

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 939 Florida Scholars Academy

**SPONSOR(S):** Justice Appropriations Subcommittee, Criminal Justice Subcommittee, Jacques, Valdes and others

**TIED BILLS:** IDEN./SIM. BILLS: SB 7014

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	17 Y, 0 N, As CS	Leshko	Hall
2) Justice Appropriations Subcommittee	14 Y, 0 N, As CS	Saag	Keith
3) Judiciary Committee			

### SUMMARY ANALYSIS

Florida's Early Learning-20 education system provides for the delivery of early learning and public education through publicly supported and controlled K-12 schools, Florida College System institutions, state universities and other postsecondary educational institutions, other educational institutions, and other educational services. The public K-12 schools provide instruction for students in Department of Juvenile Justice (DJJ) programs.

Section 20.316, F.S., establishes the DJJ, and directs the Governor to appoint a Secretary of DJJ (Secretary) who is responsible for planning, coordinating, and managing all juvenile justice services and programs within the juvenile justice continuum. The court that has jurisdiction of an adjudicated delinquent child may commit the child to a DJJ minimum-risk nonresidential, nonsecure residential, high-risk residential, or maximum-risk residential program. Such commitment must be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, monitoring for substance abuse, electronic monitoring, and treatment of the child and release of the child from residential commitment into the community in a postcommitment nonresidential conditional release program.

The Department of Education (DOE) serves as the lead agency providing coordination and oversight of juvenile justice education programs, curriculum, support services, and resources. 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 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. The district school board makes provisions for each student to participate in basic, career and professional education, and exceptional student programs, as appropriate. Currently, district school boards directly provide nearly 60 percent of the educational services in residential programs and contract with private providers to serve the remaining sites and students.

CS/HB 939 creates s. 985.619, F.S., to require DJJ to establish the Florida Scholars Academy (Academy) to deliver educational opportunities to students serving in residential commitment programs. The bill requires DJJ to contract with an education service provider to provide educational pathways including a K-12 education, high school equivalency diploma, career and technical education credential, and enrollment in a degree program at a state college or university, with an emphasis on attaining an industry-recognized credential of value from the Master Credentials List. The bill creates a five-member board of trustees (Board) to govern the Academy. The bill provides specified powers and duties of the Board. The bill grants both the Board and DJJ rulemaking authority and requires the Academy to comply with specified accounting and auditing requirements.

The bill amends s. 20.316, F.S., to direct the Secretary to oversee the establishment of the Academy and amends s. 1000.04, F.S., to include the Academy as a component of the delivery of public education within Florida's Early Learning-20 education system.

The bill provides a recurring appropriation of \$12,000,000 from the General Revenue Fund for Fiscal Year 2023-2024 to DJJ for establishment of the Academy.

The bill provides an effective date of July 1, 2023.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives .**

**STORAGE NAME:** h0939c.JUA

**DATE:** 3/22/2023

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Florida's Early Learning-20 Education System

Florida's Early Learning-20 education system was crafted to provide for a state system of schools, courses, classes, and educational institutions and services adequate to allow all Florida's students the opportunity to obtain a high-quality education.<sup>1</sup> The system provides for the delivery of early learning and public education through publicly supported and controlled K-12 schools, Florida College System institutions, state universities and other postsecondary educational institutions, other educational institutions, and other educational services as provided or authorized by the Constitution and laws of the state.<sup>2</sup> Public K-12 schools provide 13 consecutive years of instruction, beginning with kindergarten, and also provide instruction for students with disabilities, gifted students, limited English proficient students, and students in Department of Juvenile Justice (DJJ) programs.<sup>3</sup> The funds for support and maintenance of the public K-12 schools is derived from state, district, federal, and other lawful sources or combinations of sources, including any fees charged nonresidents as provided by law.<sup>4</sup>

##### Department of Juvenile Justice

Section 20.316, F.S., establishes the DJJ, and directs the Governor to appoint a Secretary of DJJ (Secretary) who is responsible for planning, coordinating, and managing all juvenile justice services and programs within the juvenile justice continuum. The juvenile justice continuum includes all: children-in-need-of-services programs; families-in-need-of-services programs; other prevention, early intervention, and diversion programs; detention centers and related programs and facilities; community-based residential commitment and nonresidential programs; and delinquency institutions provided or funded by DJJ.<sup>5</sup> The Secretary must perform specified duties relating to DJJ programs and services, including, but not limited to:

- Ensuring DJJ programs and services are implemented according to legislative intent; state and federal laws, rules, and regulations; statewide program standards; and performance objectives by reviewing and monitoring regional and circuit program operations and providing technical assistance to those programs.
- Identifying the need for and recommending the funding and implementation of an appropriate mix of programs and services within the juvenile justice continuum, including prevention, diversion, nonresidential and residential commitment programs, training schools, and conditional release programs and services, with an overlay of educational, vocational, alcohol, drug abuse, and mental health services where appropriate.
- Establishing program policies and rules and ensuring that those policies and rules encourage cooperation, collaboration, and information sharing with community partners in the juvenile justice system to the extent authorized by law.<sup>6</sup>

##### Juvenile Commitment

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<sup>1</sup> S. 1000.01(3), F.S.

<sup>2</sup> S. 1000.04, F.S.

<sup>3</sup> S. 1000.01(4), F.S.

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

<sup>5</sup> S. 20.316(1)(a-b), F.S.

<sup>6</sup> S. 20.316(1)(c), F.S.

The court that has jurisdiction of an adjudicated delinquent child may commit the child to a DJJ minimum-risk nonresidential, nonsecure residential, high-risk residential, or maximum-risk residential program.<sup>7</sup> Such commitment must be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, monitoring for substance abuse, electronic monitoring, and treatment of the child and release of the child from residential commitment into the community in a postcommitment nonresidential conditional release program.<sup>8</sup>

### *Restrictiveness Levels*

Minimum-risk nonresidential programs work with youth who remain in and have full access to the community and participate at least five days a week in a day treatment program.<sup>9</sup>

Nonsecure residential programs are residential but may allow youth to have supervised access to the community. Facilities at this commitment level are either environmentally secure, staff secure, or are hardware-secure with walls, fencing, or locking doors.<sup>10</sup>

High-risk residential programs are residential and do not allow youth to have access to the community, except that temporary release providing community access for up to 72 continuous hours may be approved by a court for a youth who has made successful progress in his or her program in order for the youth to attend a family emergency or, during the final 60 days of his or her placement, to visit his or her home, enroll in school or a career and technical education program, complete a job interview, or participate in a community service project. High-risk residential facilities are hardware-secure with perimeter fencing and locking doors.<sup>11</sup>

Maximum-risk residential programs include juvenile correctional facilities and juvenile prisons. The programs at this commitment level are long-term residential and do not allow youth to have access to the community. Facilities at this commitment level are maximum-custody, hardware-secure with perimeter security fencing and locking doors.<sup>12</sup>

In each residential program 24-hour awake supervision, custody, care, and treatment of residents is provided.<sup>13</sup>

### Department of Juvenile Justice Education Services

The Department of Education (DOE) serves as the lead agency providing coordination and oversight of juvenile justice education programs,<sup>14</sup> curriculum, support services, and resources. DOE serves in tandem with DJJ through designated Coordinators from each agency to resolve issues not addressed by district school boards and to provide participation in:

- Training, collaborating, and coordinating with district school boards, local workforce developmental boards, and local youth councils, education contract providers, and juvenile justice providers, whether state operated or contracted.
- Collecting information on the academic, career and professional education (CAPE), and transition performance of students in juvenile justice programs and reporting on the results.

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<sup>7</sup> Ss. 985.441(1)(b) and 985.03(44), F.S.

<sup>8</sup> S. 985.441(1)(b), F.S.

<sup>9</sup> S. 985.03(44)(a), F.S.

<sup>10</sup> S. 985.03(44)(b), F.S.

<sup>11</sup> S. 985.03(44)(c), F.S.

<sup>12</sup> S. 985.03(44)(d), F.S.

<sup>13</sup> S. 985.03(44), F.S.

<sup>14</sup> Juvenile justice education programs or schools operate for the purpose of providing educational services to youth in DJJ programs for a school year comprised of 250 days of instruction distributed over 12 months. 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. A provider is DJJ, the sheriff, or a private, public, or other governmental organization under contract with either DJJ or the sheriff that provides treatment, care and custody, or educational programs for youth in juvenile justice intervention, detention, or commitment programs. S. 1003.01(11)(a) and (b), F.S.

- Developing academic and CAPE protocols that provide guidance to district school boards and juvenile justice education providers in all aspects of education programming, including records transfer and transition.
- Implementing a joint accountability, program performance, and program improvement process.<sup>15</sup>

Each year, DOE and DJJ develop a cooperative agreement and plan for juvenile justice education service enhancement that includes, at a minimum, each agency's role regarding education program accountability, technical assistance, training, and coordination of services. The agreement and plan are submitted to the Secretary and the Commissioner of Education (Commissioner).<sup>16</sup>

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 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.<sup>17</sup> The district school board makes provisions for each student to participate in basic, CAPE, and exceptional student programs, as appropriate. Each student shall have access to the appropriate courses and instruction to prepare them for the high school equivalency examination. School districts are required to provide the high school equivalency examination exit option for all juvenile justice education programs.<sup>18</sup> Currently, school districts directly provide nearly 60 percent of the educational services in DJJ residential programs and contract with private providers to serve the remaining sites and students.<sup>19</sup>

DOE, with the assistance of the district school boards and juvenile justice education providers, 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. DOE and DJJ must jointly review the effectiveness of this assessment and implement any necessary changes.<sup>20</sup>

Each district school board must negotiate a cooperative agreement with DJJ regarding the delivery of educational programming to DJJ students. Such an agreement must include provisions that address certain issues, such as:

- Curriculum and delivery of instruction;
- Classroom management procedures and attendance policies;
- Procedures for provision of qualified instructional personnel;
- Improving skills in teaching and working with juvenile delinquents;
- Transition plans for students moving into and out of juvenile facilities; and
- Deficiencies found through the quality assurance process and strategies for correcting such deficiencies.<sup>21</sup>

Residential juvenile justice education programs with a contracted minimum length of stay of:

- Nine months must provide CAPE courses that lead to preapprentice certifications and industry certifications.
- Less than nine months may provide career education courses that lead to preapprentice certifications and CAPE industry certifications.
- Less than 40 days may be limited to tutorial remediation activities, career employability skills instruction, education counseling, and transition services that prepare students for a return to school, the community, and their home settings based on the student's needs.<sup>22</sup>

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<sup>15</sup> S. 1003.52(1), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Juvenile justice education programs are subject to the rules of the State Board of Education. S. 1003.52(2), F.S.

<sup>18</sup> S. 1003.52(3)(a-c), F.S.

<sup>19</sup> DJJ, *HB 939 Agency Legislative Bill Analysis*, p. 2 (2023)(on file with the House Criminal Justice Subcommittee).

<sup>20</sup> S. 1003.52(3)(d), F.S.

<sup>21</sup> S. 1003.52(14), F.S.

<sup>22</sup> S. 1003.52(5), F.S.

Funding for eligible students enrolled in juvenile justice education programs is provided through the Florida Education Finance Program (FEFP).<sup>23</sup> The FEFP is the primary mechanism for funding the operating costs of Florida school districts. The FEFP is a funding formula that bases financial support for education upon the individual student participating in a particular educational program rather than upon the number of teachers or classrooms.<sup>24</sup>

## Effect of Proposed Changes

CS/HB 939 creates s. 985.619, F.S., to require DJJ to establish the Florida Scholars Academy (Academy) within DJJ to deliver educational opportunities to students serving in residential commitment programs. Students sentenced to adult facilities are not eligible to enroll in the Academy. Under the bill, each residential program site established, authorized, or designated by DJJ is considered a campus of the Academy.

The bill requires DJJ to contract with an education service provider with a proven track record of success to operate, provide, or supplement full-time instruction and instructional support services for educational pathways including a K-12 education, high school equivalency diploma, career and technical education credential pursuant to s. 1003.4282(10), F.S.,<sup>25</sup> and enrollment in a degree program at a state college or university, with an emphasis on attaining an industry-recognized credentials of value from the Master Credentials List under s. 445.004(4)(h), F.S.<sup>26</sup> Under the bill, the contracted education service provider is responsible for the administration of all educational services to students enrolled in the Academy. The bill requires the Secretary to appoint a superintendent of the Academy, who will be responsible for the management and day-to-day operation of the Academy.

The bill requires the Academy to be governed by a five-member board of trustees (Board), comprised of:

- The Secretary or his or her designee.
- The Academy superintendent.
- Three members appointed by the Governor.

The bill specifies the Board has the following powers and duties:

- To meet at least four times each year, upon the call of the chair or at the request of a majority of the membership.
- To be responsible for the development of an education delivery system provided by the Academy that is cost-effective, high-quality, educationally sound, and sustainable.
- To identify appropriate performance measures and standards based on student achievement.
- To implement an accountability system approved by the State Board of Education for the Academy by the 2024-2025 school year that includes an assessment of the Academy's effectiveness and efficiency in providing quality services that encourage high student achievement, seamless articulation, and maximum access to career opportunities.
- To administer and maintain the Academy's educational programs in consultation with the State Board of Education.
- To determine, with the approval of the Secretary or his or her designee, the compensation, including salaries and fringe benefits, and other conditions of employment for Academy personnel.
- To review the hiring of all Academy administrative and instructional personnel, who shall be subject to rejection by cause by the Secretary or his or her designee and subject to policies established by the Board.

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<sup>23</sup> Ss. 1003.52(12) and 1011.62 F.S.

<sup>24</sup> Office of Program Policy Analysis and Government Accountability, *Florida Education Finance Program*, <https://oppaga.fl.gov/ProgramSummary/BackPageDetail?programNumber=2002&backPageNumber=01> (last visited Mar. 16, 2023).

<sup>25</sup> A student is eligible to complete an alternative pathway to earning a standard high school diploma through the Career and Technical Education (CTE) pathway option. The CTE pathway option requires the student to complete at least 18 credits with a cumulative grade point average of 2.0 and meet other coursework requirements. S. 1003.4282(10), F.S.

<sup>26</sup> Credentials included are: registered apprenticeship programs, industry certifications, licenses, advanced technical certificates, college credit certificates, career certificates, applied technology diplomas, associate degrees, baccalaureate degrees, and graduate degrees. S. 445.004(4)(h), F.S.

- To provide for the content and custody of student records pursuant to s. 1002.22, F.S.<sup>27</sup>
- To maintain the Academy's financial records and accounts.
- To select a chair. Initially, the Secretary or his or her designee must serve as chair.

Under the bill, Board members must serve without compensation, but may be reimbursed for per diem and travel expenses pursuant to s. 112.061, F.S.<sup>28</sup>

The bill authorizes the Board to adopt rules, policies, and procedures, consistent with law and the rules of the State Board of Education, relating to governance, personnel, budget and finance, administration, programs, curriculum and instruction, travel and purchasing, technology, students, contracts and grants, and property as necessary for the optimal and efficient operation of the Academy.

The bill requires funding for the operational and instructional services for all students enrolled in the Academy to be provided through the General Appropriation Act. Under the bill, the Secretary must prepare and submit a legislative budget request on behalf of the Academy as part of DJJ's larger legislative budget request. The request of funds may be for operation and fixed capital outlay. The bill provides the Academy's fiscal year will run from July 1 to June 30. The bill prohibits the credit of the State from being pledged on behalf of the Academy.

The bill requires the Academy to be audited annually by an independent certified licensed accountant. The audit report must be submitted to the Board and Auditor General no later than nine months after the end of the preceding fiscal year. The bill requires the Board to respond to recommendations included in the audit report or received directly from the Auditor General with evidence of corrective action within 45 days after receipt of the recommendations.

The bill amends s. 20.316, F.S., to direct the Secretary to oversee the establishment of the Academy. The bill also amends s. 1000.04, F.S., to include the Academy as a component of the delivery of public education within Florida's Early Learning-20 education system.

Finally, the bill appropriates a recurring sum of \$12 million, beginning in the 2023-2024 fiscal year, from the General Revenue Fund to DJJ to establish the Academy.

The bill provides an effective date of July 1, 2023.

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 20.316, F.S., relating to the Department of Juvenile Justice.

**Section 2:** Creates s. 985.619, F.S., relating to the Florida Scholars Academy.

**Section 3:** Amends s. 1000.04, F.S., relating to components for the delivery of public education within the Florida Early Learning-20 education system.

**Section 4:** Amends s. 1013.53, F.S., relating to cooperative development of educational facilities in juvenile justice programs.

**Section 5:** Provides an appropriation.

**Section 6:** Provides an effective date of July 1, 2023.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See Fiscal Comments.

<sup>27</sup> In order to maintain the eligibility of public educational institutions and agencies to receive federal funds and participate in federal programs, the State Board of Education must comply with the federal Family Educational Rights and Privacy Act with respect to education records created, maintained, or used by public educational institutions and agencies. S. 1002.22(2), F.S.

<sup>28</sup> Establishes standard travel reimbursement rates, procedures, and limitations applicable to all public officers, employees, and authorized persons whose travel is authorized and paid by a public agency. S. 112.061, F.S.

2. Expenditures:  
See Fiscal Comments.

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

1. Revenues:  
None.
2. Expenditures:  
None.

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

The bill may have an indeterminate positive impact on the private sector as the bill allows for DJJ to contract with an education service provider, which may be a private entity.

**D. FISCAL COMMENTS:**

The bill may have an indeterminate impact on state government as district school boards will no longer be applying for or receiving FEFP funding for educational services within DJJ residential programs. To the extent that the state will no longer provide FEFP funding for those students, it may have a positive indeterminate impact on DOE expenditures. Any such impact is indeterminate and could potentially offset some future costs of implementing the bill.

The bill provides a recurring appropriation of \$12,000,000 from the General Revenue Fund for Fiscal Year 2023-2024 for initial establishment of the Florida Scholars Academy.

### **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:  
None.

**B. RULE-MAKING AUTHORITY:**

Grants the Florida Scholars Academy Board the authority to make rules, consistent with law and the rules of the State Board of Education, relating to governance, personnel, budget and finance, administration, programs, curriculum and instruction, travel and purchasing, technology, students, contracts and grants, and property. Additionally, the bill grants DJJ rulemaking authority to establish the Academy as authorized in the bill.

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

None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On March 13, 2023, the Criminal Justice Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Clarified that the educational pathways provided to residential DJJ students will include K-12 education, if appropriate;

- Clarified a requirement that the Board respond to recommendations received in an annual audit report or directly from the Auditor General; and
- Made other technical changes.

On March 21, 2023, the Justice Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed the Academy's authority to carry all unspent appropriations forward to the next fiscal year and removed requirements relating to the Academy's minimum ending fund balance.

The analysis is drafted to the committee substitute as passed by the Justice Appropriations Subcommittee.