

CS/CS/SB 672 by **JU, CJ, Evers**; (Identical to CS/1ST ENG/H 0353) Juvenile Justice

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
**APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND
 CIVIL JUSTICE**
Senator Bradley, Chair
Senator Joyner, Vice Chair

MEETING DATE: Wednesday, April 17, 2013
TIME: 9:30 —10:30 a.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Bradley, Chair; Senator Joyner, Vice Chair; Senators Altman, Braynon, Clemens, Dean, Diaz de la Portilla, Flores, Garcia, Grimsley, Hays, Smith, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/CS/SB 672 Judiciary / Criminal Justice / Evers (Identical CS/H 353, Compare CS/H 4019, CS/S 678)	Juvenile Justice; Deleting a requirement that the Department of Corrections and counties develop programs under which a judge may order juveniles who have committed delinquent acts to tour correctional facilities; repealing provisions relating to the creation, duties, and qualifications of the youth custody officer position within the Department of Juvenile Justice; providing for the imposition of criminal penalties against specified employees who inflict cruel or inhuman treatment upon juvenile offenders, etc. CJ 03/04/2013 Not Considered CJ 03/11/2013 Fav/CS JU 04/08/2013 Fav/CS ACJ 04/17/2013 Favorable AP	Favorable Yeas 11 Nays 0

Other Related Meeting Documents

The bill creates s. 985.702, F.S., establishing malicious infliction of cruel or inhuman treatment on a juvenile offender by a DJJ employee as a first degree misdemeanor¹ If the infliction causes great bodily harm, permanent disability, or permanent disfigurement, the employee commits a second degree felony.^{2,3}

The bill also creates reporting requirements for DJJ employees who witness the prohibited treatment. Failure to comply or complying dishonestly or inaccurately with reporting requirements are criminal acts under the bill. The penalties for failing to make an accurate report range from a first degree misdemeanor to a third degree felony.

Finally, the bill amends the definition of “juvenile offender” in the newly created statute to include a person of any age committed to the DJJ’s custody. It also provides a definition of “juvenile offender” in the sexual misconduct statute, s. 985.701, F.S.

The bill has an effective date of July 1, 2013.

This bill creates section 985.702, Florida Statutes.

The bill repeals sections 985.105 and 945.75, Florida Statutes.

The bill substantially amends sections 121.0515 and 985.701, Florida Statutes.

II. Present Situation:

Youth Custody Officers

Section 985.105, F.S., created the youth custody officer position within the Department of Juvenile Justice (DJJ). Youth custody officers were responsible for taking a youth into custody if the officer had probable cause to believe that the youth:

- Violated the conditions of probation, home detention, conditional release, or postcommitment probation; or
- Failed to appear in court after being properly noticed.

These youth custody officers were also responsible for informing local law enforcement agencies when they took anyone into custody under this section.

Youth custody officers were required to meet the minimum qualifications for employment or appointment, become certified under ch. 943, F.S., and comply with the mandates for continued employment as provided by s. 943.135, F.S.⁴ Additionally, s. 121.0515, F.S., designated youth

¹ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

² A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

³ Repeat offender sanctions are also available under s. 775.084, F.S.

⁴ Section 985.105(2), F.S.

custody officers as members of the “special risk class” for purposes of the Florida Retirement System.⁵

According to the DJJ, it eliminated these youth custody officer positions on July 1, 2010, as a way to reduce its budget.⁶ The duties of the youth custody officers were either distributed among existing employees or are no longer performed by the DJJ.⁷

Jail and Prison Tours

Section 945.75, F.S., requires the Department of Corrections (DOC) to develop programs under which a judge may order that a juvenile who has committed a delinquent act be allowed to tour state correctional facilities under the terms and conditions established by DOC. The statute requires counties to develop similar programs involving county jails. These tour programs are commonly referred to as “scared straight programs.”⁸ Scared straight programs generally involve adult inmates describing the conditions associated with jail or prison incarceration to delinquent at-risk youth in a secure setting.⁹ The goal of these programs is to modify the behavior of the juveniles by shocking, scaring, and thus deterring them from engaging in further delinquent activity.¹⁰

The DJJ reports that because it complies with the Federal Juvenile Justice and Delinquency Prevention Act of 2002 (the act),¹¹ it receives between \$2 million and \$8 million in federal funding.¹² The act provides funds for states which comply with the protections it proscribes for juvenile offenders.¹³ The scared straight programs may violate several provisions of the act including the prohibition on contact between juvenile and adult offenders.¹⁴ The DJJ states that it could lose two-thirds of its federal funding because of these violations of the act.¹⁵

⁵ Section 121.0515, F.S., creates a “special risk class” of state employees for purposes of the Florida Retirement System that earn more retirement credit per year of service. This increased credit is in recognition that they may be unable to “enjoy the full career and retirement benefits enjoyed by other membership classes” as a result of the physically demanding and high risk functions required by their jobs.

⁶ See Department of Juvenile Justice, *2013 Agency Proposal, Juvenile Justice Reform, Youth Custody Officer Analysis* (2013) (on file with the Senate Committee on Judiciary).

⁷ *Id.*

⁸ Virginia Department of Criminal Services, *Scared Straight Programs*, <http://www.dcjs.virginia.gov/juvenile/compliance/scaredStraight.pdf> (last visited on April 3, 2013); See also Department of Juvenile Justice, *Scared Straight Programs: Jail and Detention Tours*, www.djj.state.fl.us/docs/research2/scared_straight_booklet_version (last visited on April 3, 2013).

⁹ *Id.*

¹⁰ *Id.*

¹¹ 42 U.S.C. Chapters 72.

¹² See Department of Juvenile Justice, *2013 Agency Proposal, Juvenile Justice Reform, Jail Tour Analysis* (2013) (on file with the Senate Committee on Judiciary).

¹³ 42 U.S.C. § 5633(a).

¹⁴ 42 U.S.C. § 5633(a)(12).

¹⁵ Department of Juvenile Justice, *2013 Agency Proposal, Juvenile Justice Reform, Jail Tour Analysis*, *supra* note 9.

Neglect of Youth Committed to the DJJ

Section 985.02, F.S., includes, as legislative intent, the general protections of children within the juvenile justice system, including protection from abuse, neglect, and exploitation.¹⁶ However, no specific statute within chapter 985, F.S., authorizes prosecution of a DJJ employee for criminal neglect of a youth in the department's custody.¹⁷ As a result, prosecutors have looked to other statutes to prosecute a DJJ employee alleged to have neglected a youth. One such statute is the child abuse statute. However, the child abuse statute is not designed to prosecute neglect cases which arise within the unique framework of the juvenile justice environment, and does not apply to youth in DJJ's custody who are 18 years of age or older.¹⁸

Sexual Misconduct by an Employee

Section 985.701, F.S., makes it a second degree felony¹⁹ for a DJJ employee²⁰ to engage in sexual misconduct²¹ with juvenile offenders "detained or supervised by, or committed to the custody, of the department." The statute does not define the term "juvenile offender."

III. Effect of Proposed Changes:

Youth Custody Officers

This bill repeals s. 985.105, F.S., which created youth custody officer positions within the DJJ. This section of law is no longer needed because these positions have not been filled since 2010. Likewise, the bill deletes language in s. 121.0515, F.S., classifying these positions as special risk positions for purposes of the Florida Retirement System.

Jail and Prison Tours

The bill also repeals s. 945.75, F.S., authorizing prison and jail tours, so that the DJJ can continue receiving federal funds by remaining in compliance with the federal Juvenile Justice and Delinquency Prevention Act.

¹⁶ Section 985.02(1)(a), F.S.

¹⁷ See the Palm Beach County Grand Jury Presentment Regarding the Death of Eric Perez While in the Custody of the Florida Department of Juvenile Justice (on file with the Senate Criminal Justice Committee and the Senate Judiciary Committee). The grand jury recommended the creation of a criminal statute prohibiting the neglect of youths in the custody of the DJJ.

¹⁸ *Id.* Because Eric Perez had turned 18 a few days before his death in the detention center, he did not meet the definition of a "child" in s. 827.03, F.S., relating to child abuse, and as such, prosecutors were unable to charge the Palm Beach Regional Juvenile Detention facility officers with child neglect.

¹⁹ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

²⁰ Section 985.701(1)(a)1.b., F.S., defines "employee" as paid staff members, volunteers, and interns who work in a department program or a program operated by a provider under a contract.

²¹ Section 985.701(1)(a)1.a., F.S., defines "sexual misconduct" as fondling the genital area, groin, inner thighs, buttocks, or breasts of a person; the oral, anal, or vaginal penetration by or union with the sexual organ of another; or the anal or vaginal penetration of another by any other object. The term does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of duty by an employee of the department or an employee of a provider under contract with the department.

Neglect of Youth Committed to the DJJ

The bill creates s. 985.702, F.S., establishing malicious infliction of cruel or inhuman treatment on a juvenile offender by a DJJ employee as a first degree misdemeanor²² If the infliction causes great bodily harm, permanent disability, or permanent disfigurement, the employee commits a second degree felony.^{23,24}

The bill defines:

- “Employee” as a “paid staff member, volunteer, or intern who works in a department program or a program operated by a provider under contract with the department.”²⁵
- “Juvenile offender” as “any person of any age who is detained, or committed to the custody of, the department.”

A Public Employees Relations Commission determination that a DJJ employee violated the newly created section would constitute sufficient cause under s. 110.227(1), F.S.,²⁶ for the employee’s firing by DJJ. Any such employee also would be prohibited from working in any capacity in the juvenile justice system.

The bill requires employees who witness the infliction of cruel or inhuman treatment against a juvenile offender to immediately report the incident to the DJJ’s incident hotline. The witness must also prepare an independent report specifically describing the nature of the incident, the location and time, and the persons involved. The witness must submit the report to the witness’s supervisor or program director, who in turn must provide copies to the DJJ’s inspector general and the circuit juvenile justice manager. The DJJ’s inspector general must immediately conduct an appropriate administrative investigation. If the DJJ’s inspector general finds probable cause, he or she must notify the state attorney in the circuit in which the incident occurred.

Failure to comply with these new reporting requirements is a criminal act under the bill, resulting in the following penalties:

- Any person who knowingly or willfully fails to file a report or prevents another person from doing so commits a first degree misdemeanor;
- Any person who knowingly or willfully submits inaccurate, incomplete, or untruthful information on a report commits a first degree misdemeanor; and
- Any person who coerces or threatens another person with the intent to alter testimony or a written report commits a third degree felony.

²² A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

²³ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

²⁴ Repeat offender sanctions are also available under s. 775.084, F.S.

²⁵ This is the same definition as provided in s. 985.701(1)(a)1.b., F.S., relating to sexual misconduct by an employee.

²⁶ Section 110.227, F.S., relates to the suspension and dismissal of career service employees.

Sexual Misconduct by an Employee

The bill amends s. 985.701, F.S., relating to sexual misconduct, to define the term “juvenile offender” as “a person of any age who is detained or supervised by, or committed to the custody of, the department.”

The bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A DJJ employee who is prosecuted for the new first degree misdemeanor or felony offenses under the bill could be subjected to penalties including: imprisonment of up to one year and a fine of up to \$1,000 for a misdemeanor offense; imprisonment of up to 5 years and a fine of up to \$5,000 for a third degree felony offense; and imprisonment of up to 15 years and a fine of up to \$10,000 for the second degree felony offense.

C. Government Sector Impact:

The bill creates a new second degree felony offense, malicious infliction of cruel or inhuman treatment causing great bodily harm. The bill creates a new third degree felony offense, knowingly coercing another person with the intent to alter testimony or a written report. The Criminal Justice Impact Conference met on February 27, 2013, and expects an insignificant impact on prison beds as a result of this bill.

The bill also creates several new first degree misdemeanor offenses related to malicious battery on a juvenile offender and failure to comply with reporting requirements. To the extent that DJJ employees are prosecuted for any of the new misdemeanor offenses, this bill may negatively impact local jails.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS/CS by Judiciary on April 8, 2013:

The CS makes it first degree misdemeanor when a DJJ employee, with malicious intent, inflicts cruel or inhuman treatment on a juvenile offender by neglect or otherwise without causing great bodily harm, permanent disability, or permanent disfigurement. If the employee inflicts great bodily harm or disfigurement on the juvenile offender, the employee commits a second degree felony.

The bill also creates reporting requirements for DJJ employees who witness the prohibited treatment. Failure to comply, or complying dishonestly or inaccurately with reporting requirements are criminal acts under the bill, ranging in penalties from a first degree misdemeanor to a third degree felony.

Finally, the bill amends the definition of “juvenile offender” in the newly created statute to include a person of any age committed to the DJJ’s custody. It also provides a definition of “juvenile offender” in the sexual misconduct statute, s. 985.701, F.S.

CS by Criminal Justice on March 11, 2013:

Adds a provision repealing the statute that authorizes jail and prison tours by juveniles so that the DJJ can remain in compliance with federal law and continue receiving federal prevention funds.

B. Amendments:

None.

By the Committees on Judiciary; and Criminal Justice; and
Senator Evers

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1 A bill to be entitled
2 An act relating to juvenile justice; repealing s.
3 945.75, F.S.; deleting a requirement that the
4 Department of Corrections and counties develop
5 programs under which a judge may order juveniles who
6 have committed delinquent acts to tour correctional
7 facilities; repealing s. 985.105, F.S., relating to
8 the creation, duties, and qualifications of the youth
9 custody officer position within the Department of
10 Juvenile Justice; amending s. 121.0515, F.S.;
11 conforming provisions to changes made by the act;
12 creating s. 985.702, F.S.; providing definitions;
13 providing for the imposition of criminal penalties
14 against specified employees who inflict cruel or
15 inhuman treatment upon juvenile offenders; providing
16 enhanced penalties for such treatment that results in
17 great bodily harm, permanent disability, or permanent
18 disfigurement to a juvenile offender; specifying that
19 such conduct constitutes sufficient cause for an
20 employee's dismissal from employment; prohibiting such
21 employee from future employment with the juvenile
22 justice system; providing incident reporting
23 requirements; prohibiting an employee who witnesses
24 such an incident from knowingly or willfully failing
25 to report; prohibiting false reporting, preventing
26 another from reporting, or coercing another to alter
27 testimony or reports; providing penalties; amending s.
28 985.701, F.S.; defining the term "juvenile offender"
29 for purposes of prohibiting sexual misconduct with

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30 juvenile offenders; providing an effective date.
31
32 Be It Enacted by the Legislature of the State of Florida:
33
34 Section 1. Section 945.75, Florida Statutes, is repealed.
35 Section 2. Section 985.105, Florida Statutes, is repealed.
36 Section 3. Paragraphs (h) through (k) of subsection (3) of
37 section 121.0515, Florida Statutes, are redesignated as
38 paragraphs (g) through (j) of that subsection, respectively, and
39 paragraphs (e) through (i) of subsection (2), present paragraphs
40 (g) and (k) of subsection (3), paragraph (b) of subsection (5),
41 paragraph (d) of subsection (8), and paragraph (c) of subsection
42 (10) of that section are amended to read:
43 121.0515 Special Risk Class.—
44 (2) MEMBERSHIP.—
45 ~~(e) Effective July 1, 2001, "special risk member" includes~~
46 ~~any member who is employed as a youth custody officer by the~~
47 ~~Department of Juvenile Justice and meets the special criteria~~
48 ~~set forth in paragraph (3)(g).~~
49 (e)(f) Effective October 1, 2005, through June 30, 2008,
50 the member must be employed by a law enforcement agency or
51 medical examiner's office in a forensic discipline and meet the
52 special criteria set forth in paragraph (3)(g) ~~(3)(h)~~.
53 (f)(g) Effective July 1, 2008, the member must be employed
54 by the Department of Law Enforcement in the crime laboratory or
55 by the Division of State Fire Marshal in the forensic laboratory
56 and meet the special criteria set forth in paragraph (3)(h)
57 ~~(3)(i)~~.
58 (g)(h) Effective July 1, 2008, the member must be employed

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59 by a local government law enforcement agency or medical
60 examiner's office and meet the special criteria set forth in
61 paragraph (3) (i) ~~(3) (j)~~.

62 (h) (i) Effective August 1, 2008, "special risk member"
63 includes any member who meets the special criteria for continued
64 membership set forth in paragraph (3) (j) ~~(3) (k)~~.

65 (3) CRITERIA.—A member, to be designated as a special risk
66 member, must meet the following criteria:

67 ~~(g) Effective July 1, 2001, the member must be employed as~~
68 ~~a youth custody officer and be certified, or required to be~~
69 ~~certified, in compliance with s. 943.1395. In addition, the~~
70 ~~member's primary duties and responsibilities must be the~~
71 ~~supervised custody, surveillance, control, investigation,~~
72 ~~apprehension, arrest, and counseling of assigned juveniles~~
73 ~~within the community.~~

74 (j) (k) The member must have already qualified for and be
75 actively participating in special risk membership under
76 paragraph (a), paragraph (b), or paragraph (c), must have
77 suffered a qualifying injury as defined in this paragraph, must
78 not be receiving disability retirement benefits as provided in
79 s. 121.091(4), and must satisfy the requirements of this
80 paragraph.

81 1. The ability to qualify for the class of membership
82 defined in paragraph (2) (h) ~~(2) (i)~~ occurs when two licensed
83 medical physicians, one of whom is a primary treating physician
84 of the member, certify the existence of the physical injury and
85 medical condition that constitute a qualifying injury as defined
86 in this paragraph and that the member has reached maximum
87 medical improvement after August 1, 2008. The certifications

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88 from the licensed medical physicians must include, at a minimum,
89 that the injury to the special risk member has resulted in a
90 physical loss, or loss of use, of at least two of the following:
91 left arm, right arm, left leg, or right leg; and:

92 a. That this physical loss or loss of use is total and
93 permanent, except in the event that the loss of use is due to a
94 physical injury to the member's brain, in which event the loss
95 of use is permanent with at least 75 percent loss of motor
96 function with respect to each arm or leg affected.

97 b. That this physical loss or loss of use renders the
98 member physically unable to perform the essential job functions
99 of his or her special risk position.

100 c. That, notwithstanding this physical loss or loss of use,
101 the individual is able to perform the essential job functions
102 required by the member's new position, as provided in
103 subparagraph 3.

104 d. That use of artificial limbs is either not possible or
105 does not alter the member's ability to perform the essential job
106 functions of the member's position.

107 e. That the physical loss or loss of use is a direct result
108 of a physical injury and not a result of any mental,
109 psychological, or emotional injury.

110 2. For the purposes of this paragraph, "qualifying injury"
111 means an injury sustained in the line of duty, as certified by
112 the member's employing agency, by a special risk member that
113 does not result in total and permanent disability as defined in
114 s. 121.091(4) (b). An injury is a qualifying injury if the injury
115 is a physical injury to the member's physical body resulting in
116 a physical loss, or loss of use, of at least two of the

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117 following: left arm, right arm, left leg, or right leg.
 118 Notwithstanding any other provision of this section, an injury
 119 that would otherwise qualify as a qualifying injury is not
 120 considered a qualifying injury if and when the member ceases
 121 employment with the employer for whom he or she was providing
 122 special risk services on the date the injury occurred.

123 3. The new position, as described in sub-subparagraph 1.c.,
 124 that is required for qualification as a special risk member
 125 under this paragraph is not required to be a position with
 126 essential job functions that entitle an individual to special
 127 risk membership. Whether a new position as described in sub-
 128 subparagraph 1.c. exists and is available to the special risk
 129 member is a decision to be made solely by the employer in
 130 accordance with its hiring practices and applicable law.

131 4. This paragraph does not grant or create additional
 132 rights for any individual to continued employment or to be hired
 133 or rehired by his or her employer that are not already provided
 134 within the Florida Statutes, the State Constitution, the
 135 Americans with Disabilities Act, if applicable, or any other
 136 applicable state or federal law.

137 (5) REMOVAL OF SPECIAL RISK CLASS MEMBERSHIP.—

138 (b) Any member who is a special risk member on July 1,
 139 2008, and who became eligible to participate under paragraph
 140 (3) (g) ~~(3) (h)~~ but fails to meet the criteria for Special Risk
 141 Class membership established by paragraph (3) (h) ~~(3) (i)~~ or
 142 paragraph (3) (i) ~~(3) (j)~~ shall have his or her special risk
 143 designation removed and thereafter shall be a Regular Class
 144 member and earn only Regular Class membership credit. The
 145 department may review the special risk designation of members to

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146 determine whether or not those members continue to meet the
 147 criteria for Special Risk Class membership.

148 (8) SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.—

149 (d) Notwithstanding any other provision of this subsection,
 150 this subsection does not apply to any special risk member who
 151 qualifies for continued membership pursuant to paragraph (3) (j)
 152 ~~(3) (k)~~.

153 (10) CREDIT FOR UPGRADED SERVICE.—

154 (c) Any member of the Special Risk Class who has earned
 155 creditable service through June 30, 2008, in another membership
 156 class of the Florida Retirement System in a position with the
 157 Department of Law Enforcement or the Division of State Fire
 158 Marshal and became covered by the Special Risk Class as
 159 described in paragraph (3) (h) ~~(3) (i)~~, or with a local government
 160 law enforcement agency or medical examiner's office and became
 161 covered by the Special Risk Class as described in paragraph
 162 (3) (i) ~~(3) (j)~~, which service is within the purview of the
 163 Special Risk Class, and is employed in such position on or after
 164 July 1, 2008, may purchase additional retirement credit to
 165 upgrade such service to Special Risk Class service, to the
 166 extent of the percentages of the member's average final
 167 compensation provided in s. 121.091(1)(a)2. The cost for such
 168 credit must be an amount representing the actuarial accrued
 169 liability for the difference in accrual value during the
 170 affected period of service. The cost shall be calculated using
 171 the discount rate and other relevant actuarial assumptions that
 172 were used to value the Florida Retirement System Pension Plan
 173 liabilities in the most recent actuarial valuation. The division
 174 shall ensure that the transfer sum is prepared using a formula

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175 and methodology certified by an enrolled actuary. The cost must
176 be paid immediately upon notification by the division. The local
177 government employer may purchase the upgraded service credit on
178 behalf of the member if the member has been employed by that
179 employer for at least 3 years.

180 Section 4. Section 985.702, Florida Statutes, is created to
181 read:

182 985.702 Malicious infliction of cruel or inhuman treatment
183 prohibited; reporting required; penalties.-

184 (1) As used in this section, the term:

185 (a) "Employee" means a paid staff member, volunteer, or
186 intern who works in a department program or a program operated
187 by a provider under a contract with the department.

188 (b) "Juvenile offender" means any person of any age who is
189 detained, or committed to the custody of, the department.

190 (c) "Neglect of a juvenile offender" means:

191 1. An employee's failure or omission to provide a juvenile
192 offender with the proper level of care, supervision, and
193 services necessary to maintain the juvenile offender's physical
194 and mental health, including, but not limited to, adequate food,
195 nutrition, clothing, shelter, supervision, medicine, and medical
196 services; or

197 2. An employee's failure to make a reasonable effort to
198 protect a juvenile offender from abuse, neglect, or exploitation
199 by another person.

200 (2) (a) Any employee who, with malicious intent, inflicts
201 cruel or inhuman treatment by neglect or otherwise, without
202 causing great bodily harm, permanent disability, or permanent
203 disfigurement to a juvenile offender, commits a misdemeanor of

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204 the first degree, punishable as provided in s. 775.082 or s.
205 775.083.

206 (b) Any employee who, with malicious intent, inflicts cruel
207 or inhuman treatment by neglect or otherwise, and in so doing
208 causes great bodily harm, permanent disability, or permanent
209 disfigurement to a juvenile offender, commits a felony of the
210 second degree, punishable as provided in s. 775.082, s. 775.083,
211 or s. 775.084.

212 (c) Notwithstanding prosecution, any violation of paragraph
213 (a) or paragraph (b), as determined by the Public Employees
214 Relations Commission, constitutes sufficient cause under s.
215 110.227 for dismissal from employment with the department, and
216 such person may not again be employed in any capacity in
217 connection with the juvenile justice system.

218 (3) An employee who witnesses the infliction of cruel or
219 inhuman treatment committed against a juvenile offender shall
220 immediately report the incident to the department's incident
221 hotline and prepare, date, and sign an independent report that
222 specifically describes the nature of the incident, the location
223 and time of the incident, and the persons involved. The employee
224 shall deliver the report to the employee's supervisor or program
225 director, who must provide copies to the department's inspector
226 general and the circuit juvenile justice manager. The inspector
227 general shall immediately conduct an appropriate administrative
228 investigation, and, if there is probable cause to believe that a
229 violation of subsection (2) has occurred, the inspector general
230 shall notify the state attorney in the circuit in which the
231 incident occurred.

232 (4) (a) Any person who is required to prepare a report under

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233 this section who knowingly or willfully fails to do so, or who
 234 knowingly or willfully prevents another person from doing so,
 235 commits a misdemeanor of the first degree, punishable as
 236 provided in s. 775.082 or s. 775.083.

237 (b) Any person who knowingly or willfully submits
 238 inaccurate, incomplete, or untruthful information with respect
 239 to a report required under this section commits a misdemeanor of
 240 the first degree, punishable as provided in s. 775.082 or s.
 241 775.083.

242 (c) Any person who knowingly or willfully coerces or
 243 threatens any other person with the intent to alter testimony or
 244 a written report regarding an incident of the infliction of
 245 cruel or inhuman treatment commits a felony of the third degree,
 246 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

247 Section 5. Paragraph (a) of subsection (1) of section
 248 985.701, Florida Statutes, is amended to read:

249 985.701 Sexual misconduct prohibited; reporting required;
 250 penalties.-

251 (1)(a)1. As used in this subsection, the term:

252 a. "Sexual misconduct" means fondling the genital area,
 253 groin, inner thighs, buttocks, or breasts of a person; the oral,
 254 anal, or vaginal penetration by or union with the sexual organ
 255 of another; or the anal or vaginal penetration of another by any
 256 other object. The term does not include an act done for a bona
 257 fide medical purpose or an internal search conducted in the
 258 lawful performance of duty by an employee of the department or
 259 an employee of a provider under contract with the department.

260 b. "Employee" includes paid staff members, volunteers, and
 261 interns who work in a department program or a program operated

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262 by a provider under a contract.

263 c. "Juvenile offender" means a person of any age who is
 264 detained or supervised by, or committed to the custody of, the
 265 department.

266 2. An employee who engages in sexual misconduct with a
 267 juvenile offender detained or supervised by, or committed to the
 268 custody of, the department commits a felony of the second
 269 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 270 775.084. An employee may be found guilty of violating this
 271 subsection without having committed the crime of sexual battery.

272 3. The consent of the juvenile offender to any act of
 273 sexual misconduct is not a defense to prosecution under this
 274 subsection.

275 4. This subsection does not apply to an employee of the
 276 department, or an employee of a provider under contract with the
 277 department, who:

278 a. Is legally married to a juvenile offender who is
 279 detained or supervised by, or committed to the custody of, the
 280 department.

281 b. Has no reason to believe that the person with whom the
 282 employee engaged in sexual misconduct is a juvenile offender
 283 detained or supervised by, or committed to the custody of, the
 284 department.

285 Section 6. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Regulated Industries, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on General
Government
Children, Families, and Elder Affairs
Ethics and Elections
Gaming
Health Policy

SENATOR OSCAR BRAYNON II

Democratic Whip
36th District

April 17, 2013

Senator Bradley, Chair
Gaming
103 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1300

Dear Chair Bradley:

I respectfully request an excused absence for the *Appropriations Subcommittee on Criminal and Civil Justice* meeting on, April 17, 2013.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Oscar Braynon II".

Senator Oscar Braynon II,
District 36

cc. Senator Chris Smith, Minority Leader
Tim Sadberry, Staff Director
Michelle Sanders, Committee Administrative Asst.

REPLY TO:

- 606 NW 183rd Street, Miami Gardens, Florida 33169 (305) 654-7150 FAX: (305) 654-7152
- 213 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/17/2013
Meeting Date

Topic DJJ Bill Number 672 (if applicable)
Name Wansley Walters Amendment Barcode _____ (if applicable)
Job Title Secretary
Address 2737 Cantarvieu Dr Phone 910-1097
Tallahassee FL 32301
City State Zip

Speaking: For Against Information

Representing DJJ

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/17/13
Meeting Date

Topic Juvenile Justice Bill Number 672 (if applicable)
Name Adriana Sekula Amendment Barcode _____ (if applicable)
Job Title _____
Address _____ Phone 904 ST 7850
City State Zip

Speaking: For Against Information

Representing PACE

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

Topic _____ Bill Number 672 (if applicable)

Name Nick Miller Amendment Barcode _____ (if applicable)

Job Title _____

Address 3302 Dayton Dr. Phone 850-508-2971
Street

Tallahassee E-mail nmiller@amlk.com
City State Zip

Speaking: For Against Information

Representing AMR kids A.M.I. kids

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting. S-001 (10/20/11)

CourtSmart Tag Report

Room: LL 37

Case:

Type:

Caption: Senate Appropriations Subcommittee on Criminal and Civil Justice

Judge:

Started: 4/17/2013 9:32:36 AM

Ends: 4/17/2013 9:44:10 AM

Length: 00:11:35

9:32:39 AM Meeting called to order.
9:32:43 AM Chairman Bradley opens.
9:33:25 AM TAB 1- CS/CS/SB 672
9:33:38 AM Sarah Green, Legislative Aide to Senator Evers, recognized.
9:35:00 AM Senator Diaz de la Portilla asks about the juvenile tours of prisons.
9:35:22 AM Ms. Green responds that this bill puts us in compliance with federal law.
9:35:29 AM Senator Diaz de la Portilla asks a follow up question.
9:35:39 AM Ms. Green responds.
9:36:01 AM Senator Joyner asks a question.
9:36:15 AM Senator Soto asks about the Scared Straight program of the 1980s.
9:36:39 AM Ms. Green responds that it was before her time.
9:37:02 AM Wonsley Walters, Secretary, Department of Juvenile Justice, recognized.
9:38:02 AM Adrianna Sekula, PACE, recognized.
9:38:09 AM Nick Millar, AMI Kids, recognized.
9:38:57 AM By committee vote the bill is recommended favorably.
9:43:41 AM Chairman Bradley thanks the staff and senators.
9:43:59 AM Meeting adjourned.