

STORAGE NAME: h1129a.jj

DATE: April 15, 1999

HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUVENILE JUSTICE
ANALYSIS

BILL #: HB 1129

RELATING TO: Juvenile Justice

SPONSOR(S): Rayson

COMPANION BILL(S): S 2312

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) JUVENILE JUSTICE YEAS 10 NAYS 0
- (2) LAW ENFORCEMENT AND CRIME PREVENTION
- (3) CRIMINAL JUSTICE APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

HB 1129 creates a nine member workgroup that would be responsible for reviewing the effectiveness of the "Risk Assessment Instrument" (RAI) as a screening device in determining the need for juvenile detention. The bill also provides for an additional independent evaluation to be commissioned by the DJJ, subject to specific appropriation, to validate the current RAI and make an objective report to the workgroup and to the Legislature.

HB 1129 also prohibits the secure detention of juveniles beyond 5 days unless:

1. The petition of delinquency has been filed, **or**
2. The juvenile is being detained for a capital felony, life felony, felony of the first degree, or violent second degree felony.

This bill greatly reduces the time frame for state attorneys to make decisions concerning the filing of petitions of delinquency where the charge involves offenses which are non-violent second degree felonies or lesser offenses.

The bill also authorizes an automatic 9 day extension to the current 21 day detention time limit if:

1. The juvenile is charged with a capital felony, life felony, or felony of the first degree, **and**
2. The nature of the charge requires additional time to prepare for the prosecution or defense of the case.

HB 1129 also requires that for juveniles who are securely detained, both the filing of the petition for delinquency, **and** the arraignment of the juvenile occur within 21 working days after the initial detention. An exception to this requirement is created for juveniles who are detained for a capital felony, life felony, felony of the first degree, or violent second degree felony. Under the exception as drafted, youth detained on these offenses would also be subject to the same 21 day time frame. The same result, for these two sets of circumstances was the result of an error in drafting. The intended effect was to extend the time period under the exception to 30 days.

The bill also requires law enforcement agencies to serve all subpoenas received within 7 days after arraignment.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Detention and Risk Assessment

Section 985.213(2)(a), F.S., requires that all determinations and court orders regarding placement of a child into detention care must comply with all statutory requirements and be based on a risk assessment of the child. The only exception to these requirements are cases involving acts of domestic violence which are subject to alternative detention provisions. The mechanism used to gauge the degree of risk a particular juvenile poses to public safety, or to his or her own safety, is called the "risk assessment instrument" (RAI).

Under section 985.215 (2), F.S., a child taken into custody and placed into nonsecure or home detention care, or detained in secure detention care, prior to a detention hearing may continue to be detained by order of the court for a period not to exceed the maximum time limits allowed under s. 985.215, F.S., if any of the following circumstances apply:

- (1) The child is alleged to be an escapee or an absconder from a juvenile justice program.
- (2) The child is wanted in another jurisdiction for a felony offense.
- (3) The child is charged with a violation of law and requests protection from an imminent threat of physical harm.
- (4) The child is charged with a domestic violence offense.
- (5) The child is charged with a capital felony, a life felony, a felony of the first degree, a felony of the second degree that **does not** involve a drug offense, or a felony of the third degree that is a violent crime, including an offense involving a firearm.
- (6) The child is charged with any second degree or third degree felony that **does** involve a drug offense or any nonviolent third degree felony, **and** the child:
 1. Has a record of failure to appear at court hearings;
 2. Has a record of law violations;
 3. Has already been detained or has been released and is awaiting final disposition of the case;
 4. Has a record of violent conduct resulting in physical injury to others; or
 5. Was found in possession of a firearm.
- (7) The child is alleged to have violated the conditions of community control or aftercare supervision. (Discussed later).

If the court orders a juvenile into a detention placement which is more restrictive than indicated by the RAI, the court is required to provide, in writing, clear and convincing reasons for such placement. [s. 985.215(2)]. However, while the court may detain a child at a placement more restrictive than indicated by the RAI, the court is not authorized to order secure detention for those juveniles falling outside the statutory criteria.

The RAI was developed by the DJJ in conjunction with the Conference of Circuit Judges of Florida, the Prosecuting Attorneys Association, and the Public Defenders Association. By law, the RAI was designed to target a narrower population of juveniles than what is provided under s. 985.215(2), F.S., [s. 985.213(2)(b)1.].

The parties involved in developing the RAI are required to evaluate and revise it as necessary. [s. 985.213(2)(b)1.].

Types of Detention

Current law identifies three types of detention care. Section 985.03 (18), F.S., provides:

(18) "Detention care" means the temporary care of a child in secure, nonsecure, or home detention, pending a court adjudication or disposition or execution of a court order. There are three types of detention care, as follows:

(a) "Secure detention" means temporary custody of the child while the child is under the physical restriction of a detention center or facility pending adjudication, disposition, or placement.

(b) "Nonsecure detention" means temporary custody of the child while the child is in a residential home in the community in a physically nonrestrictive environment under the supervision of the Department of Juvenile Justice pending adjudication, disposition, or placement.

(c) "Home detention" means temporary custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the Department of Juvenile Justice staff pending adjudication, disposition, or placement.

Petition Filing

Currently, there is no specific requirement that a petition for delinquency charging a youth with a delinquent act be filed within a particular time. Florida Rule of Juvenile Procedure 8.090, however, requires a child to be brought to an adjudicatory hearing (trial) within specific time frames to satisfy the requirements of an accused's right to a speedy trial.

Detention Time Limits

Under current law, the maximum period of time a juvenile may be held in secure, nonsecure or home detention is 21 days unless an adjudicatory hearing for the youth has been commenced by the court. Following an order of adjudication, a youth may be detained up to 15 days.

Arraignments

Pursuant to Florida Rule of Juvenile Procedure 8.015, and s. 985.215(7), F.S., if a youth is detained, either in secure, nonsecure, or home detention, and a petition for delinquency has been filed, the youth must be arraigned within 48 hours after the filing of the petition (excluding weekends or holidays).

Service of Subpoenas

Currently, under s. 985.219(9), F.S., all process and orders issued by the court are served or executed as other process and orders of the circuit court, except that for juvenile cases, these items may also be served or executed by agents of the DJJ. There is no specific requirement that law enforcement agencies serve process within a particular time frame. [See, s. 48.031].

B. EFFECT OF PROPOSED CHANGES:

Detention and Risk Assessment

HB 1129 creates a nine member workgroup which would consist of a public defender, a state attorney, and a sheriff appointed by the Florida Public Defenders Association, the Florida Prosecuting Attorney's Association, the Florida Sheriffs Association, respectively. Also on the board would be a representative of the DJJ, a juvenile court judge, a chairman of a local juvenile justice board or county

council, a child advocate appointed by the "Secretary of Juvenile Justice," a member of the Senate and a member of the House of Representatives.

The workgroup would be responsible for reviewing the RAI's effectiveness as a screening device and would be required to make recommendations of whether to keep, modify or eliminate the RAI. The workgroup would issue these recommendations and findings in a report to be presented to the Governor, Speaker of the House of Representatives, and the President of the Senate by January 15, 2000.

The bill also provides for an additional independent evaluation to be commissioned by the DJJ, subject to specific appropriation, to validate the current RAI and make an objective report to the workgroup and to the Legislature.

The provisions concerning the evaluation of the RAI expire on October 1, 2000, unless reenacted by the Legislature.

Petition Filings and Detention Periods

HB 1129 prohibits the secure detention of juveniles beyond 5 days unless:

1. The petition of delinquency has been filed, **or**
2. The juvenile is being detained for a capital felony, life felony, felony of the first degree, or violent second degree felony.

This bill greatly reduces the time frame allowed for state attorneys to make decisions concerning the filing of petitions of delinquency where the charge involves offenses which are non-violent second degree felonies or lesser offenses.

According to the DJJ's Detention Program Ten Year Longitudinal Study, the average length of stay in detention is 13 days. The DJJ estimates that the effect of the 5 day petition filing deadline would be to reduce the average length of stay to 8 days. During the last fiscal year there were 10,840 youth who met **secure** detention criteria without being detained for a capital felony, life felony, felony of the first degree or a violent second degree felony. Juveniles who currently meet secure detention criteria under s. 985.215(2), F.S., and who could be subject to the 5 day petition filing deadline include:

1. Youth alleged to be an escapee or absconder from a juvenile justice program;
2. Youth alleged to have committed acts of domestic violence which are third degree felonies or misdemeanors such as aggravated assault, aggravated stalking, assault and battery;
3. Youth alleged to have committed a third degree felony that is a violent crime;
4. Youth alleged to have committed a nonviolent second degree felony or nonviolent third degree felony who also has a record of failures to appear at court hearings, a record of law violations, a record of violent conduct, or was found to be in possession of a firearm.

(See Section VI).

The bill also authorizes an automatic 9 day extension to the current 21 day detention time limit if:

1. The juvenile is charged with a capital felony, life felony, or felony of the first degree, **and**
2. The nature of the charge requires additional time to prepare for the prosecution or defense of the case.

Arraignments

Whereas current law does not require the filing of a petition within a specific time frame, HB 1129 requires that for juveniles who are securely detained, both the filing of the petition for delinquency, and the arraignment of the juvenile occur within 21 working days after the initial detention. An exception to this requirement is created for juveniles who are detained for a capital felony, life felony, felony of the first degree, or violent second degree felony. Under the exception as drafted, youth detained on these offenses would also be subject to the same 21 day time frame. The same result, for these two sets of circumstances was the result of an error in drafting. The intended effect was to

extend the time period under the exception to 30 days. It is anticipated that an amendment will be offered to change the 21 day period under the exception to 30 days. (See Section VI).

Service of Subpoenas

The bill also requires law enforcement agencies to serve all subpoenas received within 7 days after arraignment. Because this provision of the bill exclusively applies to law enforcement agencies, it will not apply to the service of subpoenas by agents of the DJJ.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Creates a workgroup to evaluate the RAI as discussed in the previous section.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 985.213, 985.215, 985.219, 985.301, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 985.213, F.S., to establish a RAI workgroup .

Section 2. Amends s. 985.215, F.S., relating to petition filings and detention periods.

Section 3. Amends s. 985.219, F.S., related to service or subpoenas.

Section 4. Corrects a statutory cross reference.

Section 5. Corrects a statutory cross reference.

Section 6. Provides an effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

| | FY 99-00 | FY 00-01 | FY 01-02 |
|--|---------------|---------------|---------------|
| 1. <u>Non-recurring Effects:</u> | | | |
| DJJ: | | | |
| expenditures | \$8,318,989 | | |
| 2. <u>Recurring Effects:</u> | | | |
| DJJ: | | | |
| expenditures | \$3,915,288 | \$3,915,288 | \$3,915,288 |
| savings | (\$5,094,800) | (\$5,094,800) | (\$5,094,800) |
| (See Fiscal Comments) | | | |
| 3. <u>Long Run Effects Other Than Normal Growth:</u> | | | |
| N/A | | | |
| 4. <u>Total Revenues and Expenditures:</u> | | | |
| DJJ: | \$7,139,477 | (\$1,179,512) | (\$1,179,512) |
| (See Fiscal Comments) | | | |

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

According to estimates of the DJJ, there will be both positive and negative fiscal aspects to this bill. Over a period of time the projected cost of additional detention days will tend to be offset by some of the projected cost savings associated with the shorter petition filing time limit.

As amended by the Juvenile Justice Committee, those portions of the bill to which the DJJ attributed a projected cost savings have been eliminated.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

N/A

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Juvenile Justice Committee substantially amended this bill as originally filed. The committee approved three amendments to the bill. The first amendment was overwritten by a subsequent amendment. The second amendment removed the 5 day petition filing deadline which would have been required for certain offenses. The third and final amendment removed from the bill those provisions which required that for youth held in secure detention, both the filing of the petition of delinquency and the arraignment of the youth must occur within a specific time period.

VII. SIGNATURES:

COMMITTEE ON JUVENILE JUSTICE:

Prepared by:

Staff Director:

David De La Paz

David De La Paz