holding a law enforcement certification as law enforcement officers within the Inspector General’s Office.
- Amends ss. 985.48 and 985.66, F.S., to delete obsolete references to the Juvenile Justice Standards and Training Commission, and to authorize the DJJ to continue providing staff development and training to department program staff.

DJJ has reported that this bill will have no fiscal impact to the department.

The effective date of the bill is July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

CS/HB 4157 repeals and amends numerous sections of ch. 985, F.S., to remove obsolete language and to more accurately reflect current practices of the Department of Juvenile Justice (DJJ or department). The specific provisions which the bill repeals and amends are as follows:

Serious or Habitual Juvenile Offender Program (SHOP) and Sheriff's Training and Respect (STAR) Program

SHOPs are residential treatment programs for serious or habitual juvenile offenders that were established in the 1990's. Section 985.03(48), F.S., defines SHOP as the program created in s. 985.47, F.S.¹ Section 985.47, F.S., specifies the requirements of a SHOP program. Moreover, legislative intent language relating to SHOP exists in s. 985.02(5), F.S.² Similarly, ss. 985.483 and 985.486, F.S., implement JR.SHOPs, the intensive residential treatment program for offenders under 13 years of age. According to DJJ, SHOPs have a long history of being underutilized.³

Section 985.14, F.S., requires DJJ's intake and case management system to facilitate consistency in the recommended placement, assessment, classification, and placement process of each child. The process for a serious or habitual delinquent child must include the assessment for placement in a SHOP.⁴

Section 985.441, F.S., authorizes a court that has jurisdiction of an adjudicated delinquent child to, by an order stating the facts upon which a determination of a sanction and rehabilitative program is made at a disposition hearing, commit the child to the DJJ for placement in a SHOP.

In 2006, the legislature passed HB 5019, creating to Martin Lee Anderson Act of 2006.⁵ This bill repealed s. 985.309, F.S., which authorized boot camps for juvenile offenders and created s. 985.3091, F.S., which authorized a county or municipal law enforcement agency, under contract with DJJ, to implement and operate a STAR program. The purposes of these programs were to provide intensive education, physical training, and rehabilitation for children between 14 and 18 years of age who met certain eligibility requirements.⁶ Only one STAR program became effective in 2006, and on June 30,

¹ A "serious or habitual juvenile offender," for purposes of commitment to a residential facility and for purposes of records retention, means a child who has been found to have committed a delinquent act or a violation of law, in the case currently before the court, and who meets at least one of the following criteria: (a) The child is at least 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for: arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated assault; aggravated stalking; murder; manslaughter; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary; aggravated battery; any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age; or carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony. (b) The child is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least two times to a delinquency commitment program. (c) The child is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement. s. 985.47, F.S.

² The Legislature finds that fighting crime effectively requires a multipronged effort focusing on particular classes of delinquent children and the development of particular programs. This state's juvenile justice system has an inadequate number of beds for serious or habitual juvenile offenders and an inadequate number of community and residential programs for a significant number of children whose delinquent behavior is due to or connected with illicit substance abuse. In addition, a significant number of children have been adjudicated in adult criminal court and placed in this state's prisons where programs are inadequate to meet their rehabilitative needs and where space is needed for adult offenders. Recidivism rates for each of these classes of offenders exceed those tolerated by the Legislature and by the citizens of this state. S. 985.02(5), F.S.

³ Department of Juvenile Justice 2011 Agency Proposal (on file with the House Criminal Justice Subcommittee staff).

⁴ Section 985.14(3)(a), F.S.

⁵ Ch. 2006-62, L.O.F.

⁶ *Id.*

2008, the Sheriff terminated the contract.⁷ According to the DJJ, there have been no operational STAR programs since 2008.⁸ Section 985.3091, F.S., was repealed in 2010.⁹

Section 985.445, F.S., authorizes the court to place a child adjudicated for a grand theft of a motor vehicle offense into a STAR program.¹⁰

Section 985.494, F.S., provides that a child adjudicated delinquent for a felony (or a child who has an adjudication of delinquency withheld for a felony) must be committed to a SHOP or a JR. SHOP, if such child has participated in an early delinquency intervention program (EDIP) and has completed a sheriff's training and respect (STAR) program (formerly known as juvenile boot camp). Additionally, such child must be committed to a maximum risk residential program, if he or she has participated in an EDIP, has completed a STAR program and a SHOP or JR. SHOP. The length of stay in a maximum risk commitment program is for an indeterminate period of time; however, it may not exceed the maximum imprisonment that an adult would serve for that offense.¹¹ This section of law also allows the court to consider an equivalent program of similar intensity as being comparable to one of these specified programs when committing a child to an appropriate program under this statute.¹²

Effect of the Bill

The bill repeals the following provisions relating to SHOPS: the definition of a SHOP in s. 985.03(48), F.S., the SHOP legislative intent language in s. 985.02(5), F.S., the statute implementing SHOPS in s. 985.47, F.S.; and references to juvenile placement in SHOPS in ss. 985.14 and 985.441, F.S. The bill also repeals ss. 985.483 and 985.486, F.S., which implement the intensive residential treatment program for offenders under 13 years of age (JR.SHOP).

The bill deletes references in s. 985.494, F.S., to the SHOPS, JR. SHOPS, EDIPs, and the STAR programs (formerly known as juvenile boot camp). Instead of listing these specific programs, the bill provides that a child adjudicated delinquent for committing a felony (or a child who has a withheld felony adjudication) must complete two different high risk residential commitment programs as a prerequisite to being placed in a maximum risk residential program.

The bill also deletes references to the STAR program in s. 985.445, F.S., which authorizes a residential commitment to a STAR program if a child is adjudicated delinquent for committing grand theft of a motor vehicle.

The bill also makes conforming changes to ss. 985.0301, F.S., (Jurisdiction), and 985.565, F.S., (Sentencing powers; procedures; alternatives for juveniles prosecuted as adults) to delete references to s. 985.445, F.S.

Training Schools

Section 985.03(56), F.S. defines "training school" as the Arthur G. Dozier School or the Eckerd Youth Develop Center. The Arthur G. Dozier School for Boys (currently known as North Florida Youth

⁷ 2011 Department of Juvenile Justice Legislative Priority Paper, updated on March 4, 2011 (on file with the House Criminal Justice Subcommittee staff).

⁸ *Id.*

⁹ Ch. 2010-113, L.O.F. (prior to its repeal, s. 985.3091, F.S., was renumbered as s. 985.4891, F.S.)

¹⁰ Upon a first adjudication for a grand theft of a motor vehicle, the court *may place the child in a sheriff's training and respect program* and shall order the child to complete a minimum of 50 hours of community service. Upon a second adjudication for grand theft of a motor vehicle which is separate and unrelated to the previous adjudication, the court *may place the child in a sheriff's training and respect program* and shall order the child to complete a minimum of 100 hours of community service. Upon a third adjudication for grand theft of a motor vehicle which is separate and unrelated to the previous adjudications, the court *shall place the child in a sheriff's training and respect program* or other treatment program and shall order the child to complete a minimum of 250 hours of community service. s. 985.445, F.S.

¹¹ Section 985.494(1)(b), F.S.

¹² Section 985.494(2), F.S.

Development Center)¹³ and Eckerd Youth Develop Center (currently known as Okeechobee Youth Development Center),¹⁴ are residential programs that serve male youths who are 13-20 years of age. According to the DJJ, residential programs are no longer classified as training schools, but by restrictiveness levels.¹⁵

Effect of the Bill

CS/HB 4157 repeals s. 985.03(56), F.S., which provides the definition of training school.

Inspector General

Section 985.636, F.S., authorizes the Secretary of the DJJ to designate inspectors holding a law enforcement certification as law enforcement officers within the Inspector General's Office. This designation is only for the purpose of enforcing any criminal law and conducting any investigation involving a state-operated program or facility that falls under the department's jurisdiction. However, according to the DJJ, this law is unnecessary and duplicative to provisions provided in s. 20.055(6)(c), F.S.^{16,17} Currently, none of the inspectors in DJJ's Office of Inspector General have been designated as law enforcement officers.¹⁸

Effect of the Bill

CS/HB 4157 repeals s. 985.636, F.S., which allows certain inspectors within the DJJ's Inspector General's Office to be designated as certified law enforcement officers by DJJ's Secretary.

Juvenile Justice Standards and Training Commission (Commission)

Section 985.66, F.S., prescribes standards for the juvenile justice training academies, establishes the Juvenile Justice Training Trust Fund, and creates the Juvenile Justice Standards and Training Commission (Commission) under the DJJ. The legislative purpose of the statute is to provide a systematic approach to staff development and training for judges, state attorneys, public defenders, law enforcement officers, school district personnel, and juvenile justice program staff.¹⁹ Section 985.48(8), F.S., also requires the Commission to establish a training program to manage and provide services to juvenile sexual offenders in juvenile sexual offender programs. However, the Commission expired on June 30, 2001 because it was not reenacted by the Legislature.²⁰ After that, the DJJ took over the training duties of the Commission.²¹

Effect of the Bill

CS/HB 4157 amends s. 985.66, F.S., to delete obsolete references to the Commission, and to authorize the DJJ to continue providing staff development and training to department program staff and repeals s. 985.48(8), F.S.

B. SECTION DIRECTORY:

Section 1. Repeals s. 985.02, F.S., relating to legislative intent for the juvenile justice system.

Section 2. Repeals s. 985.03(48), F.S., relating to definitions.

Section 3. Repeals s. 985.03(56), F.S., relating to definitions.

¹³ http://www.djj.state.fl.us/Residential/facilities/north_facilities/North_Florida_Youth_Development_Center.html

¹⁴ http://www.djj.state.fl.us/Residential/facilities/south_facilities/Okeechobee_Youth_Development_Center.html

¹⁵ Department of Juvenile Justice 2011 Agency Proposal (on file with the House Criminal Justice Subcommittee staff).

¹⁶ Section 20.055(6), F.S. provides that each inspector general shall initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government. Each inspector general shall report expeditiously to the Department of Law Enforcement or other law enforcement agencies, as appropriate, whenever the inspector general has reasonable grounds to believe there has been a violation of criminal law shall. s. 20.055(6)(c), F.S.

¹⁷ Department of Juvenile Justice 2011 Agency Proposal (on file with the House Criminal Justice Subcommittee staff).

¹⁸ 2011 Department of Juvenile Justice Legislative Priority Paper, updated on March 4, 2011 (on file with the House Criminal Justice Subcommittee staff).

¹⁹ Section 985.66(1), F.S.

²⁰ Section 985.66(9), F.S.

²¹ Department of Juvenile Justice 2011 Agency Proposal (on file with the House Criminal Justice Subcommittee).

- Section 4. Repeals s. 985.47, F.S., relating to serious or habitual juvenile offender.
- Section 5. Repeals s. 985.483, F.S., relating to intensive residential treatment program for offenders less than 13 years of age.
- Section 6. Repeals s. 985.486, F.S., relating to intensive residential treatment programs for offenders less than 13 years of age; prerequisite for commitment.
- Section 7. Repeals s. 985.636, F.S., relating to inspector general; inspectors.
- Section 8. Amends s. 985.494, F.S., relating to commitment programs for juvenile felony offenders.
- Section 9. Repeals s. 985.445, F.S., relating to cases involving grand theft of a motor vehicle.
- Section 10. Amends s. 985.0301, F.S., relating to jurisdiction.
- Section 11. Amends s. 985.14, F.S., relating to intake and case management system.
- Section 12. Amends s. 985.441, F.S., relating to commitment.
- Section 13. Amends s. 985.565, F.S., relating to sentencing powers; procedures; alternatives for juveniles prosecuted as adults.
- Section 14. Amends s. 985.66, F.S., relating to juvenile justice training academies; Juvenile Justice Standards and Training Commission; Juvenile Justice Training Trust Fund.
- Section 15. Repeals s. 985.48(8), F.S., relating to juvenile sexual offender commitment programs; sexual abuse intervention networks.
- Section 16. Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DJJ has reported that this bill will have no fiscal impact to the department.²²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

²² Department of Juvenile Justice 2011 Agency Proposal (on file with the House Criminal Justice Subcommittee staff).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

CS/HB 4157 amends s. 985.03, F.S., to remove the definition of "training school". However, s. 985.652, F.S., relating to participation of certain programs in the state risk management trust fund, references a training school. This statute may need to delete this reference.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 29, 2011, the Criminal Justice Subcommittee adopted a strike-all amendment to the bill and reported the bill favorably as a Committee Substitute. The amendment repeals and amends additional sections of ch. 985, F.S., to remove obsolete language relating to SHOP and to more accurately reflect current practices of the Department of Juvenile Justice.

This analysis is drafted to the Committee Substitute.