

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 4019 Juvenile Justice
SPONSOR(S): Criminal Justice Subcommittee; Harrell
TIED BILLS: **IDEN./SIM. BILLS:** SB 672

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	12 Y, 0 N, As CS	Cox	Cunningham
2) Judiciary Committee			

SUMMARY ANALYSIS

Section 945.75, F.S., requires the Department of Corrections to develop programs under which a judge may order delinquent juveniles to tour state prisons in an effort to deter the juveniles from committing future crimes. The statute requires counties to develop similar programs involving county jails. These programs are commonly known as "scared straight programs." Department of Juvenile Justice (DJJ) reports that it stands to lose two-thirds of its federal funding for each scared straight tour conducted because these tours violate the Juvenile Justice and Delinquency Prevention Act.

Section 985.105, F.S., creates a position called "youth custody officer" within DJJ. Youth custody officers, which are designated as "special risk class" members for purposes of the Florida Retirement System, are responsible for taking a youth into custody if the officer has probable cause to believe that the youth has:

- Violated conditions of probation, home detention, conditional release, or postcommitment probation; or
- Failed to appear in court after being properly noticed.

DJJ reports that it eliminated youth custody officer positions in July, 2010, due to budget cuts, and that the duties of youth custody officers were either distributed among existing employees or were no longer performed by DJJ.

The bill repeals s. 945.75, F.S., relating to tours of state and county correctional facilities by juveniles. The bill also repeals s. 985.105, F.S., creating the youth custody officer position and amends s. 121.0515, F.S., to remove references to youth custody officers as a position that is designated as a special risk class member.

By repealing s. 945.75, F.S., the bill keeps DJJ in compliance with the Juvenile Justice and Delinquency Prevention Act, and eligible for federal funding.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Tours of State and County Correctional Institutions

Section 945.75, F.S., requires the Department of Corrections (DOC) to develop programs under which a judge may order juveniles who have committed delinquent acts to be allowed to tour state correctional facilities under the terms and conditions established by DOC. The statute requires counties to develop similar programs involving county jails. These tour programs are commonly referred to as “scared straight programs.”¹ Scared straight programs generally involve adult inmates describing the conditions associated with jail or prison incarceration to delinquent at-risk youth in a secure setting.² The goal of these programs is to modify the behavior of the juveniles by shocking, scaring, and thus deterring them from engaging in further delinquent activity.³

The Department of Juvenile Justice (DJJ) reports that it complies with the Federal Juvenile Justice and Delinquency Prevention Act of 2002. As a result of this compliance, DJJ receives between two million and eight million dollars in federal funding.⁴ DJJ reports that it stands to lose two-thirds of its federal funding because the scared straight tours violate several portions of the Juvenile Justice and Delinquency Prevention Act.⁵

Effect of the Bill

The bill repeals s. 945.75, F.S.

Youth Custody Officers

Section 985.105, F.S., creates a position called “youth custody officer” within DJJ. Youth custody officers are responsible for taking a youth into custody if the officer has probable cause to believe that the youth has:

- Violated the conditions of probation, home detention, conditional release, or postcommitment probation; or
- Failed to appear in court after being properly noticed.⁶

Youth custody officers must meet the minimum qualifications for employment or appointment, be certified under ch. 943, F.S., and comply with the requirements for continued employment required by s. 943.135, F.S.⁷ Additionally, s. 121.0515, F.S., designates youth custody officers as “special risk class” members for purposes of the Florida Retirement System.⁸

DJJ reports that it eliminated youth custody officer positions in July, 2010, due to budget cuts.⁹ The duties of youth custody officers were either distributed among existing employees or were no longer performed by DJJ.¹⁰

Effect of Bill

¹ *Scared Straight Programs*, www.dcjs.virginia.gov/juvenile/compliance (last visited on February 12, 2013); *See also Scared Straight Programs: Jail and Detention Tours*, DJJ, www.djj.state.fl.us/docs/research2/scared_straight_booklet_version (last visited on February 12, 2013).

² *Id.*

³ *Id.*

⁴ Department of Juvenile Justice, 2013 Agency Proposal. On file with Criminal Justice Subcommittee staff.

⁵ *Id.* Specifically, the Deinstitutionalization of Status Offenders, the Sight and Sound Separation and the Jail Removal Acts.

⁶ A youth custody officer is required to inform appropriate local law enforcement agencies of anyone taken into custody pursuant to s. 985.105, F.S. Section 985.105(3), F.S.

⁷ Section 985.105(2), F.S.

⁸ Section 121.0515, F.S., creates a “special risk class” of state employees for purposes of the Florida Retirement System that earn more retirement credit per year of service. This increased credit is in recognition that they may be unable to “enjoy the full career and retirement benefits enjoyed by other membership classes” as a result of the physically demanding and high risk functions required by their jobs.

⁹ *Supra* note 5.

¹⁰ *Supra* note 5.

The bill repeals s. 985.105, F.S., creating the youth custody officer position, and amends s. 121.0515, F.S., to remove all references to youth custody officers as a position that is designated as a special risk class member.

B. SECTION DIRECTORY:

Section 1. Repeals s. 945.75, F.S., relating to tours of state correctional facilities for juveniles.

Section 2. Repeals s. 985.105, F.S., relating to youth custody officer.

Section 2. Amends s. 121.0515, F.S., relating to Special Risk Class.

Section 3. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

By repealing s. 945.75, F.S., the bill keeps DJJ in compliance with the Juvenile Justice and Delinquency Prevention Act, and eligible for federal funding.

2. Expenditures:

According to DJJ, youth custody officers were eliminated from DJJ's budget in 2010, and their duties were redistributed among existing employees. DJJ reports that the bill will not have any fiscal impact on the department.¹¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

¹¹ *Supra* note 5.

The bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 12, 2013, the Criminal Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment repealed s. 945.75, F.S., relating to tours of state and county correctional facilities by juveniles.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.