

**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 Appropriations Subcommittee on Criminal and Civil Justice

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BILL: PCS/SB 1414 (299824)

INTRODUCER: Appropriations Subcommittee Criminal and Civil Justice; and Senator Bradley

SUBJECT: Juvenile Detention Costs

DATE: April 10, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Sadberry	ACJ	<b>Recommend: Fav/CS</b>
2.			AP	
3.			RC	

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**I. Summary:**

PCS/SB 1414 creates a new cost sharing methodology to calculate the shared county and state financial obligations for juvenile detention. The bill requires counties that are not fiscally constrained to pay 57%, and the state to pay 43%, of the actual cost of providing detention care in the county. The bill continues current law requiring the state to pay all costs for providing detention care for fiscally constrained counties and juveniles residing out of state.

The bill eliminates “final court disposition” as the demarcation between county and state financial obligations for juvenile detention, replacing it with a cost sharing relationship based on actual costs and county utilization.

The bill would increase the state’s share of juvenile detention costs in counties that are not fiscally constrained by approximately \$950,000 relative to the 58% county/42% state split of costs in the Senate proposed budget for Fiscal Year 2015-2016. The share of costs for counties that are not fiscally constrained would decrease by an equal amount.

The bill also requires the Department of Revenue (DOR) to review county detention cost share payments to ensure that each county is meeting its financial obligations. If not, DOR is required to deduct any unpaid cost share amount from the distribution of s. 218.23, F.S., revenue sharing funds to that county. However, a provision is included to prevent withholding of revenue sharing fund distributions in an amount that would affect the county’s ability to meet current bond obligations.

The bill has an effective date of July 1, 2015.

## II. Present Situation:

The Department of Juvenile Justice (department) operates a statewide secure detention system for youth who are charged with committing delinquent acts. The detention care process begins when the department receives custody of a child from a law enforcement agency which has taken the child into custody:

- Upon assuming custody, the department decides whether to place the child in detention care as provided in s. 985.25, F.S., based upon an assessment of risk as provided in s. 985.245, F.S.
- If the department places the child in detention care, a court hearing must be held within 24 hours of the time that the child was taken into custody. At the hearing, the court considers a number of factors to determine whether the child should be kept in continued detention. Section 985.255, F.S., provides these factors, which include current offenses, prior history, legal status, and aggravating or mitigating factors.
- If the court orders the child to be held in secure detention, the detention cannot extend beyond 48 hours unless the court holds another hearing and finds in writing that continued detention is necessary to protect the victim from injury.
- The child may be held in detention until a disposition hearing is held to determine whether the child committed a delinquent act and, if necessary, until the child is sentenced.<sup>1</sup>
- A child who is adjudicated delinquent may be kept in detention for a limited time while awaiting placement in a residential commitment program.<sup>2</sup>

The detention program provides 24-hour care and supervision to juveniles in physically secure facilities, with educational programming provided by individual school districts. The department detention staff transports detained youth to and from court and residential commitment facilities.

Currently, the department operates secure detention facilities in 21 counties with a total of more than 1,300 beds. During Fiscal Year 2013-2014, the department detained 26,743 individual youth in these facilities.<sup>3</sup> Marion County, Polk County, and Seminole County operate their own detention centers.

In 2004, the Legislature enacted s. 985.686, F.S., requiring joint financial participation by the state and counties in the provision of juvenile detention. The statute made counties responsible for pre-dispositional detention costs and the department responsible for post-dispositional detention costs, costs for detention care in fiscally constrained counties,<sup>4</sup> and costs for out-of-state youth. Historically, the counties were held responsible for 74% of detention costs and the

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<sup>1</sup> Section 985.26, F.S., provides that pre-hearing detention care is limited to 21 days unless the court has commenced an adjudicatory hearing in good faith. For certain serious offenses, the time may be extended to 30 days before an adjudicatory hearing is commenced. There are also provisions for continued detention beyond these limits to account for continuances granted by the court. In such cases, the court must hold a hearing at the end of every 72 hour period to determine whether continued detention is appropriate and whether further continuance of the hearing is needed.

<sup>2</sup> Sections 985.26 and 985.27, F.S., govern the length of time that a child may be held in detention care after an adjudication of delinquency.

<sup>3</sup> 2015 Legislative Bill Analysis of Senate Bill 1414, Department of Juvenile Justice (March 13, 2015).

<sup>4</sup> 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, F.S., 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., F.S., from the previous July 1. Currently, 29 counties are considered fiscally constrained.

state was responsible for 26%. The department's apportionment of costs has been a source of administrative litigation by counties.

In June 2013, the First District Court of Appeal (DCA) affirmed an administrative law judge's order invalidating rules that the department had promulgated in 2010 relating to costs of detention. According to the order, the rules at issue shifted a greater responsibility for costs to the counties than was required by the relevant statute. The opinion had the effect of significantly decreasing the counties' fiscal responsibility and increasing the state's obligation.<sup>5</sup>

Administrative petitions have been filed to contest reconciliations for fiscal years since 2008-2009. The department initially entered into stipulations relating to Fiscal Years 2009-2010, 2010-2011, and 2011-2012. However, the department subsequently determined that the stipulations were not consistent with the cost-sharing statute and entered Final Orders that are now under appeal to the First DCA. A petition filed in relation to Fiscal Year 2012-2013 is still pending at Division of Administrative Hearings.

In May 2014, the department promulgated new rules to implement the sharing of costs in accordance with the statute. The Florida Association of Counties and a number of individual counties filed an administrative challenge to the new rule and a hearing was held in November 2014. The parties submitted proposed final orders to the Administrative Law Judge on February 2, 2015.

### III. Effect of Proposed Changes:

**Section 1** amends s. 985.686, F.S., relating to shared county and state responsibility for juvenile detention. The bill defines "actual cost" to mean "funds that the department expends for providing detention care less any funds that it receives from the Grants and Donations Trust Fund and the Federal Grants Trust Fund."

The bill requires counties that are not fiscally constrained to pay a share of the actual cost of providing detention care. The department is tasked with:

- Determining the total actual cost of detention care for all counties that are not fiscally constrained after the certified forward period has ended, including any additional legislative appropriations for detention not included in the certified forward amount;
- Determining each county's percentage of detention use at the end of each fiscal year by dividing the total number of detention days for juveniles residing in the county during the most recent twelve month period by the total number of detention days for all juveniles residing in all counties that are not fiscally constrained during the same period; and
- Calculating the share of actual costs each county must pay by multiplying the county's percentage of detention use by 57 percent of the total actual cost of detention care.

Each county must pay the department one-twelfth of its share of actual costs for the most recently completed state fiscal year by the first day of each month, beginning on July 1 of the year after receiving notice of its share from the department.

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<sup>5</sup>*Dep't of Juvenile Justice v. Okaloosa County*, 113 So.3d 1074 (Fla. 1<sup>st</sup> DCA 2013).

The bill requires the Department of Revenue (DOR) to review county detention cost share payments to ensure that each county is meeting its financial obligations. If not, DOR is required to deduct any unpaid cost share amount from the distribution of s. 218.23, F.S., revenue sharing funds to that county. However, there is a provision to prevent withholding of distributions in an amount that would affect the county's ability to meet obligations for bonds issued prior to July 1, 2015, or for bonds issued to refund such bonds that mature no later than the original bonds.

The bill requires the state to pay:

- Forty-three percent of the total actual cost of providing detention care in counties that are not fiscally constrained;
- The actual cost of detention care for fiscally constrained counties; and
- The actual cost of providing detention care for juveniles residing out of state.

**Section 2** amends s. 985.6015, F.S., to remove references to "predisposition juvenile detention" in order to conform with the bill's removal of predisposition and postdisposition as the basis for allocating juvenile detention costs between the state and counties that are not fiscally constrained.

**Section 3** provides an effective date of July 1, 2015.

#### **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:

None.

C. Government Sector Impact:

PCS/SB 1414 would increase the state's share of juvenile detention costs in counties that are not fiscally constrained by approximately \$950,000 relative to the 58% county/42% state split of costs in the Senate and House proposed budgets for Fiscal Year 2015-2016.

The share of costs for counties that are not fiscally constrained would increase by an equal amount.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 985.686 of the Florida Statutes:

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**Recommend CS by Appropriations Subcommittee on Criminal and Civil Justice on April 7, 2015:**

The committee substitute:

- Changes the split of juvenile detention care costs from 40% state/60% county to 43% state/57% county.
- Includes any additional legislative appropriations for detention not included in the certified forward amount in the calculation of total actual costs.
- Requires the Department of Revenue (DOR) to review county detention cost share payments to ensure that each county is meeting its financial obligations. If not, DOR is required to deduct any unpaid cost share amount from the distribution of s. 218.23, F.S., revenue sharing funds to that county.
- Includes a provision to prevent withholding of revenue sharing fund distributions in an amount that would affect the county's ability to meet current bond obligations.

**B. Amendments:**

None.