

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.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/CS/SB 834

INTRODUCER: Criminal Justice Committee; Education Pre-K - 12 Committee; and Education Pre-K - 12 Committee

SUBJECT: Education Programs for Juvenile Justice Students

DATE: January 9, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carrouth</u>	<u>Matthews</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
- B. AMENDMENTS..... Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

The bill is the culmination of the committee’s interim project on education in Department of Juvenile Justice (DJJ) facilities.¹ 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 academic and workforce skills that increase the likelihood of success upon release from a DJJ facility. School districts and private providers would be prohibited from providing educational services to youth in DJJ facilities if they fail to meet the above performance outcomes.

This bill substantially amends sections 985.03, 985.46, 985.618, 1009.25, 1011.62, creates section 1003.515, repeals section 1003.52, and makes conforming changes to sections 985.721, 985.632, 1001.42, 1002.20, 1002.45, 1003.01 and 1011.62 of the Florida Statutes.

¹ 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/>.

II. Present Situation:

Statutory requirements

Section 1003.52, F.S., establishes the educational expectations for DJJ youth in residential and day treatment programs.² The Department of Education (DOE) currently serves as the lead agency for juvenile justice education programs, curriculum, support services, and resources. 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.³

Current law states that education is the single most important factor in the rehabilitation of adjudicated delinquent youth and that the goal of the juvenile justice system is to allow these youth the opportunity to obtain a high-quality education.⁴ Unfortunately, the law only requires an education program that supports treatment goals and leads to a high school diploma or equivalent.⁵ Data collected on student achievement is based primarily on learning gains in reading and mathematics.⁶ 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.⁷ Instead, educational programs are currently assigned quality assurance ratings based on on-site reviews and interviews of education services personnel.⁸

² 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.

³ s. 1003.52(1), F.S.

⁴ *Id.*

⁵ s. 1003.52(5), F.S.

⁶ 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.

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

⁸ 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.

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.⁹ 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.¹⁰ 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.¹¹

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 the 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 33%	7,879 31%	NA	634 10%	5,471 28%	NA
3. Number and percentage of DJJ Leavers who received a GED	1,557 21%	NA	NA	1,288 21%	NA	NA

⁹ 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.

¹⁰ *Id.*

¹¹ *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
4. Number and percent who enrolled in Postsecondary ED in the year following their release - continuing education	390 0%	1,520 6%	80,057 63%	364 6%	1,274 6%	82,741 63%
5. Number and percent who were employed in the year after release	1,502 20%	9,234 37%	69,117 54%	866 14%	5,437 28%	62,890 48%
6. Of those who were employed, number and percent who were employed with full time equivalent wages in the year after their release ¹²	231 15%	2,011 22%	15,032 22%	135 16%	1,239 28%	10,613 17%
7. Number and percent who were later incarcerated in a DOC facility (Followed through 2009-10)	1,197 16%	874 3%	271 0%	600 10%	503 3%	159 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 ¹	20 2%	16 2%	29 11%	3 0%	2 0%	8 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.¹³ Of these recidivists, more than half will be rearrested within the first four months following program release. Although Florida and federal law¹⁴ 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.¹⁵ 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 Justice¹⁶ reports that the \$240 million the state spends annually on residential facilities is not making Florida safer, but instead more vulnerable. Residential

¹² 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.

¹³ DJJ CAR Report, 2009-09, page 115.

¹⁴ 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.

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

¹⁶ 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.

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.¹⁷

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.¹⁸ 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.¹⁹ Of particular importance, the development of the 5-year plan specifically requires that strategies be included to involve youth in DJJ facilities.²⁰ 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).²¹

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 DOE is given authority to develop performance ratings for school

¹⁷The 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. See the *Report of the Blueprint Commission: Getting Smart About Juvenile Justice*, available at: <http://www.djj.state.fl.us/blueprint/index.html>.

¹⁸ ch. 2007-216, L.O.F.

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

²⁰ See s. 1003.491(3)(j), F.S.

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

district and private providers based on identified student outcomes. School districts or private providers who fail to meet established performance thresholds for two years out of three, based on the specified outcomes, would no longer provide educational services to these youth. Instead, the school district would be required to contract with a school district or private provider with an adequate or higher performance rating to offer educational and workforce-related services to youth in these programs.

The DJJ, in consultation with the DOE, the Department of Economic Opportunity, school districts, and private providers, would adopt rules to implement provisions in the bill for which the DJJ is given responsibility.

The State Board of Education, in consultation with the DJJ, the Department of Economic Opportunity, school districts, and private providers, would adopt rules to establish performance ratings based on levels of attainment of outcomes. The bill requires the performance ratings to be weighted based on the rigor in attaining specified outcomes. Performance categories would include high, adequate, and failing. For purposes of determining performance ratings, school districts and private providers would be held accountable for student outcomes for no more than six months following the student's release from a residential or non-residential DJJ program.

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 14 years or younger would be required to meet at least one of the following outcomes:

- Attainment of an industry certification in a targeted occupation²² and continuing education;²³
- Attainment of occupational completion points²⁴ in a targeted occupation and continuing education;
- Attainment of secondary or postsecondary credit and continuing education; or
- Achievement of academic progress in reading and mathematics²⁵ and continuing education.

²² 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.

²³ 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.

²⁴ Occupational Completion Points (OCPs) are selected sets of student performance standards that fall between established occupational completion points, as identified in vocational job preparatory course descriptions. These selected standards guide the student in completing a modified program and developing marketable skills. See <http://www.fldoe.org/workforce/programs/ss5.asp>.

²⁵ Section 1003.52(3)(b), F.S., requires the DOE to select a valid assessment tool to measure learning gains in mathematics and reading.

Youth 15 years and older would be required to meet at least one of the following outcomes:

- Attainment of an industry certification in a targeted occupation and obtaining employment;²⁶
- Attainment of occupational completion points in a targeted occupation and continuing education to complete the industry certification;
- Attainment of occupational completion points and obtaining employment;
- Attainment of a high school diploma or its equivalent and continuing education;
- Attainment of a high school diploma or its equivalent and job employment;
- Earning secondary or postsecondary credit and continuing education; or
- Achievement of academic progress in reading and mathematics²⁷ and continuing education.

If a youth is in a residential or non-residential program for less than 40 days, the bill requires that the youth receives employability, life skills, and academic remediation, as appropriate. Counseling and transition services must also be provided.

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 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 and Virtual Counseling

The bill requires juvenile justice education programs to provide access to virtual education instruction and virtual counseling to support the educational and workforce skills needed for adjudicated youth. 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.²⁸

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 establishes that school districts that contract for educational services may not dictate personnel decisions if the contracted provider maintains a high performance rating. It also allows for certification of instructional personnel to be covered under the "expert in the field" provisions currently in law. These provisions promote flexibility to employ instructors who are

²⁶ The Industry Certification Funding List is available at: <https://www.fldoe.org/workforce/fcpea/pdf/1011icfl.pdf>.

²⁷ Section 1003.52(3)(b), F.S., requires the DOE to select a common assessment tool to measure academic progress in mathematics and reading.

²⁸ 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.

highly effective in working with at-risk youth. Also, when determining educational placement for youth upon release, the school district must adhere to the transition plan. 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 an educational component to the 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 educational component of 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.

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 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.²⁹

C. Government Sector Impact:

School districts that fail to meet performance expectations for 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.

VI. Technical Deficiencies:

None.

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.)

CS/CS by Criminal Justice on February 9, 2012:

- Provides that the DJJ will work with enumerated entities to ensure that the educational component of the comprehensive annual report is developed collaboratively;
- Requires opportunities for eligible youth to earn a special diploma;
- Provides that a student who earns occupational completion points and is then employed upon release from a program will be one of the recognized outcomes under the bill;
- Clarifies that youth in detention centers are excluded from the provisions of the bill as most of these youth are there for two weeks or less;
- Juvenile justice education programs (school district operated and those operated by a private provider under contract with the school district) are accountable for student

²⁹ 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.

performance outcomes no longer than six months following release of the youth from a program;

- Includes provisions for certification of instructional personnel in juvenile justice education programs to be covered under “expert in the field” provisions currently in statute; and
- Provides postsecondary fee exemptions for youth in residential programs who have received a high school diploma, are unemployed, and who began postsecondary coursework during their residential stay.

CS by the Education Pre-K – 12 Committee on December 6, 2011:

The committee substitute:

- Places authority to determine school district and private provider performance with the Department of Education, rather than the Department of Juvenile Justice;
- Adds occupational completion points as an acceptable youth outcome, provided the youth is placed in employment or continues his or her education to full industry certification;
- Adds academic progress in reading and mathematics as an outcome for high school age youth, provided that they continue their education upon release from the program;
- Removes student completion of comprehensive career exploration as a performance outcome;
- Requires that virtual education and workforce related counseling be made available to youth in education programs in juvenile justice facilities;
- Provides autonomy to private providers when selecting personnel, provided that they maintain high performing status; and
- Requires that an educational component be included in the transition plan developed during the youth’s stay in a program and that the educational component drive decisions for youth when they are released.

B. Amendments:

None.