

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 723 Juvenile Justice Education Programs
SPONSOR(S): Education & Employment Committee, Massullo and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 486

FINAL HOUSE FLOOR ACTION: 116 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 723 passed the House on April 15, 2021, and subsequently passed the Senate on April 26, 2021.

The bill updates how juvenile justice education programs may be operated. The bill provides that nonresidential juvenile justice education programs may calculate their period of operation in hours rather than days. Additionally, the bill increases the percentage of Florida Education Finance Program (FEFP) funds generated by students in juvenile justice education programs that must be spent on instruction and clarifies that juvenile justice education programs are entitled to all formula-based categorical funds generated by their students.

The bill updates the requirements for contracts between district school boards and juvenile justice education program providers (Providers). The bill provides mandatory timeframes for the execution of new or renewal contracts and for the satisfaction of invoices submitted by Providers. District school boards may not delay payment while awaiting local funds and are required to pay interest related to untimely satisfaction of invoices.

The bill has an indeterminate fiscal impact. See fiscal comments.

The bill was approved by the Governor on June 4, 2021, ch. 2021-70, L.O.F., and will become effective on July 1, 2021.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Juvenile Justice Education Programs and Schools

Juvenile justice education programs or schools operate for the purpose of providing educational services to youth in Department of Juvenile Justice (DJJ) programs for a school year comprised of 250 days of instruction distributed over 12 months.¹ At the request of the Provider, a district school board may decrease the minimum number of days of instruction by up to 10 days for teacher planning for residential programs and up to 20 days for teacher planning for nonresidential programs, subject to the approval of the DJJ and the Department of Education (DOE).²

A Provider is the DJJ, the sheriff, or a private, public, or other governmental organization.³ To be a Provider, a private, public or other governmental organization must be under contract with either the DJJ or the sheriff that provides treatment, care and custody, or educational programs for youth in juvenile justice intervention, detention, or commitment programs.⁴

Educational Services in DJJ Programs

The DOE acts as the lead agency for juvenile justice education programs and sets the standards for curriculum and other support services.⁵

Students who do not attend a local public school due to their placement in a DJJ detention, prevention, residential, or day treatment program are provided high-quality and effective educational programs by the local school district in which the DJJ facility is located or by a Provider through a contract with the local school district.⁶ Each program must be conducted according to applicable law providing for the operation of public schools and rules of the State Board of Education (SBE).⁷

The district school board must make provisions for each student to participate in basic, Career and Professional Education, and exceptional student programs as appropriate. Students served in DJJ education programs have access to the appropriate courses and instruction to prepare them for the high school equivalency examination. School districts must provide the high school equivalency examination exit option for all juvenile justice education programs.⁸

With the assistance of the school districts and Providers, the DOE must select a common student assessment instrument and protocol for measuring student learning gains and student progression while a student is in a juvenile justice education program.⁹

¹ Section 1003.01(11)(a), F.S.

² *Id.*

³ Section 1003.01(11)(b), F.S.

⁴ *Id.*

⁵ Section 1003.52(1), F.S.

⁶ Rule 6A-6.05281(2), F.A.C.

⁷ Section 1003.52(3)(a), F.S.

⁸ *Id.*

⁹ Section 1003.52(3)(b), F.S.

Funding of Students Enrolled in Juvenile Justice Education Programs

Funding for eligible students enrolled in juvenile justice education programs is provided through the FEFP.¹⁰ Students participating in high school equivalency examination preparation programs are funded at the basic program cost factor for DJJ programs in the FEFP.¹¹

At least 90 percent of the FEFP funds generated by students in DJJ programs or in an education program for juveniles must be spent on instructional costs for those students.¹² There is no requirement in statute for school districts to transfer FEFP funds to DJJ programs within a specific period of time.¹³ In Fiscal Year 2018-19, school districts reported a total program cost of \$55,090,016 for their DJJ programs, which is 143.22 percent of the revenue generated by these students through the FEFP (\$38,466,362).¹⁴

One hundred percent of the formula-based categorical funds¹⁵ generated by students in DJJ programs must be spent on appropriate categorical such as instructional materials and digital classroom technology for those students.¹⁶

Contracts with Providers

Each school district that provides educational services to students in a DJJ facility must negotiate a cooperative agreement with the DJJ and in Fiscal Year 2018-19, there were 37 districts with such cooperative agreements.¹⁷ School districts may negotiate educational service contracts with Providers if they do not directly provide the education services.¹⁸ The district school board of the county in which the juvenile justice education prevention, day treatment, residential, or detention program is located must provide or contract for appropriate educational assessments and an appropriate program of instruction and special education services.¹⁹ Such contracts must include the following:²⁰

- payment structure, schedule, and amounts;
- access to district services, including instructional personnel and information technology systems;
- contract management provisions, including scope of work and implementation procedures;
- data maintenance and reporting requirements sufficient to permit the school district to satisfy its reporting requirements;
- administrative guidelines and oversight necessary for compliance with federal programs; and
- requirement that all educational services comply with applicable State Board of Education (SBE) rules.

Effect of the Bill

¹⁰ Section 1011.62, F.S.

¹¹ Section 1003.52(3)(a), F.S.

¹² Section 1003.51(2)(i), F.S.

¹³ Florida Department of Education, *2021 Agency Legislative Bill Analysis for SB 486*, on file with the Secondary Education & Career Development Subcommittee.

¹⁴ *Id.*

¹⁵ Section 1011.62(10), F.S.

¹⁶ Section 1003.51(2)(i), F.S.

¹⁷ Florida Department of Education, *Developing Effective Education in the Department of Juvenile Justice Annual Report 2018-2019* available at <http://www.fldoe.org/core/fileparse.php/7567/urlt/DevEffEduDJJ1819.pdf>.

¹⁸ *Id.*

¹⁹ Section 1003.52(3), F.S., and Rule 6A-6.05281(9), F.A.C.

²⁰ Rule 6A-6.05281(9), F.A.C.

The bill updates the definition of “juvenile justice education programs or schools” to allow the calculation of the mandatory period of operation for nonresidential programs in hours. If hours are selected as the means of calculating the period of operation, then the calculation of hours must conform to SBE rules and the SBE must review the calculation each year. The bill also permits hours, with similar SBE review requirements, to be used to calculate the optional decrease in instructional days for nonresidential programs.

The bill requires that the SBE rule governing funding of the juvenile justice education programs provide that at least 95 percent of the FEFP funds generated by students in those programs be spent on instructional costs. Additionally, the bill clarifies that juvenile justice education programs are entitled to 100 percent of formula-based categorical funds generate by students in the programs. All such categorical funds must be spent on appropriate categoricals, such as instructional materials.

The bill provides that the contracts between district school boards and Providers must be in writing. The agreement must be executed within 40 days of delivery by the district school board, unless both parties agree to an extension. The DOE shall provide mediation services for any disputes related to these contracting requirements.

The bill requires that the district school board satisfy invoices from Providers within 15 working days of receipt. A Provider is entitled to interest, at a rate of 1 percent per month, calculated daily, if the district school board fails to timely satisfy an invoice. Payment to a Provider may not be delayed while a district school board awaits the receipt of local funds.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill has an indeterminate fiscal impact on school districts.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

If a school district does not timely satisfy invoices from Providers, then it is required to pay interest to the Provider. Because this impact is triggered only after non-compliance with the requirements of the bill, the fiscal impact is indeterminate.