

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL 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: The Professional Staff of the Education Pre-K - 12 Committee

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BILL: SPB 7016

INTRODUCER: Education Pre-K - 12 Committee

SUBJECT: Education Programs for Juvenile Justice Students

DATE: October 25, 2011

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

|    | ANALYST         | STAFF DIRECTOR  | REFERENCE | ACTION             |
|----|-----------------|-----------------|-----------|--------------------|
| 1. | <u>Carrouth</u> | <u>Matthews</u> | <u>ED</u> | <u>Pre-meeting</u> |
| 2. | _____           | _____           | _____     | _____              |
| 3. | _____           | _____           | _____     | _____              |
| 4. | _____           | _____           | _____     | _____              |
| 5. | _____           | _____           | _____     | _____              |
| 6. | _____           | _____           | _____     | _____              |

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**I. Summary:**

The proposed committee bill is the culmination of the committee's interim project on education in Department of Juvenile Justice (DJJ) facilities.<sup>1</sup> It includes the recommendations of the Juvenile Justice Education Workgroup to improve the education outcomes of youth in DJJ facilities. The bill requires an evaluation of the effectiveness of school districts and private providers based upon the attainment of relevant workforce skills that increase the likelihood of success upon release from a DJJ facility and continuing education. The Department of Juvenile Justice would bar school districts and private providers from providing educational services to youth in DJ facilities if they fail to meet the above performance outcomes.

This bill substantially amends sections 985.618 and 1003.52, creates section 1003.52, and makes conforming changes to sections 985.632 and 1001.42 of the Florida Statutes.

**II. Present Situation:**

**Statutory requirements**

Section 1003.52, F.S., establishes the educational expectations for DJJ youth in residential and day treatment programs.<sup>2</sup> The Department of Education (DOE) currently serves as the lead agency for juvenile justice education programs, curriculum, support services, and resources.

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<sup>1</sup> Senate Interim Report 2012-219, Delivery of Educational Services in the Department of Juvenile Justice Services, available at <http://www.flsenate.gov/Committees/InterimProjects/2012/>.

<sup>2</sup> DJJ programs provide oversight for approximately 150 residential, day treatment, and prevention programs in 43 counties. The majority of programs are operated under contract by private providers for services such as mental health, substance abuse treatment, plans for restitution, and transition services so that youth successfully re-enter their home communities.

Although district school boards are responsible for providing educational services to youth in juvenile justice programs, the DOE and DJJ are responsible for reporting the academic performance of students in juvenile justice programs, developing academic and career guidance to district school boards and providers in educational programming, and prescribing the roles of program personnel and school district or provider collaboration strategies.<sup>3</sup>

Current law states that education is the single most important factor in the rehabilitation of adjudicated delinquent youth and that the goal of juvenile justice system is to allow these youth the opportunity to obtain a high-quality education.<sup>4</sup> Unfortunately, the law only requires an education program that supports treatment goals and leads to a high school diploma or equivalent.<sup>5</sup> Data collected on student achievement is based primarily on learning gains in reading and mathematics.<sup>6</sup> Given the serious academic deficits many of these youth bring to the programs and the significant hurdles they will face in obtaining gainful employment, DJJ education programs must go beyond a high school diploma or equivalent and offer workforce skills that will lead to employment.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) reported concerns with a lack of meaningful student outcomes in DJJ facilities and recommended the evaluation of youth based on outcomes proven to reduce delinquency—continuing education and meaningful employment.<sup>7</sup> Instead, educational programs are currently assigned quality assurance ratings based on on-site reviews and interviews of education services personnel.<sup>8</sup>

### **DJJ education program outcomes**

The need to improve the educational outcomes of youth in DJJ facilities is documented through available data. On any given day, approximately 100,000 youth are in some form of juvenile justice placement, nationally.<sup>9</sup> Obstacles to successful re-entry amplify the effects of the school-to-prison pipeline and increase the likelihood that these youth will find themselves returning to the justice system they just exited. Youth who return to school from juvenile justice placements have lower recidivism rates and a higher likelihood of successful re-entry into the community.<sup>10</sup>

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<sup>3</sup> s. 1003.52(1), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> s. 1003.52(5), F.S.

<sup>6</sup> Approximately 15 percent of DJJ students demonstrated learning gains in mathematics and reading during FY 2009-2010. Eighty-five percent failed to read on grade level and 78 percent scored below grade level on mathematics. See page 4, [www.fldoe.org/ese/pdf/jj\\_annual.pdf](http://www.fldoe.org/ese/pdf/jj_annual.pdf).

<sup>7</sup> OPPAGA Report 08-07, available at: <http://www.oppaga.state.fl.us/ReportsYearList.aspx?yearID=22>.

<sup>8</sup> Quality assurance ratings include information relating to teacher certifications and qualifications, courses taught by each teacher, qualifications and duties of all educational support personnel, assessment information, progress monitoring data, and program characteristics (i.e., size, location, provider, career education level designated by the DJJ, security level, and age range of students), school names and numbers under which diplomas are reported, course offerings, class schedules, bell schedules, school calendars, curriculum information, fidelity checks, walk-through forms, and annual evaluations of the educational program. See also *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs*, 2009-10, Department of Education, available at: [www.fldoe.org/ese/pdf/jj\\_annual.pdf](http://www.fldoe.org/ese/pdf/jj_annual.pdf).

<sup>9</sup> See *The School to Prison Pipeline and Back*, New York Law School Review, Volume 54, 2009-10, pg. 1116, available at: [www.nyls.edu/index.php?cID=2666](http://www.nyls.edu/index.php?cID=2666).

<sup>10</sup> *Id.*

Unfortunately, 79 percent of juvenile justice students in residential programs, who were age 16 or older and significantly behind academically, did not return to school upon release.<sup>11</sup>

The Department of Education (DOE) provided data on youth released from DJJ programs over several years using information from the Florida Education and Training Placement Information Program (FETPIP). The DOE tracked youth in DJJ residential programs to determine occupational, educational, and subsequent judicial placement in the years following release from the program. To provide context, the DOE provided the same outcome information for high school dropouts and graduates. The chart shows that youth released from DJJ are returning to school at progressively lower rates over time. In addition, DJJ youth are similar to dropouts in that low percentages enroll in postsecondary education. Youth released from DJJ were also less likely to be employed than dropouts or high school graduates. Finally, DJJ youth, following release, are more likely to be incarcerated as adults than dropouts or high school graduates. Of those who were later incarcerated by Department of Corrections, they were less likely to earn full time equivalent wages after leaving the DJJ program.

**Information on DJJ Youth in Comparison to School Dropouts and High School Graduates**

|   | Year Students Left Or Graduated 2006-07 |              |               | Year Students Left or Graduated 2007-08 |              |               |
|---|---|--------------|---------------|---|--------------|---------------|
|   | DJJ Leavers                             | Dropouts     | HS Grads      | DJJ Leavers                             | Dropouts     | HS Grads      |
| 1. Number of students   | 7,395                                   | 25,144       | 127,258       | 6,041                                   | 19,640       | 131,128       |
| 2. Number and percent who returned to HS or MS at any point following release                                     | 2430<br>33%                             | 7,879<br>31% | NA            | 634<br>10%                              | 5,471<br>28% | NA            |
| 3. Number and percentage of DJJ Leavers who received a GED  | 1,557<br>21%                            | NA           | NA            | 1,288<br>21%                            | NA           | NA            |
| 4. Number and percent who enrolled in Postsecondary ED in the year following their release - continuing education | 390<br>0%                               | 1,520<br>6%  | 80,057<br>63% | 364<br>6%                               | 1,274<br>6%  | 82,741<br>63% |
| 5. Number and percent who were employed in the year after release   | 1,502<br>20%                            | 9,234<br>37% | 69,117<br>54% | 866<br>14%                              | 5,437<br>28% | 62,890<br>48% |
| 6. Of those who were employed, number   | 231                                     | 2,011        | 15,032        | 135                                     | 1,239        | 10,613        |

<sup>11</sup> *Juvenile Justice Students Face Barriers to High School Graduation and Job Training*, OPPAGA, Report No. 10-55 (October 2010.)

|  | Year Students Left Or Graduated 2006-07 |           |           | Year Students Left or Graduated 2007-08 |           |           |
|--|---|-----------|-----------|---|-----------|-----------|
|  | DJJ Leavers                             | Dropouts  | HS Grads  | DJJ Leavers                             | Dropouts  | HS Grads  |
| and percent who were employed with full time equivalent wages in the year after their release <sup>12</sup>  | 15%                                     | 22%       | 22%       | 16%                                     | 28%       | 17%       |
| 7. Number and percent who were later incarcerated in a DOC facility (Followed through 2009-10)   | 1,197<br>16%                            | 874<br>3% | 271<br>0% | 600<br>10%                              | 503<br>3% | 159<br>0% |
| 8. Of those that were later incarcerated in a DOC facility, the number and percent employed in the year after release with full time equivalent wages <sup>1</sup> | 20<br>2%                                | 16<br>2%  | 29<br>11% | 3<br>0%                                 | 2<br>0%   | 8<br>5%   |

Source: Florida Education and Training Placement Information Program  
 \* Percentages less than .50% are rounded to (whole percentages) 0%.

Youth released from DJJ programs are most likely to reoffend within the first nine months of release.<sup>13</sup> Of these recidivists, more than half will be rearrested within the first four months following program release. Although Florida and federal law<sup>14</sup> require state and local agencies to provide for effective re-entry of youth into the community, 13 of the state’s 67 school districts automatically place students in an alternative education setting despite recommendations from the DJJ program staff and statutory requirements to use those recommendations in re-entry placement decisions.<sup>15</sup> Youth who have been involved in juvenile and criminal activity are not provided sufficient re-entry support to ensure that they do not re-offend.

The Center for Smart Justice<sup>16</sup> reports that the \$240 million the state spends annually on residential facilities is not making Florida safer, but instead more vulnerable. Residential facilities have higher recidivism rates than community-based alternatives, and repeated studies have proven that institutional programs make low-risk children more likely to re-offend.<sup>17</sup>

<sup>12</sup> Full-time is determined by the wages equal to or greater than “minimum wages \*13 weeks\* 40 hours”. If the wage amount is equal to or greater than this number, FETPIP considers the individual full-time for the quarter.

<sup>13</sup> DJJ CAR Report, 2009-09, page 115.

<sup>14</sup> Sections 1401(a), 1417(a), and 1422(d) of PL 107-110, No Child Left Behind Act of 2001; Sections 1003.52(5) (13)(i) and 985.618(1)(a)(b), F.S.; and State Board Rule 6A-6.05281.

<sup>15</sup> See <http://www.fldoe.org/ese/sdte.asp>.

<sup>16</sup> The Florida TaxWatch Center for Smart Justice was established in 2010 as a statewide research organization to ensure statewide justice reform through proven, cost-effective measures. The center is led by a board of civic and business leaders from across the state. See [www.floridatxwatch.org/centers/CSJ/aboutsmartjustice.php](http://www.floridatxwatch.org/centers/CSJ/aboutsmartjustice.php).

<sup>17</sup> The Juvenile Justice Blueprint Commission found that youth who are kept in programs for prolonged lengths of time after treatment goals are achieved often begin to deteriorate and may be more likely to re-offend once release is finally achieved.

## **Juvenile Justice Education Workgroup**

The Juvenile Justice Education Workgroup was created in the summer of 2011 to bring together stakeholders in juvenile justice education. The workgroup heard testimony concerning youth education outcomes in juvenile justice facilities. Cognizant of the significant challenges these youth will face in obtaining gainful employment, the workgroup recommended a revised accountability structure to evaluate the effectiveness of the education. In particular, the workgroup recommended evaluating DJJ education programs on the following: youth attainment of industry certifications in targeted, high-demand and high-wage fields; continuing education at the secondary or postsecondary level; job placement or self-employment; and attainment of postsecondary credit.

### **High-demand and high-wage employment**

In an effort to improve the alignment of coursework to skills needed in high demand occupations, the Career and Professional Academy Act was enacted by the 2007 Legislature.<sup>18</sup> The legislation requires the collaborative development of a strategic 5-year plan by school districts, regional workforce boards, postsecondary institutions, and private businesses to determine relevant workforce-related educational offerings to be delivered within the K-12 arena. As a result of the legislation, the number of career academies in the state's secondary schools has increased dramatically. High school students earned a total of 803 industry certifications in high demand occupations during the 2007-08 school year and 8,629 certifications in the 2009-10 school year.<sup>19</sup> Of particular importance, the development of the 5-year plan specifically requires that strategies be included to involve youth in DJJ facilities.<sup>20</sup> During the 2010-11 FY, grant funding supported industry certifications for youth in DJJ programs through virtual course offerings. As a result of the funding, the DJJ reports that 72 youth earned OSHA (Office of Safety and Health Administration) industry certifications, 60 earned industry certifications in Microsoft Office Suites, and 13 earned OSHA+certifications (OSHA plus add-on certification in Aggression Management and/or Blood-borne Pathogens).<sup>21</sup>

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

### **The Department of Juvenile Justice (DJJ)**

The bill is a comprehensive effort to transform educational opportunities for youth in DJJ programs. Under the bill, the DJJ is given authority to award performance ratings to school district and private providers based on identified student outcomes. School districts or private providers who fail to meet established performance thresholds for two consecutive years or two years out of three, based on the specified outcomes, would no longer provide educational services to these youth. Instead, the DJJ would contract with a school district or private provider

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See the *Report of the Blueprint Commission: Getting Smart About Juvenile Justice*, available at: <http://www.djj.state.fl.us/blueprint/index.html>.

<sup>18</sup> ch. 2007-216, L.O.F.

<sup>19</sup> Presentation by the Department of Education, Chancellor for Career and Adult Education, August 24, 2011, on file with the committee.

<sup>20</sup> See s. 1003.491(3)(j), F.S.

<sup>21</sup> Data provided by DJJ Office of Educational Services, on file with the committee.

with a high-performance rating to offer educational and workforce-related services to youth in these programs.

The DJJ, in consultation with the DOE, school districts, and private providers, would adopt rules to establish performance ratings based on levels of attainment of outcomes. Performance categories would include high, adequate, and failing. When determining performance ratings, the DJJ would hold the school districts and private providers accountable for student outcomes until such time that the youth is released from DJJ supervision.

### **Performance Outcomes**

Education outcomes are designed to promote the successful return of adjudicated youth to their communities through employment in high demand occupations or continuing education. Outcomes established under the bill would differ based on the age-appropriate needs of the youth. Those of middle-school age would be required to meet at least one of the following outcomes:

- Attainment of an industry certification in a targeted occupation<sup>22</sup> and continuing education;<sup>23</sup>
- Attainment of secondary or postsecondary credit and continuing education;
- Completion of comprehensive career exploration and continuing education; or
- Achievement of learning gains in reading and mathematics<sup>24</sup> and continuing education.

High-school age youth would be required to meet at least one of the following outcomes:

- Attainment of an industry certification in a targeted occupation;<sup>25</sup>
- Attainment of a high school diploma or its equivalent and award of postsecondary credit;
- Job placement or self-employment in an area for which the youth earned an industry certification; or
- Achievement of a level of performance in an acceleration mechanism in which the youth earns postsecondary credit.

### **Industry Certifications for Targeted Occupations**

In an effort to promote academic engagement and relevant workforce skills, the bill establishes youth attainment of industry certifications as a key performance outcome. The DJJ program must collaborate with the regional workforce board and postsecondary institutions to determine the occupational areas of emphasis in the program. This provision will ensure that employment

<sup>22</sup> In order to provide workforce skills in high demand occupations, the bill requires that industry certifications for these students be limited to those included on the Industry Certification Funding List pursuant to s. 1011.62(1)(o), F.S.

<sup>23</sup> For purposes of measuring student outcomes, continuing education would be defined based on the individual youth. Students of compulsory attendance age, for example, would be expected to continue their education within the secondary school arena in a supportive environment and an academic area that has meaning to them. Older youth who have attained a partial industry certification would enroll in an educational environment to complete the training, while those having attained full industry certification may wish to enhance those credentials with additional coursework.

<sup>24</sup> Section 1003.52(3)(b), F.S., requires the DOE to select a valid assessment tool to measure learning gains in mathematics and reading.

<sup>25</sup> The Industry Certification Funding List is available at: <https://www.fldoe.org/.../Attachment1-Non-CAPECertifications.pdf>.

positions are currently or forecast to be available in the area in which the student is pursuing the certification. Additionally, it provides opportunities for industry certified volunteers from the community to provide support.

### **Access to Educational and Workforce-related Virtual Courses**

The bill requires juvenile justice education programs to provide access to virtual education instruction. This provision supports efficient use of the youth's time in a DJJ facility, by accelerating instructional opportunities during evenings and weekends, and expands access to courses, many of which result in high demand industry certifications.<sup>26</sup>

### **School District Contracts with Private Providers**

School districts would continue to provide educational services or contract with a private provider to meet specified student outcomes, contingent upon a designated level of performance over time. The bill also establishes that school districts that contract for educational services may not dictate personnel decisions beyond requirements for the health, safety and welfare of the youth. Also, districts would be prohibited from placing a youth in an alternative school setting once released from the DJJ program without the approval of the DJJ facility director. This provision promotes decisions made in the best interest of the youth and supports the transition and re-entry plan established during program stay.

### **Development of Transitions Plans for Successful Reintegration**

The bill requires that a transition plan be developed for youth to specify educational and other services to be provided during the youth's stay in the DJJ program, as well as services to be provided upon release. The transition plan, developed in collaboration with the youth and the youth's family, would govern decisions regarding educational, workforce, and other services to ensure successful reintegration into the community.

### **Annual Report to the Legislature**

The DJJ, with assistance from the DOE, school districts, and private providers is required to submit an annual report to the Legislature beginning December 31, 2013. The report must include data on the level of attainment of performance outcomes by DJJ youth and include comparisons by demographics, by district and provider, and with students in traditional educational settings. The report must address the use of virtual education in attainment of outcomes and implementation of transition and reintegration plans for successful re-entry of youth into the community. Additionally, the report must provide recommendations for improving outcome measures and additional cost savings.

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<sup>26</sup> All 145 industry certifications earned by youth in DJJ programs during FY 2010-11 (OSHA and Microsoft Office Suites) were completed through virtual education courses.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Private providers that fail to meet performance expectations for two consecutive years or two out of three years would be barred from providing education services to youth in DJJ facilities. These entities may experience a reduction in revenue. High-performing providers may experience a positive fiscal impact.

The cost savings to taxpayers, although indeterminate, may be significant. Criminologists estimate that steering just one high-risk delinquent teen away from a life of crime saves society \$3 million to \$6 million in reduced victim costs and criminal justice expenses, plus increased wages and tax payments over the young person's lifetime.<sup>27</sup>

## C. Government Sector Impact:

School districts that fail to meet performance expectations for two consecutive years or two out of three years would experience a reduction in revenue. High-performing school districts may experience a positive revenue impact.

Government cost savings, although indeterminate, may be significant. Youth are more likely to successfully return to their communities with educational success and meaningful workforce skills. When youth are successful, future crime and costly incarceration is prevented.

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<sup>27</sup> Missouri's current director of adult corrections credits their Department of Youth Services practices with saving the state millions of dollars by reducing the recidivism of juvenile offenders into adult prisons. See the Missouri Model, available at: [www.aecf.org/~media/Pubs/.../MOModel/MO\\_Fullreport\\_webfinal.pdf](http://www.aecf.org/~media/Pubs/.../MOModel/MO_Fullreport_webfinal.pdf).

**VI. Technical Deficiencies:**

Lines 223-229: The bill requires a minimum passage rate on the associated industry certification exam in order for a DJJ educational program to continue offering industry certifications in that occupational area. This provision should be clarified to apply only to students pursuing the industry certification within the DJJ program.

Lines 248-255: The bill addresses adherence to federal law which prohibits publication of personally identifiable student information. School districts or private providers that are low-performing but do not have enough students to protect student privacy should also be barred from providing education services to youth in DJJ facilities.

Lines 260-263: The bill inadvertently omitted the inclusion of continuing education.

Lines 275-285: The bill recognizes postsecondary credit through an acceleration mechanism, such as dual enrollment, as an acceptable performance outcome for youth in DJJ facilities but inadvertently omits earning postsecondary credit without using an acceleration mechanism.

Lines 281-283: Certain employers may hire an individual based on possession of an industry certification but have policies that require an individual to begin in an entry-level position that does not directly relate to the certification.

Line 304: Youth in juvenile assessment facilities have not been adjudicated and therefore are not under the jurisdiction of DJJ education programs. This term should be deleted.

Lines 364-366: The requirement for youth to participate in a program that leads to industry certification should be added in subparagraph 2. to mirror the requirement in subparagraph 3.

Lines 489-490: The bill throughout requires the DJJ to collaborate with the DOE, school districts, and private providers. This provision should be included in the DJJ's rulemaking authority.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.