

**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 Committee on Criminal Justice

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BILL: SB 474

INTRODUCER: Senator Bracy

SUBJECT: Prosecuting Children as Adults

DATE: March 1, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 474 amends s. 985.556, F.S., to increase the minimum age, from 14 to 15 that a child may qualify for involuntary discretionary waiver and involuntary mandatory waiver. Section 985.556, F.S., provides the waiver processes by which the state attorney may request the court to transfer a child to adult court.

The bill amends s. 985.557, F.S., to increase the age a child may qualify for discretionary direct file. Section 985.557, F.S., provides that a state attorney, within their sole discretion, may direct file certain children, thereby transferring a child to adult court.

Currently, s. 985.557(1)(a), F.S., provides that a state attorney may direct file any child who is 14 or 15 years of age at the time of the offense and has been charged with certain enumerated offenses. This bill amends the ages of a child that a state attorney may direct file to 15 or 16.

Additionally, s. 985.557(1)(b), F.S., currently provides that a state attorney may direct file any child who is 16 or 17 years of age at the time of the offense, and the offense was a felony, or the child has at least two previous adjudications or adjudications withheld for delinquent acts, one of which must have been a felony. The bill amends the age of a child that a state attorney may direct file to 17.

This bill will likely have an indeterminate fiscal impact on the Department of Juvenile Justice (DJJ) and the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

## II. Present Situation:

### Delinquency - In General

The state constitution allows creation of a separate juvenile justice system:

When authorized by law, a child as therein defined may be charged with a violation of law as an act of delinquency instead of crime and tried without a jury or other requirements applicable to criminal cases. Any child so charged shall, upon demand made as provided by law before a trial in a juvenile proceeding, be tried in an appropriate court as an adult. A child found delinquent shall be disciplined as provided by law.<sup>1</sup>

A child for purposes of juvenile court is defined as any individual whose offense occurred before the offender's 18th birthday.<sup>2</sup> Juvenile justice policy and procedure is governed by ch. 985, F.S. Legislative findings governing that chapter say, in relevant part, that:

The purposes of this chapter are . . . to assure that the sentencing and placement of a child tried as an adult be appropriate and in keeping with the seriousness of the offense and the child's need for rehabilitative services, and that the proceedings and procedures applicable to such sentencing and placement be applied within the full framework of constitutional standards of fundamental fairness and due process.<sup>3</sup>

The Legislature also finds that certain juveniles have committed a sufficient number of criminal acts, including acts involving violence to persons, to represent sufficient danger to the community to warrant sentencing and placement within the adult system. It is the intent of the Legislature to establish clear criteria in order to identify these juveniles and remove them from the juvenile justice system.<sup>4</sup>

### *Detention of Children in Florida*

A child is entitled to a hearing within 24 hours of being taken into custody or placed in detention care. At the hearing, the court may order continued detention care under certain circumstances.<sup>5</sup> "Detention care" means "the temporary care of a child in secure, or supervised release detention, pending a court adjudication or disposition or execution of a court order."<sup>6</sup> There are two types of detention care, including:

- "Secure detention" which is the temporary custody of a child while he or she is under the physical restriction of a secure detention center or facility pending adjudication, disposition, or placement.
- "Supervised release detention" which is the temporary, nonsecure custody of a child while the child is released to the custody of a parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of department staff pending adjudication or

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<sup>1</sup> FLA. CONST. art. I, s. 15(b).

<sup>2</sup> Section 985.03(7), F.S.

<sup>3</sup> Section 985.01(1)(f)2., F.S.

<sup>4</sup> Section 985.02(4)(b), F.S.

<sup>5</sup> Section 985.255(1), F.S.

<sup>6</sup> Section 985.03(18), F.S.

disposition, through programs that include, but are not limited to, electronic monitoring, day reporting centers, and nonsecure shelters, in addition to other court-imposed requirements.<sup>7</sup>

Generally, a child may not be held in detention care for more than 21 days, unless an adjudicatory hearing for the case has been commenced in good faith by the court. The court may extend the length of detention for an additional 9 days if the child is charged with certain offenses, and there is good cause shown that the nature of the charge requires additional time for the prosecution or defense of the case.<sup>8</sup> Additionally, a prolific juvenile<sup>9</sup> offender must be placed on supervised release detention care with electronic monitoring or in secure detention care under a special detention order.<sup>10</sup>

### ***Cost Sharing of Detention Care***

Cost sharing is governed by s. 985.6865, F.S., which provides, notwithstanding s. 985.686, F.S., each fiscal year, every county that is not fiscally constrained<sup>11</sup> and that has dismissed any action or claim described in s. 985.6865(2), F.S.,<sup>12</sup> must pay 50 percent of the total shared detention cost.<sup>13</sup>

The DJJ calculates a county's annual percentage share by dividing the total number of detention days for children residing in the non-fiscally constrained county for the most recently completed 12-month period by the total number of detention days for children in all non-fiscally constrained counties. The county must pay 50 percent of the annual percentage share in 12 equal payments, due on the first day of each month.<sup>14</sup>

Counties that are required to pay their share of detention costs must incorporate sufficient funds to pay its share of detention costs into its annual budget.<sup>15</sup> Funds paid by the counties to the DJJ under this section must be deposited into the Shared County/State Juvenile Detention Trust Fund.<sup>16</sup> The DJJ will determine quarterly whether counties are complying with this section.<sup>17</sup>

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<sup>7</sup> *Id.*

<sup>8</sup> Section 985.26, F.S.

<sup>9</sup> Section 985.255, F.S., provides that a "prolific juvenile offender" means a child that is charged with a delinquent act that would be a felony if committed by an adult, has a prior adjudication or adjudication withheld for a delinquent act that would be a felony if committed by an adult, and has 5 or more arrests, adjudications, or adjudications withheld, 3 of which must have been felony offenses.

<sup>10</sup> Section 985.26, F.S.

<sup>11</sup> Section 985.6865(3)(b), F.S., defines "fiscally constrained county" as a county within a rural area of opportunity 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.

<sup>12</sup> Various counties and the DJJ have engaged in a multitude of legal proceedings, including administrative or judicial claims, regarding detention cost sharing for juveniles. Such litigation has largely focused on how the DJJ calculates the detention costs that the counties are responsible for paying, leading to the overbilling of counties for a period of years. Section 985.6865(1) and (2), F.S.

<sup>13</sup> Section 985.6865(4), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> Section 985.6865(6), F.S.

<sup>16</sup> Section 985.6865(7), F.S.

<sup>17</sup> Section 985.6865(8), F.S.

The State must pay all costs of detention care for children:

- Residing in a fiscally constrained county.
- Residing out of State.
- Housed in state detention centers from counties that provide their own detention care for children.<sup>18</sup>

### **Transfer of a Child to Adult Court**

There are three methods of transferring a child to adult court for prosecution: judicial waiver, indictment,<sup>19</sup> or direct filing an information.<sup>20</sup>

Judicial waiver and indictment are both uncommon. During FY 2019-20, there were 4 voluntary waivers, 5 involuntary waivers, 4 indictments, and 788 direct files.<sup>21</sup>

The term “mandatory direct file” refers to laws that require the state attorney to file an information<sup>22</sup> in adult criminal court, thereby bypassing juvenile court. In 2019, Florida repealed laws on mandatory direct file.<sup>23</sup>

### ***Judicial Waiver***

The term “judicial waiver” refers to the process by which a child or a state attorney requests the juvenile court to transfer a child to adult court. Judicial waiver applies to certain offenders who were between 14 and 17 years of age at the time of the offense. There are three types of judicial waiver: voluntary,<sup>24</sup> involuntary *discretionary* waiver, and involuntary *mandatory* waiver.<sup>25</sup>

### **Involuntary Discretionary Waiver**

Section 985.556(2), F.S., provides that the state attorney may file a motion requesting the court to transfer the child to adult court if the child was 14 years of age or older at the time of the offense.<sup>26</sup> Involuntary discretionary waiver may be filed for any offense.

### **Involuntary Mandatory Waiver**

Section 985.556(3), F.S., provides that the state attorney must request the court transfer a child to adult court, or provide written reasons to the court for not making such request, or proceed under discretionary direct file, if the child was 14 years of age or older:

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<sup>18</sup> Section 985.6865(5), F.S.

<sup>19</sup> A grand jury can indict a child of any age who is charged with an offense punishable by death or life imprisonment. Upon indictment, the child’s case must be transferred to adult court for prosecution. *See* s. 985.56, F.S.

<sup>20</sup> Section 985.557, F.S.

<sup>21</sup> Department of Juvenile Justice, *2021 Legislative Bill Analysis for SB 474*, (February 11, 2021) (on file with the Senate Committee on Criminal Justice).

<sup>22</sup> In criminal law, the term “information” refers to the initial charging document that opens a criminal court file. It is analogous to the civil complaint that opens a civil action.

<sup>23</sup> Chapter 2019-167, s. 76, Laws of Fla.

<sup>24</sup> Voluntary waiver requires the court to transfer a child’s criminal case to adult court if the child, with a parent or a guardian, demands to be tried as an adult. Section 985.556(1), F.S.

<sup>25</sup> Section 985.556, F.S.

<sup>26</sup> Section 985.556(2), F.S.

- And has been previously adjudicated delinquent for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong armed robbery, carjacking, home invasion robbery, aggravated battery, aggravated assault, or burglary with an assault or battery, and the child is currently charged with a second or subsequent violent crime against a person;<sup>27</sup> or
- At the time of commission of a fourth or subsequent alleged felony offense, and the child was previously adjudicated delinquent or had adjudication withheld for the commission of, attempted commission of, or conspiracy to commit three felony offenses, and at least one of such offenses involved the use or possession of a firearm or violence against a person.<sup>28</sup>

The court must either transfer a child to adult court upon the state attorney's request, or provide written reasons for not transferring the child.<sup>29</sup>

### Waiver Hearing

The state attorney may file a motion requesting the court to transfer the child to adult court within 7 days (excluding Saturdays, Sundays, and legal holidays) after the date of filing the petition. The state attorney may file such motion at a later time with court approval, but this must occur before an adjudicatory hearing and after considering the recommendation of the juvenile probation officer.<sup>30</sup>

The court must conduct a hearing on all transfer request motions to determine whether a child should be transferred. The court should consider the following in making its determination:

- The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child for adult sanctions.
- Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.
- Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.
- The probable cause as found in the report, affidavit, or complaint.
- The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults.
- The sophistication and maturity of the child.
- The record and previous history of the child.<sup>31</sup>

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<sup>27</sup> Section 985.556(3)(a), F.S.

<sup>28</sup> Section 985.556(3)(b), F.S.

<sup>29</sup> Section 985.556(3), F.S.

<sup>30</sup> Section 985.556(4)(a), F.S.

<sup>31</sup> Section 985.556(4)(a)-(d), F.S., provides that the record and previous history of the child includes: previous contacts with the DJJ, the Department of Corrections, the former Department of Health and Rehabilitative Services, the Department of Children and Families, other law enforcement agencies, and courts; prior periods of probation; prior adjudications that the child committed a delinquent act or violation of law, greater weight being given if the child has previously been found by a court to have committed a delinquent act or violation of law involving an offense classified as a felony or has twice previously been found to have committed a delinquent act or violation of law involving an offense classified as a misdemeanor; and prior commitments to institutions.

- The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if the child is found to have committed the alleged offense, by the use of procedures, services, and facilities currently available to the court.<sup>32</sup>

A study and written report from the DJJ must be completed prior to the hearing. The child, the child's parents or legal guardians, defense counsel and the state attorney have the right to examine the report and question the parties responsible for them at the hearing.<sup>33</sup> The court must render a written order including specific findings of fact and the reason for a decision to transfer to adult court. Once a child is transferred to adult court pursuant to an involuntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child must thereafter be handled in every respect as an adult for any subsequent violation of law, unless the court imposes juvenile sanctions.<sup>34</sup>

### ***Direct File***

Direct file describes the process whereby a state attorney files an information charging a child in adult court. Pursuant to s. 985.557, F.S., the decision to direct file is left to the discretion of the state attorney and does not require the court's approval. Direct file is the predominant transfer method to adult court, accounting for 98.4 percent (788 children) of the transfers in FY 2019-20.<sup>35</sup> In that fiscal year, there were 45,336 arrests,<sup>36</sup> thus, direct file occurred in approximately 1.7 percent of all juvenile arrests.<sup>37</sup>

### **Discretionary Direct File**

Section 985.557(1), F.S., provides the state attorney has discretion to file a case in adult court for specified crimes when he or she believes that the public interest requires adult sanctions be considered or imposed. Specifically, the state attorney may direct file a child when he or she is:

- 14 or 15 years of age at the time of the alleged offense and is charged with the commission of, attempt to commit, or conspiracy to commit, one of the following felony offenses:
  - Arson;
  - Sexual battery;
  - Robbery;
  - Kidnapping;
  - Aggravated child abuse;
  - Aggravated assault;
  - Aggravated stalking;
  - Murder;
  - Manslaughter;
  - Unlawful throwing, placing, or discharging of a destructive device or bomb;

<sup>32</sup> Section 985.556(4)(c), F.S.

<sup>33</sup> Section 985.556(4)(d), F.S.

<sup>34</sup> Section 985.556(5)(b), F.S.

<sup>35</sup> Department of Juvenile Justice, *2021 Legislative Bill Analysis for SB 474*, (February 11, 2021), p. 2., (on file with the Senate Committee on Criminal Justice).

<sup>36</sup> Department of Juvenile Justice, *Delinquency Profile 2020*, available at <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/delinquency-profile/delinquency-profile-dashboard> (last visited February 17, 2021).

<sup>37</sup> "Approximately" because there is a natural delay between arrest and the decision to direct file. Some of the FY 2019-20 direct file cases were arrested in the previous year, and some arrested in that FY were later subject to direct file. Comparisons were not made to prior years because mandatory direct file was in law.

- Armed burglary in violation of s. 810.02(2)(b), F.S.;
- Burglary of a dwelling or structure in violation of s. 810.02(2)(c), F.S.;
- Burglary with an assault or battery in violation of s. 810.02(2)(a), F.S.;
- Aggravated battery;
- Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age;
- Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony;
- Grand theft in violation of s. 812.014(2)(a), F.S.;
- Possessing or discharging any weapon or firearm on school property in violation of s. 790.115, F.S.;
- Home invasion robbery;
- Carjacking;
- Grand theft of a motor vehicle in violation of s. 812.014(2)(c)6., F.S.; or
- Grand theft of a motor vehicle valued at \$20,000 or more in violation of s. 812.014(2)(b), F.S., if the child has a previous adjudication for grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or (2)(b), F.S.<sup>38</sup>
- 16 or 17 years of age and is charged with any felony offense;<sup>39</sup> or
- 16 or 17 years of age and is charged with a misdemeanor, provided the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which was a felony.<sup>40</sup>

A child who has been transferred to adult court pursuant to an information and is found to have committed a violation of state law or a lesser included offense must be treated as an adult in every respect for any subsequent offense, unless the court imposed juvenile sanctions under s. 985.565, F.S.<sup>41</sup>

### **Juvenile Sanctions and Procedures vs. Adult Criminal Court**

There are significant differences between juvenile court and the adult criminal court:

- An adjudication of delinquency is not a conviction. A delinquent is not a criminal. Adjudication by the juvenile court does impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction, or disqualify or prejudice the child in any civil service application or appointment, with limited exceptions.<sup>42</sup>
- Where most criminal court records are mostly open to public inspection and copying, most juvenile court records are exempt from public disclosure.<sup>43</sup> However, certain criminal history

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<sup>38</sup> Section 985.557(1)(a), F.S.

<sup>39</sup> Section 985.557(1)(b), F.S.

<sup>40</sup> *Id.*

<sup>41</sup> Section 985.557(2)(a), F.S.

<sup>42</sup> Section 985.35(6), F.S. Limited exceptions include: A finding of delinquency qualifies as a “conviction” for purposes of issuance, suspension or revocation of a driver license. A finding of delinquency is a conviction for purposes of examining that child’s past record in future delinquency cases. A delinquent found to have committed a felony is disqualified from lawfully possessing a firearm until age 24 unless the record is expunged. Section 985.35(7), F.S.

<sup>43</sup> Section 985.045(2), F.S.

information relating to children who have been charged with a felony offense is not confidential and exempt.<sup>44</sup>

- There is no bail in the juvenile system. Accused offenders are released unless detention is warranted.<sup>45</sup>
- Juvenile cases are tried before a circuit judge. There is no right to a jury trial.
- Adult criminal court may sentence an offender to jail or prison for a term up to that allowed by statute. Juvenile court, where allowed, may commit the child to a residential program.<sup>46</sup> The residential program risk levels include, minimum-risk residential, nonsecure residential, high-risk residential, and maximum-risk residential programs.<sup>47</sup>
- Adult criminal sentences may extend for decades, or even for life. Juvenile sanctions and treatment programs end no later than the offender reaching age 21.<sup>48</sup>

**Trends in Florida**

Juvenile crime, and the number of juveniles tried in the criminal court, have been trending down in the recent past.

Florida Delinquency Statistics from State Courts		
	FY 2008-09 <sup>49</sup>	FY 2018-19 <sup>50</sup>
Delinquency Complaints	111,425	45,263
Complaints Disposed of Prior to Petition	53,873	16,494
Petitions Filed	64,585	30,076
Judicial Waiver Requests Filed	102	146
Direct File	2,857	1,095 <sup>51</sup>
Florida Population	18,687,425 <sup>52</sup>	21,100,003 <sup>53</sup>

Note that these numbers were from times when mandatory direct file was in effect. Mandatory direct file was repealed in 2019.

<sup>44</sup> Section 985.04(2), F.S.

<sup>45</sup> Sections 985.115, 985.255, and 985.26, F.S.

<sup>46</sup> Section 985.441, F.S.

<sup>47</sup> Section 985.03(44), F.S.

<sup>48</sup> Sections 985.0301(5)(b) and (5)(c), F.S. Restitution is not a sanction, and the delinquency court retains jurisdiction until paid. Section 985.0301(5)(d), F.S.

<sup>49</sup> Florida’s Trial Court Statistical Reference Guide for FY 2008-2009 (entire column other than population), available at <https://www.flcourts.org/content/download/218441/file/ReferenceGuide08-09-Circuit-Family-Court-Statistics.pdf> (last visited February 24, 2021).

<sup>50</sup> Florida’s Trial Court Statistical Reference Guide for FY 2018-2019 (entire column other than population), available at [https://www.flcourts.org/content/download/630231/file/20200304\\_18\\_19\\_Circuit\\_Family.pdf](https://www.flcourts.org/content/download/630231/file/20200304_18_19_Circuit_Family.pdf) (last visited February 24, 2021).

<sup>51</sup> Note that for the same time frame the DJJ reports 1,127 direct files. It is unclear why there is a disparity.

<sup>52</sup> Office of Economic and Demographic Research, Florida Legislature, available at <http://edr.state.fl.us/content/population-demographics/data/Intercensal.pdf> (last visited February 24, 2021).

<sup>53</sup> Office of the State Courts Administrator, *FY 2018-2019 Statistical Reference Guide*, p. 1-4, (on file with the Senate Committee on Criminal Justice).



<b>Florida Delinquency Statistics from Department of Juvenile Justice<sup>54</sup></b>		
	<b>FY 2015-16</b>	<b>FY 2019-20</b>
Delinquency Arrests	69,864	45,366
Transfer to Criminal Court (all methods)	1,663	1,011
Florida Population of Minors	1,840,134	1,947,292

<b>Transfers to Criminal Court by Age, from Department of Juvenile Justice<sup>55</sup></b>		
<b>Age</b>	<b>FY 2015-16</b>	<b>FY 2019-20</b>
17+	825	524
15-16	423	254
13-14	21	23

### **Florida Compared to Other States**

Florida is one of 46 states that files adult charges beginning at age 18. Vermont, beginning in 2022, will generally not charge individuals as adults until they reach the age of 19. Georgia, Texas, and Wisconsin will begin charging children as adults at age 17.<sup>56</sup>

It is claimed that Florida has the highest rate of transfers of juveniles to adult criminal court,<sup>57</sup> but a leading researcher has cautioned that “[c]ross-state comparisons should be made with caution as state-reported trends represent different data sources and units of count.”<sup>58</sup> The three states that treat all 17 year olds as adults for criminal purposes are likely to have significantly more minors treated as adults in the criminal justice system than Florida.

### **III. Effect of Proposed Changes:**

The bill amends s. 985.556, F.S., to increase the minimum age, from 14 to 15 that a child may qualify for involuntary discretionary waiver and involuntary mandatory waiver. Section 985.556, F.S. provides the waiver processes by which the state attorney may request the court to transfer a child to adult court.

The bill amends s. 985.557, F.S., to increase the age a child may qualify for discretionary direct file. Section 985.557, F.S., provides that a state attorney, within their sole discretion, may direct file certain children, thereby transferring a child to adult court.

Currently, s. 985.557(1)(a), F.S. provides that a state attorney may direct file any child who is 14 or 15 years of age at the time of the offense and has been charged with certain enumerated offenses. This bill amends the ages of a child that a state attorney may direct file to 15 or 16.

<sup>54</sup> Department of Juvenile Justice, *Delinquency Profile 2020*, available at <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/delinquency-profile/delinquency-profile-dashboard> (last visited February 17, 2021).

<sup>55</sup> Department of Juvenile Justice, *Delinquency Profile 2020*, <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/delinquency-profile/delinquency-profile-dashboard> (last visited February 17, 2021).

<sup>56</sup> Nat’l Center for Juvenile Justice, *Jurisdictional Boundaries*, [www.jjgps.org/jurisdictional-boundaries#delinquency-age-boundaries](http://www.jjgps.org/jurisdictional-boundaries#delinquency-age-boundaries) (last visited February 17, 2021).

<sup>57</sup> *Issue Commentary - Children Tried as Adults in Florida*, the James Madison Institute (February 2015).

<sup>58</sup> *Jurisdictional Boundaries*, supra.

Additionally, s. 985.557(1)(b), F.S., currently provides that a state attorney may direct file any child who is 16 or 17 years of age at the time of the offense, and the offense was a felony, or the child has at least two previous adjudications or adjudications withheld for delinquent acts, one of which must have been a felony. The bill amends the age of a child that a state attorney may direct file to 17.

The bill is effective July 1, 2021.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill relates to the transferring of children for criminal prosecution as an adult to adult court. These provisions relate to the defense, prosecution, or punishment of criminal offenses, and criminal laws are exempt from the requirements of Art. VII, s. 18(d) of the Florida Constitution, relating to unfunded mandates.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

The DJJ indicates this bill will have an indeterminate fiscal impact. Using the numbers from FY 2019-20, there were 105 children who would not have been eligible for adult transfer via direct file under the bill's language. Children who are not transferred will

impose a financial cost to the DJJ. The DJJ indicates these costs include, but are not limited to, detention cost, evaluations, and treatment cost.<sup>59</sup>

The DJJ estimates a variable detention cost of \$95,335 annually for pre-adjudicatory detention cost. While post-adjudicatory detention cost is indeterminate, the DJJ estimates that the cost per child who waits 30 days before being transferred to his or her treatment program could cost on average \$1,816.60

It is likely that all of the estimated 105 children annually affected by this bill would be referred by the juvenile court to some form of treatment program. The department has insufficient data to be able to estimate what levels of treatment those 105 would be assigned. The current estimated cost per child of treatment programs is:

Maximum Risk Residential	\$159,315
High Risk Residential	\$ 85,709
Nonsecure Residential	\$ 51,067
Day Treatment Probation	\$ 17,751 <sup>61</sup>

Additionally, each juvenile referred to residential treatment requires an evaluation at a cost of \$541.

These estimates do not include costs of post-commitment probation or transition services.

Counties are liable to the state for the cost of pre-adjudication detention of juveniles, unless the county is fiscally-constrained. The bill increases the number of juveniles who will be in juvenile detention and thus will increase annual costs to non-fiscally constrained counties by an indeterminate amount estimated at \$47,668 annually statewide.<sup>62</sup> This cost will likely be offset by reduced county jail expenditures.

The Criminal Justice Estimating Conference has not reviewed this bill. However, the Department of Corrections will likely see a negative indeterminate prison bed impact as there will likely be fewer prison admissions because fewer children will be transferred to adult court.

## **VI. Technical Deficiencies:**

None.

## **VII. Related Issues:**

None.

<sup>59</sup> Department of Juvenile Justice, *2021 Legislative Bill Analysis for SB 474*, (February 11, 2021), p. 4., (on file with the Senate Committee on Criminal Justice).

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 5.

<sup>62</sup> *Id.* at 4.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 985.556 and 985.557.

**IX. Additional Information:**

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

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

None.

B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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