# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5305 PCB JUAS 14-02 Juvenile Detention Costs
**SPONSOR(S):** Justice Appropriations Subcommittee, McBurney
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| Orig. Comm.: Justice Appropriations Subcommittee | 12 Y, 0 N | Lloyd | Lloyd |
| 1) Appropriations Committee | 25 Y, 0 N | Lloyd | Leznoff |

## SUMMARY ANALYSIS

Since 2004, the Department of Juvenile Justice (DJJ) has shared the cost of detention of juveniles in detention centers with the counties. The proposed committee bill conforms to the House of Representatives proposed Fiscal Year 2014-15 General Appropriations Act by establishing a new cost sharing approach with the counties. PCB JUAS 14-02 establishes a methodology for determining both county and DJJ responsibilities based on a 50/50 percent sharing of total shared detention costs. The costs will be based on actual expenditures for providing this service during the prior calendar year. The proposed committee bill also addresses disputed billings from fiscal year 2008-09 through fiscal year 2012-13 by providing an annual payment to counties totaling $6,055,300.

The House of Representatives proposed fiscal year 2014-15 GAA appropriates an additional $29,500,000 in general revenue for funding the DJJ portion of detention center costs and caps county fiscal responsibility at $42,500,000. See fiscal impact section.

The bill may be a county mandate requiring a two-thirds vote of the membership of each chamber. The bill contains a statement that the act fulfills an important state interest.

The Bill is effective July 1, 2014.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

*Present situation*

Under certain circumstances, juveniles who are arrested can be held within a secured detention facility where they await a court hearing. Within 24 hours, a judge decides whether on-going detention is necessary. If ongoing detention is ordered, a juvenile may be held in a secure detention facility awaiting disposition of their case. Secure detention facilities are operated by the Department of Juvenile Justice (department). In 2004, section 985.686, F.S. was created[1] which established a method of cost sharing of juvenile detention between the state and counties. The statute requires non-fiscally restrained counties to pay for the cost of detention care for juveniles who reside in that county for the period of time prior to "final court disposition". The State is responsible for all costs of detention incurred in fiscally constrained counties.[2]

In June 2013, the First District Court of Appeal affirmed an administrative law judge's order invalidating rules that the department had promulgated in 2010 relating to costs of detention.[3] According to the ALJ order,[4] the rules at issue shifted a greater responsibility for costs to the counties than was required by the relevant statute and this constituted an invalid exercise of delegated legislative authority. In July 2013, the Department of Juvenile Justice changed their method of billing counties to reflect their analysis of the ruling of the court.

*Effect of the bill*

The bill amends s. 985.686, F.S. relating to shared county and state responsibility for juvenile detention. The bill provides that for fiscal year 2014-15, the non-fiscally restrained counties' annual contribution for the costs of providing detention care will be $42,500,000. This figure is based on a calculation of actual shared detention expenditures during calendar year 2013. The state will be responsible for paying the remaining actual costs of detention care.

The bill defines the term "total shared detention costs" as "the funds the department expends for providing detention care for a calendar year, less any funds it expends on fiscally constrained counties and the cost of housing out of state detainees." The bill provides that for the 2015-2016 state fiscal year and each year thereafter, non-fiscally constrained counties will be responsible for paying a set amount based on 50 percent of the total shared detention costs of providing detention care for the prior calendar year. The state will be responsible for paying the remaining actual costs of detention care.

The bill requires that by February 1 of each year, the department will calculate and provide to each county that county's annual percentage of total shared detention costs for the prior calendar year. The department will calculate a county's percentage share by taking the total number of detention days for juveniles residing in that county for the prior calendar year and dividing by the total number of detention days for all juveniles statewide for the prior calendar year.

Beginning July 1 of the following year, each county will provide to the department its portion of total shared detention costs based on the prior calendar year by the first day of each month in 12 equal payments. For the 2014-15 state fiscal year, each county's percentage will be multiplied by $42,500,000 to determine each county's detention costs. For the 2015-2016 state fiscal year and thereafter, each county's percentage will be multiplied by 50 percent of the total shared detention cost to determine that county's detention costs.

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[1] Originally created as s. 985.2155, F.S. in chapter 2004-263, Laws of Florida. Subsequently transferred to s. 985.686, F.S. by chapter 2006-120, s. 95, Laws of Florida.

[2] The term "fiscally constrained county" is defined to mean "a county within a rural area of critical economic concern as designated by the Governor pursuant to s. 288.0656 or each county for which the value of a mill will raise no more than $5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., from the previous July 1. Currently, 29 counties are considered fiscally constrained.

[3] *Department of Juvenile Justice, v. Okaloosa County*, 113 So.3d 1074 (Fla. 1st DCA 2013).

[4] *Okaloosa County v. Department of Juvenile Justice*, Case No. 12-0891RX

The bill addresses the disputed billings from FY 2008-09 to FY 2012-13 by establishing an annual payment for each non-fiscally restrained county to be paid on July 1 each year from July 1, 2014 through July 1, 2036. The total amount appropriated annually for this purpose will be $6,055,300.

B. SECTION DIRECTORY:

Section 1 Amends s. 985.686, F.S. relating to juvenile detention costs.

Section 2 Establishes that this act fulfills an important state interest.

Section 3 Provides effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

   The House of Representatives proposed 2014-15 GAA appropriates $29.5 million in recurring funds from the General Revenue Fund for the anticipated increase in the state share of juvenile detention costs. During FY 2013-14, DJJ amended its budget to cover the increased state share of juvenile detention following the court's decision in Department of Juvenile Justice v Okaloosa County.

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 will increase the cost of juvenile detention for local government from FY 2013-14 levels. DJJ changed its billing for detention services following the Department of Juvenile Justice v. Okaloosa County decision in June 2013.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any impact on the private sector.

D. FISCAL COMMENTS:

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   If the bill results in the counties paying more for juvenile detention costs than what was previously required, the mandates provision of Article VII, section 18 of the constitution may apply. An exemption could apply if the impact on the counties is insignificant. The bill contains a finding that the act fulfills an important state interest. If the bill does qualify as a mandate, final passage must be approved by a two-thirds vote of the membership of each house of the Legislature.

2. Other:

none

B. RULE-MAKING AUTHORITY:

none

C. DRAFTING ISSUES OR OTHER COMMENTS:

none

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES