

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB SSC 08-04                      Juvenile Justice

**SPONSOR(S):** Safety & Security Council

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

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Safety & Security Council		Hogge/Davis	Havlicak
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

In July 2007, Governor Charlie Crist authorized the creation of the Blueprint Commission for the purpose of developing recommendations to reform Florida's juvenile justice system. The Commission met throughout the second half of 2007 and issued its report entitled "Getting Smart About Juvenile Justice in Florida" in February 2008. This bill would implement many of the Commission's 52 recommendations in addition to several other policy changes. Specifically, the bill would:

- Include a number of changes designed to reduce disproportionate minority contact (DMC) with the juvenile justice system.
- Revise provisions related to risk assessment for detention placements.
- Encourage the diversion of first-time misdemeanor youth or youth age 10 or younger.
- Revise provisions related to supervision of child inmates in adult facilities.
- Authorize the DJJ to utilize outcome-based contracting and require outcome data for prevention programs.
- Revise provisions related to the Juvenile Justice Circuit Boards and County Councils, including community notification of board vacancies and Board/Council composition.
- Eliminate the three-year limit on the receipt of Community Juvenile Justice Partnership grants.
- Revise zero tolerance policies for school-related referrals to law enforcement and, in certain circumstances, permit counties to seek reimbursement from school districts for secure detention costs.
- Appropriate \$50,000 in nonrecurring general revenue to fund curriculum development for DJJ direct care staff.

The bill would have a minimal negative nonrecurring fiscal impact on state government.

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

**STORAGE NAME:**            pcb04.SSC.doc  
**DATE:**                        3/31/2008

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill implicates this principle by providing for additional rulemaking as it relates to the juvenile justice system continuum of services.

Maintain public security—The bill implicates this principle by revising zero tolerance policies for crime and victimization at schools, and promoting diversion for certain offenders.

#### B. EFFECT OF PROPOSED CHANGES:

In July 2007, Governor Charlie Crist authorized the creation of the Blueprint Commission for the purpose of developing recommendations to reform Florida's juvenile justice system. The Commission met throughout the second half of 2007 and issued its report entitled "Getting Smart About Juvenile Justice in Florida" in February 2008. This bill would implement many of the Commission's 52 recommendations in addition to several other policy changes.

Specifically, the bill would:

- Include a number of changes designed to reduce disproportionate minority contact (DMC) with the juvenile justice system, including changes related to the risk assessment instrument and local juvenile justice board and council vacancies and composition.
- Revise provisions related to risk assessment for detention placements by requiring validation of the risk assessment instrument, revising the membership of the review committee, and adding a prior history of residential commitments as a factor that must be taken into account.
- Encourage the diversion of first-time misdemeanant youth or youth age 10 or younger.
- Concerning the separation of child inmates from adults, dispense with requirement to monitor children every 15 minutes when in direct supervision housing with 24-hour supervision.
- Authorize the DJJ to utilize outcome-based contracting and develop an implementation plan, and require prevention programs to report outcome data, rather than performance data.
- Revise provisions related to the Juvenile Justice Circuit Boards and County Councils, including membership and notification of the community of board vacancies.
- Eliminate the three-year limit on the receipt of Community Juvenile Justice Partnership grants.
- Remove references to the term "zero tolerance" as it pertains to school-related conduct and discipline policies, provide for school-related referrals to law enforcement for serious criminal offenses as specified in the bill and, permit counties to seek reimbursement from school authorities for secure detention costs associated with referrals for offenses that are not serious criminal offenses.
- Direct the DJJ to adopt rules related to the continuum of care.

- Make several technical and conforming changes related to alternative sanctions, DJJ contracting, and training for DJJ staff.
- Appropriate \$50,000 in nonrecurring general revenue to fund curriculum development for DJJ direct care staff.

## Disproportionate Minority Contact

The bill includes a number of changes to address concerns raised by the Blueprint Commission concerning disproportionate minority contact (DMC) with the juvenile justice system. These include several specific changes such as a requirement that local juvenile justice circuit board and county council plans provide for continual monitoring to identify and remedy DMC (s. 17) and that the DJJ risk assessment instrument for detention placements be evaluated to determine if the instrument contributes to DMC (s. 10). In addition, the bill addresses several issues cited by the Blueprint Commission as contributing to DMC such as zero tolerance policies (See ss. 21-22 of the bill and “Zero Tolerance” in this section of the analysis). Finally, it revises provisions relating to local board vacancies and composition (See s. 17 of the bill and “Juvenile Justice Circuit Boards/Juvenile Justice County Councils” in this section of the analysis.) (amends ss. 985.245, 985.66, 1006.12, & 1006.13, F.S.; s. 1006.125, F.S. created)

*Current situation:* According to the Blueprint Commission, “the disproportionate representation of minorities exists for both males and females in Florida’s juvenile justice system...at every point in the juvenile justice system.<sup>1</sup> Continuing, “in nine of the 20 circuits, more than 40% of the youth referred...are black. In seven circuits, more than 60% of youth are black.<sup>2</sup> In addition to specifically citing the risk assessment, the Commission identified bias as one contributing factor.<sup>3</sup> Policies specifically cited by the Blueprint Commission as contributing to DMC included risk assessment and zero tolerance policies (See ss. 10 and 21-22 of the bill for proposed changes).

## Risk Assessment

The bill would revise provisions related to risk assessment for detention placements by requiring the DJJ to have the risk assessment instrument validated no later than December 31, 2008; revising the membership of the review committee to include two representatives of child advocacy organizations and two recognized child mental health experts; making a prior history of residential commitments a factor that must be taken into account by the risk assessment instrument; and requiring the instrument to be evaluated to determine if the instrument contributes to DMC.(s.10) (amends s. 985.245, F.S.)

*Current situation:* All determinations and court orders regarding detention placements must be based on a risk assessment of the child, except in the case of a child charged with domestic violence who does not meet detention criteria.<sup>4</sup> The child is assessed using a risk assessment instrument developed by the DJJ in agreement with representatives of various associations such as the state attorneys, public defenders, sheriffs, police chiefs, and circuit judges.<sup>5</sup> According to the DJJ, the current instrument, the Detention Risk Assessment Instrument (DRAI), has been in use since 1992. It has never been validated. Validation is currently underway.

*The purpose of the instrument is to determine whether or not a child taken into custody should continue to be detained. According to the DJJ, approximately 50% of all youth charged are presented for delinquency screening. Of these, approximately 40% score a zero and are released. Those scoring 12 or more are placed in secure detention pending a detention hearing held within 24 hours.*

*Factors the risk assessment instrument must take into account include the prior history of the child to appear, prior offenses, any unlawful possession of a firearm, theft of a motor vehicle, and offenses committed pending adjudication.<sup>6</sup>*

<sup>1</sup> Report of the Blueprint Commission, “Getting Smart About Juvenile Justice in Florida,” p. 46 (2008).

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> s. 985.245(1), F.S.

<sup>5</sup> s. 985.245(2), F.S.

<sup>6</sup> s. 985.245(2)(b), F.S.

## **Diversions**

The bill would encourage the diversion of first-time misdemeanant youth or children age 10 or younger. It would do this in several ways: first, it would provide that the juvenile alternative programs funded through the discretionary court cost currently available to counties include diversion options for these youth (s. 3) (amends s. 939.185, F.S.); second, it would include diversion options for these populations as part of the statutory statement of state juvenile justice policies (s. 6) (amends s. 985.02, F.S.); third, it would require counties that have non-state funded diversion programs to include diversion options for these populations in order to participate in the state funded Intensive Delinquency Diversion Services (IDDS) program (s. 12) (amends s. 985.601, F.S.).

*Current situation: For youth age 10 and under, the DJJ received 1,753 referrals in FY 2006-07. Just under one-half of these involved a felony, and just over one-half involved a misdemeanor. Assault and battery, burglary, petit larceny, and vandalism accounted for nearly 75% of the referral offenses.*

*The Board of County Commissioners in each county are authorized to adopt a discretionary court cost of up to \$65 to be imposed when a person pleads guilty of, or is adjudicated delinquent for, felony, misdemeanor, or criminal traffic offenses, or delinquent acts.<sup>7</sup> Twenty five percent of the collections must be used for teen court programs, juvenile assessment centers, and other juvenile alternative programs.<sup>8</sup> Of the 67 counties, 58 had adopted this court cost in FY 2006-07, generating total revenues of \$6.1M for juvenile alternative programs.*

*The IDDS program operates in all 20 judicial circuits. It is funded by the state. There are 1,338 slots available. It was funded at \$5.7M for FY 2007-08. The IDDS program focuses on early identification, and on intensive services and supervision, of juvenile offenders with the highest risk of becoming repeat and serious offenders. Based on a research-driven model program in Orange County, California, this approach looks at juveniles with a first arrest at age 15 or younger and possessing at least three of the following high-risk characteristics: academic failure, suspensions and truancy; lack of family stability, including poor parental control, lack of parenting skills and a family member in the criminal justice system; mental health and substance abuse problems; or pre-delinquent behaviors including running away, gang affiliation, disruptive behavior and stealing.*

## **Monitoring Children in Adult Facilities**

Concerning the separation of child inmates from adults, the bill would dispense with the requirement that children be monitored every 15 minutes when they are in direct supervision housing with 24-hour supervision. (s. 11) (amends s. 985.265, F.S.)

*Current situation: Children that are housed in a facility intended or used for adults must be supervised and monitored. This must include physical observation and documented checks by supervisory personnel at intervals not to exceed 15 minutes.<sup>9</sup>*

## **Outcome-Based Contracting and Prevention Program Data Collection**

The bill would authorize the DJJ to utilize outcome-based contracting and develop an implementation plan, and require prevention programs to report outcome data, rather than performance data. (ss. 13 & 14) (amends ss. 985.606 & 985.632, F.S.)

*Current situation: According to the Report of the Blueprint Commission, "outcome-based" refers to "programs designed with the desired outcome in mind." The DJJ currently focuses more on compliance-based contracting.<sup>10</sup> The Blueprint Commission believed the use of outcome-based contracting along with "evidence-based" practices would help ensure an "effective and accountable system" by identifying those programs that are successful.*

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<sup>7</sup> s. 939.185(1)(a), F.S. (2007)

<sup>8</sup> Id.

<sup>9</sup> s. 985.265, F.S. (2007)

<sup>10</sup> Blueprint Commission Report, Note 1, at 46 (2008).

Prevention service providers must collect CINS/FINS prevention program performance data and provide it to the Governor and Legislature each year.<sup>11</sup> The statute does not specifically call for “outcome” data.

## Juvenile Justice Circuit Boards and County Councils

The bill would revise the membership of the Juvenile Justice Circuit Boards and County Councils and require due diligence in notifying the community of board vacancies. The bill would require representation from residents of the targeted high-crime zip code communities identified by the DJJ based on referral rates within the county. It would also direct the Children and Youth Cabinet (CYC) to consider plans developed by these local Boards and Councils in implementing its shared vision and strategic plan, and require the DJJ Secretary to meet annually with local Board chairs and the CYC Chair. (s. 17) (amends s. 985.664, F.S.)

*Current situation:* A Juvenile Justice Circuit Board may be established in each of the 20 judicial circuits, and a Juvenile Justice County Council may be created in each county.<sup>12</sup> All 20 circuits have a Board, and 52 counties have a Council. Five counties—those in a single-county circuit—do not have a Council but a Board. Their purpose is to advise the DJJ in the development and implementation of juvenile justice programs and work with the DJJ to achieve program improvements and policy changes in response to the changing needs of Florida’s at-risk youth.<sup>13</sup> Circuit Boards may have up to 18 members with an allowance for three additional members to achieve greater diversity;<sup>14</sup> the maximum number of members of a county council is not specified but it appears they could be much larger.<sup>15</sup> Criteria are provided for appointing board and council members, including “diversity in the judicial circuit,” “geography and population distribution,” and representatives of various entities.<sup>16</sup>

## Community Juvenile Justice Partnership grants

The bill would eliminate the three-year limit on the receipt of Community Juvenile Justice Partnership grants, with first priority for funding being applications meeting the requirements of this grant program and also the fulfilling local circuit plans. (s.19) (amends s. 985.676, F.S.)

*Current situation:* Under the Community Juvenile Justice Partnership grants act, a provider cannot receive a grant to provide services for more than a total of three consecutive years,<sup>17</sup> regardless of whether or not the provider is producing outstanding outcomes.

## Zero Tolerance

The bill would eliminate the phrase “zero tolerance” as it relates to school related conduct. It would also require a student to be referred to law enforcement when the student commits a violation of the code of conduct and discipline that may also constitute a serious criminal offense. The bill defines “serious criminal offense” to include a capital felony, life felony, 1<sup>st</sup> degree felony, a 2<sup>nd</sup> or 3<sup>rd</sup> degree felony involving a firearm or weapon or violence against another, and an offense that poses a serious threat to school safety or the safety of any individual student or group of students. For example, an assault and battery that involves “bodily harm” would be a misdemeanor and not qualify for a required referral. However, a battery that results in “great bodily injury” or that is aggravated would require a referral. Counties would be permitted to seek reimbursement of secure detention costs associated with a referral that does not constitute a serious criminal offense.

*Current situation:* According to a recent DJJ report, school-related referrals decreased 18% over the last three years to 22,926 in FY 2006-07. The DJJ received an average of 16 referrals per 1,000 students. Sixty-seven percent of school-related referrals were for misdemeanor offenses, with disorderly conduct

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<sup>11</sup> s. 985.606, F.S. (2007)

<sup>12</sup> s. 985.664(1), F.S. (2007)

<sup>13</sup> s. 985.664(1), F.S. (2007)

<sup>14</sup> The number could also be larger if the Circuit Board is able to form under the provisions governing a county council. They can do so if county councils are not formed within a circuit.

<sup>15</sup> s. 985.664(10), F.S. (2007)

<sup>16</sup> s. 985.664(7), (8), (9) & (10), F.S. (2007)

<sup>17</sup> s. 985.676, F.S. (2007)

and misdemeanor assault and battery accounting for 40% of all school-related delinquency referrals.<sup>18</sup> Lafayette, Dixie, Taylor, Wakulla, Dade, and Palm Beach counties had the lowest school referral rates per 1,000 students at between 3-8%, while Putnam, Flagler, Madison, Suwanee, and Okeechobee had the highest rates at between 35-54%. Other rates included Orange at 18%, Duval at 12%, and Escambia at 23%.<sup>19</sup>

The Blueprint Commission cited zero tolerance policies as contributing to what it called a “schoolhouse to jailhouse” track.<sup>20</sup> African-American youth accounted for a far larger percentage share of the referrals than their percentage share of the overall student population (47% to 22%).<sup>21</sup>

School districts are required to adopt zero tolerance policies for crime and victimization.<sup>22</sup> These policies must require students found to have committed certain offenses to be expelled. These include bringing a firearm or weapon to school, a school function, or onto any school-sponsored transportation; and making a threat or false report related to a destructive device involving the school, school transportation, or a school-sponsored activity.<sup>23</sup> School districts may consider various alternatives to expulsion. School districts must enter into agreements with local law enforcement setting forth guidelines for ensuring that felonies and violent misdemeanors are reported to law enforcement. These agreements include the role of school resource officers in handling reported incidents.

School districts may establish a school resource officer (SRO) program through a cooperative agreement with law enforcement.<sup>24</sup> School resource officers are required to “abide by district school board policies” and must “consult with and coordinate activities through the school principal, but...are responsible to the law enforcement agency in all matters relating to employment....”<sup>25</sup> One such SRO agreement provides that “The SRD (School Resource Deputy) shall coordinate his/her activities with the principal and staff members.”<sup>26</sup> Further, that the “SRD shall take law enforcement action as required. The SRD shall advise the principal of such action as soon as possible....”<sup>27</sup> If the incident is a criminal violation, the SRD will determine whether law enforcement action is appropriate.<sup>28</sup> This same agreement provides that “SRDs are employees of the (Sheriff) and are not employees of the (Board)...and shall uphold the law under the direct supervision and control of the (Sheriff).”<sup>29</sup>

## Continuum of Care Rules

The bill directs the DJJ to adopt rules establishing procedures for ordinary medical care, defined in the bill; mental health, substance abuse; and developmental disabilities as part of the continuum of services.

*Current situation:* The DJJ is required to develop and implement an appropriate continuum of care that provides individualized, multidisciplinary assessments, objective evaluations of relative risks, and the matching of needs with placement for all children under its care.<sup>30</sup>

## DJJ Staff Development and Training

The bill reconstitutes obsolete provisions related to the Juvenile Justice Training Academies and Training Commission with provisions that are virtually unchanged and applied to guide DJJ staff development and training. It includes a definition of “delinquency program staff”.

<sup>18</sup> Blueprint Commission Report, Note 1, at 1.

<sup>19</sup> Blueprint Commission Report, Note 1, at 5.

<sup>20</sup> Blueprint Commission Report, Note 1, at 59.

<sup>21</sup> “Delinquency in Florida Schools: A Three Year Analysis,” Florida Department of Juvenile Justice Research Monograph 2007-02, January 2008.

<sup>22</sup> s. 1006.13, F.S. (2007)

<sup>23</sup> Id.

<sup>24</sup> s. 1006.12(1), F.S. (2007)

<sup>25</sup> Id.

<sup>26</sup> Section 6.1, *The 2007-2008 School Resource Deputy Program Agreement Between the School Board of Leon County, Florida and The Leon County Sheriff’s Office*, August 14, 2007.

<sup>27</sup> Id. at Section 6.9.

<sup>28</sup> Id. at Section 6.12

<sup>29</sup> Id. at Section 9.1

<sup>30</sup> s. 985.601, F.S. (2007)

## Technical Revisions

The bill would make a number of purely technical changes, including:

- reorganizing the placement of, and reconfiguring, several statutory provisions referencing alternative sanctions, alternative sanction coordinators, and community service programs. (ss. 1, 2, 5, 6 & 8) (amends ss. 29.008, 790.22, 984.05, 984.09 & 985.037)

removing redundant provisions relating to departmental contracting powers and personnel. (s. 15) (amends s. 986.644)

### C. SECTION DIRECTORY:

Section 1. Amending s. 29.008, F.S., relating to county funding of court-related functions.

Section 2. Amending s. 790.22, F.S., relating to use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.

Section 3. Amending s. 939.185, F.S., relating to assessment of additional court costs and surcharges.

Section 4. Amending s. 984.05, F.S., relating to rules relating to habitual truants; adoption by State Board of Education and Department of Juvenile Justice.

Section 5. Amending s. 984.09, F.S., relating to punishment for contempt of court.

Section 6. Amending s. 985.02, F.S., relating to legislative intent for the juvenile justice system.

Section 7. Amending s. 985.03, F.S., relating to definitions.

Section 8. Amending s. 985.037, F.S., relating to punishment for contempt of court.

Section 9. Amending s. 985.04, F.S., relating to oaths; records; confidential information.

Section 10. Amending s. 985.245, F.S., relating to risk assessment instrument.

Section 11. Amending s. 985.265, F.S., relating to detention transfer and release; education; adult jails.

Section 12. Amending s. 985.601, F.S., relating to administering the juvenile justice continuum.

Section 13. Amending s. 985.606, F.S., relating to prevention services providers; outcome collection; reporting.

Section 14. Amending s. 985.632, F.S., relating to quality assurance and cost-effectiveness; outcome-based contracting.

Section 15. Amending s. 986.644, F.S., relating to departmental contracting powers; personnel standards and screening.

Section 16. Amending s. 985.66, F.S., relating to juvenile justice training academies; Juvenile Justice Standards and Training Commission; Juvenile Justice Training Trust Fund.

Section 17. Amending s. 985.664, F.S., relating to juvenile justice circuit boards and juvenile justice county councils.

Section 18. Amending s. 985.668, F.S., relating to innovation zones.

Section 19. Amending s. 985.676, F.S., relating to community juvenile justice partnership grants.

Section 20. Amending s. 985.721, F.S., relating to escapes from secure detention or residential commitment facility.

Section 21. Creating s. 1006.125, F.S., relating to school referrals to law enforcement; serious criminal offenses.

Section 22. Amending s. 1006.13, F.S., relating to policy of zero tolerance for crime and victimization.

Section 23. Providing an appropriation.

Section 24. Providing an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

<u>Source</u>	<u>Fiscal Year</u>	<u>Amount</u>	<u>Type</u>
General Revenue Fund	2008-09	\$50,000	Nonrecurring

This would fund curriculum development for DJJ direct care staff per section 23 of the bill.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. The bill permits counties to seek reimbursement from school districts for the costs associated with secure detention resulting from school-related referrals to law enforcement for offenses not qualifying as serious criminal offenses as defined in the bill. It is possible they could receive an indeterminate amount of reimbursements for these costs.

2. Expenditures:

None

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

None

### D. FISCAL COMMENTS:

Other than the specific nonrecurring appropriation, the fiscal impact of the bill is indeterminate. Provisions that could have a negative fiscal impact on the DJJ include: periodic updates to the risk assessment instrument, implementation of outcome-based contracting, provisions related to staff development and training, and required annual meetings between the DJJ Secretary and local Board chairs. However, these are all expected to be insignificant and expenses that can be considered to be incidental to doing business.



### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

The bill does not implicate the mandates provision.

##### 2. Other:

None

#### B. RULE-MAKING AUTHORITY:

Section 12 of the bill would direct the DJJ to adopt rules related to the continuum of care. Section 16 would authorize the DJJ to adopt rules related to development and training of DJJ staff.

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

None

#### D. STATEMENT OF THE SPONSOR

None

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 19, 2008, the Committee on Juvenile Justice adopted five (5) amendments to the proposed council bill and recommended it to the Safety & Security Council with the amendments incorporated. All were technical, except the amendment to section 16 of the bill which specifically limited DJJ staff development and training to DJJ delinquency program staff.

This analysis is drawn to the bill with the amendments incorporated.