

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1417 Juvenile Justice  
**SPONSOR(S):** McClure  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	10 Y, 0 N	Painter	Sumner
2) Justice Appropriations Subcommittee	11 Y, 0 N	Welty	Gusky
3) Judiciary Committee			

### SUMMARY ANALYSIS

HB 1417 addresses several provisions relating to juvenile justice:

- "Invest in Children" license plates: Currently, s. 320.08058(11), F.S., requires the annual use fee proceeds from the license plates go into the Juvenile Crime Prevention and Early Intervention Trust Fund within the Department of Juvenile Justice (DJJ). DJJ funds programs and services on a county level based on each county's proportionate share of the license plate annual use fee collected in that county. The bill deletes the requirement that the funds be used by the county based on each county's proportionate share.
- Secure detention for PJOs pending a detention hearing: When a youth violates the conditions of nonsecure release, s. 985.26, F.S., is silent as to whether a prolific juvenile offender (PJO) should be placed in secure or nonsecure detention pending a detention hearing. The department uses a risk assessment instrument (RAI) to determine if the child should remain in secure or nonsecure detention pending the hearing. Some youth who meet the criteria of a PJO will not necessarily score for secure detention based on the RAI and will be released until the detention hearing. The bill amends s. 985.26, F.S., to require that a PJO who is taken into custody for a violation of nonsecure detention be held in secure detention until the detention hearing.
- Predisposition reports: A predisposition report is completed by a juvenile probation officer in preparation for a judicial disposition of a youth's case. The report is a multidisciplinary assessment of the youth's priority needs, an individualized plan for treatment of those needs, and a recommendation of the most appropriate placement to meet the youth's needs in a setting that provides a level of security sufficient to ensure public safety. Currently, s. 985.433, F.S., does not require a court to consider a predisposition report prior to committing a child. The bill amends that section to require the court receive and consider the report prior to committing the child to DJJ.
- Florida Juvenile Justice Foundation: The bill amends s. 985.672, F.S., to delete the scheduled repeal of the department's direct-support organization, the Florida Juvenile Justice Foundation. In addition, the bill amends the section of the statute addressing the board of directors to allow the board of directors to be appointed by the secretary in accordance with the foundation's by laws.

The bill has an indeterminate, but likely insignificant, fiscal impact on local governments. The bill has an indeterminate fiscal impact on state government.

The bill provides an effective date of July 1, 2018.

**FULL ANALYSIS**  
**I. SUBSTANTIVE ANALYSIS**

**A. EFFECT OF PROPOSED CHANGES:**

**Background**

"Invest in Children" License Plates

Section 320.08058(11), F.S., requires the Department of Highway Safety and Motor Vehicles to develop an Invest in Children license plate. The proceeds from the license plate annual use fee are deposited into the Juvenile Crime Prevention and Early Intervention Trust Fund within the Department of Juvenile Justice ("DJJ").<sup>1</sup> DJJ uses the fees to fund programming and services recommended by the county's juvenile justice council<sup>2</sup>, designed to prevent juvenile delinquency.<sup>3</sup> Funding is allocated on a county level based on each county's proportionate share of the license plate annual use fee collected by each individual county.

Below is a chart of the amount of annual use fees collected each fiscal year, for the past three years, among the 67 counties<sup>4</sup>:

FY 2014-2015	\$247,474.67
FY 2015-2016	\$230,422.31
FY 2016-2017	\$217,738.00
FY 2017-2018 (July 2017- Jan 2018)	\$135,614.83

Due to the requirement that funding be allocated based proportionally on the fees collected by each county, DJJ is unable to fund prevention services in many counties that do not sell many license plates. In FY 2015-16, license plate sales in 27 counties throughout the state resulted in revenue of less than \$500 per county.<sup>5</sup> As a result, many low revenue-producing counties do not respond to grant offerings by DJJ. The Juvenile Crime Prevention and Early Intervention Trust Fund has a current balance of over \$1.2 million.<sup>6</sup>

Prolific Juvenile Offender Violations of Nonsecure Detention

*Secure or Nonsecure Detention Pending Detention Hearings*

When a child is taken into custody, DJJ first determines whether the child should be placed in secure<sup>7</sup> or nonsecure<sup>8</sup> detention pending a detention hearing. The detention hearing must be held within 24

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<sup>1</sup> S. 320.08058(11)(b), F.S.

<sup>2</sup> Members of a juvenile justice council must include representative(s) of: the state attorney, the public defender, the chief judge, the Department of Children and Family Services, local enforcement agencies, a county commissioner, the superintendent of each school district within the county, a workforce organization, the business community, the faith community, a youth who has experience within the juvenile justice system, a healthcare service person specializing in mental-health care, victim-service programs and victims of crime, and the parent or family member of a youth who has been involved in the juvenile justice system. S. 985.664(4), F.S.

<sup>3</sup> S. 320.08058(11)(b), F.S.

<sup>4</sup> Transparency Florida, Trust Fund Revenues Report. Available at:

<http://www.transparencyflorida.gov/Reports/TrustFundRevReport.aspx?FY=&RT=TF> (Last accessed January 26, 2018).

<sup>5</sup> Email from Department of Juvenile Justice, October 26, 2017 (on file with Criminal Justice Subcommittee).

<sup>6</sup> Id.

<sup>7</sup> S. 985.03(18)(b), F.S., defines "secure detention" to mean "temporary care of a child while the child is under the physical restriction of a secure detention center or facility pending adjudication, disposition, or placement."

<sup>8</sup> S. 984.03, F.S., defines "nonsecure detention" to mean "temporary, nonsecure custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the department staff pending adjudication, disposition, or placement. Forms of nonsecure detention include, but are not limited to, home detention, electronic monitoring, day reporting centers, evening reporting centers, and nonsecure shelters. Nonsecure detention may include other requirements imposed by the courts."

hours of the child's arrest.<sup>9</sup> A risk assessment instrument (RAI) is used to assist in making the determination of where to place the child. The RAI uses points that determine whether and what type of detention care should be imposed:

- Zero to six points - the child should be released.
- Seven to eleven points - the child should be placed in nonsecure detention.
- Twelve or more points - the child should be placed in secure detention.<sup>10</sup>

However, regardless of the RAI results, s. 985.25, F.S., requires secure detention of a child until the detention hearing in three circumstances:

- The child meets the criteria of PJO under s. 985.255(1)(j), F.S.<sup>11</sup>
- The child is charged with possessing or discharging a firearm on school property.<sup>12</sup>
- The child has been taken into custody on three or more separate occasions within a 60-day period.<sup>13</sup>

The purpose of a detention hearing is for the judge to determine the existence of probable cause that the child has committed the delinquent act or violation of law that he or she has been charged with and to determine the need for continued detention. Generally, the court makes this determination by using the RAI. The RAI contains information regarding a child's history of prior offenses, including, but not limited to, unlawful firearm possession, theft of a motor vehicle, or possession of a stolen vehicle; prior failures to appear; offenses committed pending adjudication; the probation status of the child at the time they are taken into custody; and other appropriate aggravating or mitigating circumstances.<sup>14</sup>

Once a detention hearing has been held and the state has filed a petition alleging a child committed a delinquent act or a violation of law, an adjudicatory hearing must be held as soon as practicable.<sup>15</sup> If the child is a PJO, then the adjudicatory hearing must be held within 45 days after the child is taken into custody unless a delay is requested by the child.<sup>16</sup> A child who is held in secure detention before his or her adjudicatory hearing may not be held in such detention for more than 21 days,<sup>17</sup> except that the state or defense, in order to prepare its case, may seek up to a nine-day extension of detention care for a child charged with certain serious offenses.<sup>18</sup>

At the adjudicatory hearing, the judge must determine whether the state's evidence establishes beyond a reasonable doubt that the child committed the delinquent act alleged. The court may enter an order dismissing the case<sup>19</sup> or may enter an order stating the facts upon which it finds the child committed the delinquent act and either withhold adjudication<sup>20</sup> or enter an adjudication of delinquency.<sup>21</sup>

If the child is found to have committed a delinquent act, the disposition of the case is typically entered at the same hearing; however, if the disposition is continued to a later date, statute provides that a child may not be held in secure detention care for more than 15 days following the entry of an order of adjudication.<sup>22</sup> This 15-day period does not include periods of delay that result from continuances granted by the court for cause.<sup>23</sup>

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<sup>9</sup> S. 985.255(1), F.S.

<sup>10</sup> Rule 63D-8, F.A.C. (Department of Juvenile Justice Risk Assessment Instrument).

<sup>11</sup> S. 985.25(1)(b), F.S.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> S. 985.245(1)(b), F.S.

<sup>15</sup> S. 985.35(1), F.S.

<sup>16</sup> S. 985.35(1)(b), F.S.

<sup>17</sup> S. 985.26(2), F.S.

<sup>18</sup> These offenses include any offense, which if committed by an adult, would be a capital felony, a life felony, a felony of the first degree, or a felony of the second degree involving violence against any individual.

<sup>19</sup> S. 985.35(3), F.S.

<sup>20</sup> S. 985.35(4), F.S.

<sup>21</sup> S. 985.35(5), F.S.

<sup>22</sup> S. 985.26(3)

<sup>23</sup> If such a continuance is granted the court must conduct a hearing at the end of each 72-hour period, to determine the need for continued detention of the child and the need for further continuance of the proceedings. See s. 985.26(4), F.S.

*Prolific Juvenile Offender and s. 985.25, F.S.*

Section 985.255(1)(j), F.S., establishes the designation of a prolific juvenile offender ("PJO"). A child is classified as a PJO if he or she:

- Is charged with a delinquent act that would be a felony if committed by an adult;
- Has been adjudicated or had adjudication withheld for a felony offense, or a delinquent act that would be a felony if committed by an adult, prior to the charge for which they are currently appearing; and
- Has five or more of any of the following:<sup>24</sup>
  - An arrest event<sup>25</sup> for which a disposition<sup>26</sup> has not been entered;
  - An adjudication; or
  - An adjudication withheld.

When a child is taken into custody and qualifies as a PJO, that child must remain in secure detention pending the detention hearing.<sup>27</sup> At the detention hearing, a PJO must be placed in either secure detention or nonsecure detention with electronic monitoring until the disposition of the case.<sup>28</sup> The term "disposition" means the state declines to file charges;<sup>29</sup> the state enters a nolle prosequi for the charges; an indictment<sup>30</sup> or information<sup>31</sup> is filed; the case is dismissed; or there is a final order of disposition by the court. If the PJO is placed in secure detention, such detention may not exceed:

- 21 days, unless an adjudicatory hearing begins or is extended by nine days under current law; or
- 15 days after the entry order of adjudication.

Section 985.25, F.S., states that a PJO must remain in secure detention pending a detention hearing whenever DJJ receives custody of a PJO who has been taken into custody from a law enforcement agency.<sup>32</sup> Despite the plain language of the statute, DJJ says s. 985.25, F.S., only applies when a child is taken into custody based on new law offenses and not technical violations of nonsecure detention release.<sup>33</sup>

As a result, when a PJO violates nonsecure detention and is taken into custody, DJJ uses a RAI to determine if the child should remain in secure or nonsecure detention pending the detention hearing. A subset of youth who meet the criteria of PJO will not necessarily score for secure detention based on the RAI and will be released pending the detention hearing.

### DJJ Predisposition Report

Sections 985.43, F.S., and 985.433, F.S., address disposition hearings in delinquency cases and predisposition reports. When a child is found to have committed a delinquent act, a court must first determine the suitability or unsuitability for adjudication and commitment of the child to DJJ.<sup>34</sup> The

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<sup>24</sup> Three of which must have been for felony offenses or delinquent acts that would have been felonies if committed by an adult.

<sup>25</sup> S. 985.255(1)(j)3, F.S., defines an "arrest event" as an arrest or referral for one or more criminal offenses or delinquent acts arising out of the same episode, act, or transaction.

<sup>26</sup> S. 985.26, F.S., defines "disposition" to mean a declination to file under s. 985.15(1)(h), the entry of nolle prosequi for the charges, the filing of an indictment under s. 985.56 or an information under s. 985.557, a dismissal of the case, or an order of final disposition by the court.

<sup>27</sup> S. 985.25(1)(b), F.S.

<sup>28</sup> S. 985.26, F.S.

<sup>29</sup> Pursuant to s. 985.15(1)(h), F.S.

<sup>30</sup> Pursuant to s. 985.56, F.S., this may occur if the child is charged with a violation of law punishable by death or by life imprisonment.

<sup>31</sup> Pursuant to s. 985.577, F.S., the state attorney may direct file, or in certain cases must direct file, an information for juvenile offenders of a certain age charged with committing certain serious offenses if the state intends to seek adult sanctions.

<sup>32</sup> Supra, FN 27.

<sup>33</sup> Phone call between Criminal Justice Subcommittee staff and Department of Juvenile Justice on November 16, 2017.

<sup>34</sup> S. 985.433, F.S.

court may order DJJ to prepare a predisposition report regarding the child's eligibility for adjudication, commitment, and, if appropriate, assignment to residential commitment.<sup>35</sup>

*Section 985.43, F.S.*

The predisposition report is prepared by a DJJ probation officer and reports the result of a multidisciplinary assessment of the youth's priority needs, an individualized plan for treatment of those needs, and a recommendation of the most appropriate placement to meet the youth's needs in a setting that provides a level of security sufficient to ensure public safety.<sup>36</sup>

Section 985.43, F.S., addresses predisposition reports and other evaluations to be used by a judge in sentencing a juvenile. If it is anticipated that the child will be recommended for residential commitment, then s. 985.43, F.S., requires the court to order a predisposition report.<sup>37</sup> The predisposition report evaluates the following criteria<sup>38</sup>:

- The seriousness of the offense.
- Whether the protection of the community requires adjudication and commitment.
- Whether the offense was committed in an aggressive, violent, premeditated, or willful manner.
- Whether the offense was against person or against property, with greater weight being given to an offense against a person.
- The child's sophistication and maturity.
- The child's record and previous criminal history.
- The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child if committed to a community services program or facility.
- The child's educational status.

The court must consider the child's entire assessment and predisposition report and review the records of earlier judicial proceedings prior to making a final disposition.<sup>39</sup> If the court determines that the child should be adjudicated and committed to DJJ, such determination must be in writing or on the record.<sup>40</sup> The determination must include a specific finding of the reasons for the decision, including any determination that the child is a member of a criminal gang.<sup>41</sup> However, judges do not always consider the juvenile's entire assessment and the department's predisposition report before making the decision to commit to a residential facility. The department defines this practice as a "bench commitment."

*Section 985.433, F.S.*

Section 985.433, F.S., describes the procedures a court must follow at the disposition of a case where a child has been found to have committed a delinquent act. This statute does not discuss any requirement that a court must order and consider a predisposition report if the child is being recommended for commitment.

*Bench Commitments*

Juvenile arrests in Florida have continued to decline over the past decade, with juvenile arrests at the lowest point in more than 40 years.<sup>42</sup> The use of residential commitment has also declined significantly, as residential placement is reserved for youth with a higher risk of reoffending. After several years of

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<sup>35</sup> S. 985.43, F.S.

<sup>36</sup> S. 985.43(1)(a), F.S.

<sup>37</sup> Id.

<sup>38</sup> S. 985.433(6), F.S.

<sup>39</sup> S. 985.43(2), F.S.

<sup>40</sup> S. 985.433, F.S.

<sup>41</sup> Id.

<sup>42</sup> Email from Department of Juvenile Justice, October 26, 2017, citing Florida Department of Juvenile Justice's Office of Research and Data Integrity (on file with Criminal Justice Subcommittee).

decline in residential commitment, dispositions to residential commitment began to increase during FY 2015-16 to FY 2016-17.<sup>43</sup> According to DJJ, this has been driven primarily by two factors<sup>44</sup>:

- A significant reduction in transfer to adult court (direct file); and
- An increase in bench commitments.

DJJ defines "bench commitments" to mean when the court fails to consider the department's recommendations in a predisposition report before committing the youth.<sup>45</sup> Below is a chart compiled from information received from the department regarding bench commitments.<sup>46</sup>

	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Commitments	8,422	7,593	7,319	6,122	5,317	4,097	3,481	3,278	3,072	3,181	3,499
Bench	975	924	1,137	1,050	1,121	981	989	970	838	989	960
	12%	12%	16%	17%	21%	24%	28%	30%	27%	31%	27%

## Agency Direct Support Organizations

### *Direct Support Organizations (DSOs)*

A direct-support organization (DSO) is a non-profit organization<sup>47</sup> authorized by statute to carry out specific tasks in support of a public entity or public cause. The function and purpose of a DSO is detailed in its enacting statute and the written contract with the agency the DSO was created to support.<sup>48</sup>

### *DSO Transparency and Reporting Requirements*

In 2014, the Legislature created s. 20.058, F.S., establishing transparency and reporting requirements for DSOs.<sup>49</sup> Specifically, the law requires each DSO to submit annually the following information to the agency it was created to support by August 1st:<sup>50</sup>

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent Internal Revenue Service (IRS) Form 990.<sup>51</sup>

Additionally, the information submitted annually by a DSO must be available on the respective agency's website along with a link to the DSO's website, if one exists.<sup>52</sup> Any contract between an agency and a DSO must be contingent upon the DSO submitting the required information to the agency and posting the information on the agency's website.<sup>53</sup> The contract must include a provision for ending operations and returning state-issued funds if the authorizing statute is repealed, the contract is terminated, or the

<sup>43</sup> Florida Department of Juvenile Justice FY 2016-17 Delinquency Profile (online publication pending) (on file with Criminal Justice Subcommittee).

<sup>44</sup> Email from Department of Juvenile Justice, November 09, 2017 (on file with Criminal Justice Subcommittee).

<sup>45</sup> Email from Department of Juvenile Justice, November 22, 2017 (on file with Criminal Justice Subcommittee).

<sup>46</sup> Id.

<sup>47</sup> Ch. 617, F.S.

<sup>48</sup> SS. 14.29(9)(a), 16.616(1), and 258.015(1), F.S.; see also Rules of the Florida Auditor General, *Audits of Certain Nonprofit Organizations* (effective June 30, 2017), Rule 10.720(1)(b) and (d), available at: [https://flauditor.gov/pages/pdf\\_files/10\\_700/pdf](https://flauditor.gov/pages/pdf_files/10_700/pdf) (last accessed January 11, 2018).

<sup>49</sup> S. 3, Ch. 2014-96, L.O.F.

<sup>50</sup> S. 20.058(1), F.S.

<sup>51</sup> The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501. 26 C.F.R. 1.6033-2.

<sup>52</sup> S. 20.058(2), F.S.

<sup>53</sup> S. 20.058(4), F.S.

organization is dissolved.<sup>54</sup> If a DSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate its contract with the DSO.<sup>55</sup>

By August 15th of each year, each agency must report to the Governor, President of the Senate, Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information submitted by the DSO, along with the agency's recommendation and supporting rationale to continue, terminate, or modify the agency's association with the DSO.<sup>56</sup> Any law creating, or authorizing the creation of a DSO must repeal its authorization on October 1st of the 5th year after enactment, unless reviewed and reenacted by the Legislature. A list of DSOs in existence prior to July 1, 2014 are scheduled for repeal in 2018, and 2019 is below:

DSOs Scheduled for Repeal <sup>57</sup>	
October 1, 2018	October 1, 2019
<ul style="list-style-type: none"> <li>• Guardian ad Litem Program Foundation (s. 39.8298(8), F.S.)</li> <li>• Florida Department of Law Enforcement for Florida Missing Children's Day (s. 683.231(8), F.S.)</li> <li>• Department of Corrections (s. 944.802(4), F.S.)</li> <li>• Executive Office of the Governor to assist victims of adult and juvenile crime. (s. 960.002(6), F.S.)</li> <li>• Department of Juvenile Justice (s. 985.672(7), F.S.)</li> </ul>	<ul style="list-style-type: none"> <li>• Department of Environmental Protection (s. 20.2551(6), F.S.)</li> <li>• Division of Library and Information Services (s. 257.43(4), F.S.)</li> <li>• Division of Recreation and Parks (s. 258.015(4), F.S.)</li> <li>• Babcock Ranch Preserve (s. 259.10521(4), F.S.)</li> <li>• Division of Cultural Affairs (s. 265.703(4), F.S.)</li> <li>• Division of Historical Resources (s. 267.17(4), F.S.)</li> <li>• Florida Tourism Industry Marketing Corporation (ss. 288.1226(9) and 288.923(6), F.S.)</li> <li>• Florida Intergovernmental Relations Foundation (s. 288.809(5), F.S.)</li> <li>• Fish and Wildlife Conservation Commission (s. 379.223(4), F.S.)</li> <li>• Department of Agriculture and Consumer Services (s. 570.691(10), F.S.)</li> <li>• Florida Beef Council (s. 570.83(14), F.S.)</li> </ul>

Current law requires all DSOs in existence prior to July 1, 2014 must be reviewed by the Legislature by July 1, 2019.<sup>58</sup>

<sup>54</sup> Ch. 2017-75, L.O.F.

<sup>55</sup> S. 20.058(4), F.S.

<sup>56</sup> S. 20.058(3), F.S.

<sup>57</sup> Supra, FN 3.

<sup>58</sup> S. 20.058(5), F.S.

## *DSO Audit Requirements*

Section 215.981, F.S., requires each DSO with annual expenditures in excess of \$100,000 to annually audit its accounts and records.<sup>59</sup> The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the DSO. The audit report must be submitted within nine months of the fiscal year to the Auditor General and to the state agency the DSO supports. Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of DSO accounts and records.<sup>60</sup>

## *Florida Juvenile Justice Foundation*

In 1999, the Legislature created the direct support organization for DJJ under s. 985.672, F.S. The Business Partners became that organization through non-profit incorporation on January 28, 2000, as a 501(c)(3) education organization named Florida Business Partners for Juvenile Justice, Inc.<sup>61</sup> In 2005, the Board of Directors voted to change the name of the organization from Florida Business Partners for Juvenile Justice to Florida Juvenile Justice Foundation (Foundation).

The Foundation's purpose is to raise funds that enhance, promote, and support initiatives of DJJ. The Foundation funds the You Investment Award program, which provides financial assistance designed to further the education and employability of juvenile justice-involved youth. The Foundation also funds back-to-school drives, Youth Success Week, the Human Trafficking Summit, the National Faith-Based Symposium, and provides support and recognition for the DJJ Teacher of the Year Award.<sup>62</sup>

Under s. 985.672(3), F.S., the board of directors for the Foundation must include representatives from businesses, representatives from each of the juvenile justice service districts, and one representative appointed at large. While DJJ used to divide the state out into "districts," that system changed in the late 1990s.<sup>63</sup> The current system under DJJ breaks the state into "circuits." This involves a substantial geographical change from the old "district" system. Where there used to be 15 districts, there are now 20 circuits.<sup>64</sup> The statutory language of s. 985.672(3), F.S., was never updated to reflect the transition from "districts" to "circuits."

The by-laws of the Foundation state that the Secretary shall appoint the members and that shall include a diverse group of individuals with broad based representation from communities and business leaders with ethnic, age, gender and geographic diversity.<sup>65</sup> The language of the statute is not in keeping with the current bylaws of the Foundation.

Currently, the authorizing statute for the Foundation is scheduled for repeal October 1, 2018.

## **Effect of Proposed Changes**

### Invest in Children License Plates

HB 1417 amends s. 320.08058, F.S., to remove the requirement that DJJ use the proceeds from license plates to fund programs and services on a county level based on each county's proportionate share of the license plate annual use fee collected in that county. The amendment will allow DJJ to distribute the proceeds from the license plate fund on a statewide basis. The change should allow the

<sup>59</sup> The independent audit requirement does not apply to a DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

<sup>60</sup> S. 11.45(3), F.S.

<sup>61</sup> Id.

<sup>62</sup> Email from Department of Justice, November 20, 2017 (on file with Criminal Justice Subcommittee).

<sup>63</sup> Supra, FN. 4.

<sup>64</sup> Id.

<sup>65</sup> Florida Juvenile Justice Foundation, Inc. By-laws, Art. V (on file with Criminal Justice Subcommittee).



department to better utilize the revenues collected, rather than having those revenues accumulate unspent within the trust fund.

#### Prolific Juvenile Offender Violations of Nonsecure Detention

The bill requires PJOs taken into custody for a violation of nonsecure detention to be held in secure detention until the detention hearing is held. The risk assessment instrument will no longer apply when determining if a PJO youth who violates the conditions of nonsecure release will be held pending the detention hearing.

#### Consideration of DJJ Predisposition Report

The bill amends s. 985.433, F.S., to require the court to receive and consider the predisposition report prior to committing the child to the department. This will ensure a sentencing judge is considering the opinions of DJJ concerning the suitability of the youth's placement prior to commitment.

#### DJJ Direct Support Organizations

HB 1417 removes the scheduled repeal date for DJJ's direct support organization, the Florida Juvenile Justice Foundation. As a result, the DSO will remain in existence unless the legislature determines that another review is necessary. The bill also removes the requirement that members of the organization include representatives from businesses and each of the juvenile justice service districts, and one at large representative. The bill provides that the Secretary of the Department of Juvenile Justice must appoint members in accordance with the Foundation's bylaws.

### B. SECTION DIRECTORY:

**Section 1:** Amending 320.08058, F.S., relating to specialty license plates.

**Section 2:** Amending 985.26, F.S., relating to length of detention.

**Section 3:** Amending 985.433, F.S., relating to disposition hearings in delinquency cases.

**Section 4:** Amending 985.672, F.S., relating to direct-support organizations; definitions; use of property board of directors; audit.

**Section 5:** Provides an effective date of July 1, 2018.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

##### Prolific Juvenile Offenders

To the extent that additional youth are held in secure detention, there will be additional costs to the state to operate secure detention facilities. However, these costs are likely to be insignificant due to the minimal number of youth that qualify as prolific juvenile offenders but do not score to be held in secure detention. According to DJJ, these costs can be absorbed within existing resources.

##### Consideration of DJJ Predisposition Report

There is an indeterminate fiscal impact relating to the judicial consideration of DJJ predisposition reports. It is unknown how many youth that received a bench commitment would have been referred to a residential program if a predisposition report had been received and reviewed by the judge before committing the juvenile.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

To the extent that additional youth are held in secure detention, there will be additional costs to the non-fiscally constrained counties that contribute funding to operate secure detention facilities. However, these costs are likely to be insignificant due to the minimal number of youth that qualify as prolific juvenile offenders but do not score to be held in secure detention.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

The Invest in Children license plate generated approximately \$240,000 in revenues over the past four fiscal years. The Department of Highway Safety and Motor Vehicles (DHSMV) deposits these funds into the Juvenile Crime Prevention and Early Intervention Trust Fund. The department expended approximately \$137,000 per year from this trust fund during the last four fiscal years. As a result, the trust fund balance continues to increase. As of January 2018, the trust fund has available revenue of approximately \$1.2 million. The bill removes the current distribution limitations, allowing the department to use available funding for prevention programs around the state.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**