

STORAGE NAME: h0349z.lec  
DATE: June 15, 1999

**\*\*FINAL ACTION\*\***  
**\*\*SEE FINAL ACTION STATUS SECTION\*\***

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
LAW ENFORCEMENT AND CRIME PREVENTION  
FINAL ANALYSIS**

**BILL #:** HB 349 (Chapter 99-284, Laws of Florida)  
**RELATING TO:** School Children Possessing Weapons On School Property  
**SPONSOR(S):** Committee on Law Enforcement and Crime Prevention and Representative(s) Futch, Bloom and Others  
**COMPANION BILL(S):** None

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

- (1) LAW ENFORCEMENT AND CRIME PREVENTION YEAS 9 NAYS 0
- (2) JUVENILE JUSTICE YEAS 10 NAYS 0
- (3) CRIMINAL JUSTICE APPROPRIATIONS (W/D)
- (4)
- (5)

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I. FINAL ACTION STATUS:

**On June 8, 1999, HB 349 was approved by the Governor, and became Chapter 99-284, Laws of Florida.**

II. SUMMARY:

House Bill 349 increases the penalty for a minor charged with *possession* of a firearm, for a second or subsequent offense, from a first degree misdemeanor to a third degree felony. The bill also increases the allowable time in detention to three days for a first offense, and 15 days for a second offense. It also recommends community service hours for such an offense to be performed in an emergency room or other medical environment that deals with trauma patients and gunshot wounds.

*For offenses involving the use or possession of a firearm*, the bill requires the juvenile to serve at least 15 days in secure detention for a first offense, and 21 days for a second offense. The bill further provides that such juvenile offenders may be subject to placement on community control or in a nonresidential commitment program.

House Bill 349 provides that a minor charged with possessing or discharging weapons or firearms *on school property* be held in secure detention, and a probable cause hearing be held within 24 hours after the child is taken into custody. At the hearing, the court may order that the child continue in secure detention for a period of 21 days, during which time the appropriate medical, psychiatric, psychological, or substance abuse examination can take place and a written report can be completed.

Under HB 349, educational/technical and vocational work-related programs must be taught year round, five hours a day and five days a week. The Department of Juvenile Justice (DJJ) must seek the advise of private labor and management to assist youth with post-release job placement. The DJJ is also strongly encouraged to work in partnership with local businesses and trade groups in the development and operation of educational/technical and vocational work-related programs. The Juvenile Justice Accountability Board (JJAB) will study types of effective vocational and work programs and report to the Legislature and DJJ by January 31, 2000.

House Bill 349 provides that youth committed to juvenile justice facilities receive educational and vocational training on a 12-month basis, 250 days yearly. Youth committed to DJJ facilities must participate in statewide assessment testing. The bill also requires the state board to adopt rules for high quality and effective education programs for youth committed to DJJ facilities by August 1, 1999. It also directs Department of Education to develop model contracts for the delivery of services, and requires youth in DJJ facilities to have school records and assessments included with them upon entering and exiting commitment programs. Under this bill, committed youth may earn a GED prior to release with any associated fees waived.

House Bill 349 reallocates revenue from the Florida Education Finance Program (FEFP) and categorical program appropriations to provide a proportionate or minimum share to Juvenile Justice education programs for delivery of educational services. The bill also provides for students with disabilities to be funded at the highest exceptional student weight for which the student qualifies.

In addition, the bill requires DOE, in coordination with the DJJ, to develop and conduct quality assurance site visits. Further, the bill directs the Department of Management Services to review existing facilities to determine the adequacy of the facilities for educational use. The bill also directs the Juvenile Justice Accountability Board to study the extent and nature of education programs for committed youth.

House Bill 349 revises employment screening and eligibility standards for the Department of Juvenile Justice (DJJ). The bill also authorizes the DJJ to expend funds for crime prevention activities, but prohibits such expenditures from being used for lobbying purposes. The bill defines "aftercare" and streamlines the process for addressing violations of aftercare supervision. Under the bill, law enforcement officers are authorized to take juveniles into custody for violating conditions of home detention, or for absconding from a commitment program. In addition, the bill improves access to juvenile records by law enforcement agencies, and provides that fingerprints of juveniles processed through assessment centers may be submitted to the Florida Department of Law Enforcement (FDLE). Also, the bill authorizes the DJJ to establish a direct support organization to provide support for the juvenile justice system. In addition, HB 349 requires the state to retain, for five years past their 21st birthday, the criminal history records of minors committed to juvenile correctional centers or juvenile prisons. Also, the bill removes the Department of Legal Affairs (DLA) Office of the Attorney General's rulemaking authority regarding minimum standards for juvenile sex offender programs.

House Bill 349 broadens the criteria for awarding community juvenile justice partnership grants to include consideration of "other delinquency early-intervention and diversion services." The awards criteria was revised to require the DJJ to give priority to those geographic areas having the highest number of youths between the ages of 10 to 17 when making their selection.

House Bill 349 adds attempts to commit, and conspiracies to commit, any of the qualifying violent felonies to the offenses listed in s. 985.227, F.S., regarding direct file criteria, and s. 985.226, F.S., regarding mandatory waiver criteria used for transferring juveniles to adult court. In addition, the offenses of burglary with an assault or battery, car jacking, possessing or discharging any weapon or firearm on school property, and home invasion robbery, are added to the list of violent felonies qualifying a juvenile for transfer to adult court.

House Bill 349 authorizes the State Attorney and the DJJ on a district by district basis to enter into interagency agreements regarding which cases which will require a DJJ recommendation and report. HB 349 also makes it a second degree felony for a person who has been adjudicated delinquent for a felony to possess a firearm until such person reaches 24 years of age. Finally, HB 349 adds carjacking, home invasion robbery, and burglary with an assault or battery to the offenses qualifying a juvenile for placement in a "Maximum Risk Residential Program" and renames those facilities "Juvenile Correctional Facilities" or "Juvenile Prisons."

### III. SUBSTANTIVE ANALYSIS:

#### A. PRESENT SITUATION:

##### **Use of Firearms by Minors**

Section 790.22, F.S., provides general limitations, exceptions, and prohibitions with regard to the *possession* of firearms by a minor under 18 years of age. A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his or her home, unless engaged in a lawful hunting activity or lawful marksmanship competition or lawful recreational shooting activity. A violation of section 790.22(3), F.S., constitutes a misdemeanor of the first degree, subject to an additional penalty of 100 hours of community service. The court must also direct the Department of Motor Vehicles to suspend or withhold the issuance of a driver license for up to one year. If the child is adjudicated for a second or subsequent offense, the child shall be required to perform between 100 and 250 hours of community service. The youth shall also have his driver's license suspended or not issued for up to two years.

Section 790.22(8), F.S., provides that a child charged with an offense that involves the use or possession of a firearm, other than a violation of subsection (3), shall be detained in a juvenile detention center. Subsection (9) states that any minor committing an offense involving the use or

possession of a firearm, as defined in s. 790.001, F.S., or an offense during which the minor possessed a firearm and is not committed to a residential commitment program in addition to any other punishment imposed shall be ordered by the court into secure detention for five days and shall perform 100 hours of community service. For a second offense, the child can be ordered to serve 10 days in detention and perform no less than 100 and up to 250 hours of community service. Offenses violating subsection (3), simple possession, are excluded from the provisions of subsection (9).

With regard to possessing firearms at school, section 790.115, F.S., provides (with certain specified exceptions) that "A person shall not possess any firearm... on the property of any school, school bus, or school bus stop..." A violation of this provision constitutes a felony of the third degree. A person who discharges any weapon or firearm at a school commits a felony of the second degree. However, this statutory section has no special provisions for dealing specifically with violations committed by minors.

### **Level Two Employment Screening**

When hiring employees who will work with juveniles, the DJJ is required to use level two screening standards as provided for in s. 435.04, F.S. (1998 Supp.).<sup>1</sup> Level 2 screenings must include, but are not limited to, employment history checks, fingerprinting for all purposes and criminal history checks, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies. Security background investigations through level 2 screenings must ensure that no persons subject to undergoing such a screening has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any of the offenses delineated in s. 435.04(2), F.S. (1998 Supp.).

### **Criminal History Records of Minors**

Section 943.0515, F.S. (1998 Supp.), provides that the Criminal Justice Information Program (CJIP) shall retain the criminal history records of a minor, who is classified as a serious or habitual juvenile offender, for 5 years after the minor reaches 21 years of age. If a minor is not classified as a serious or habitual juvenile offender, the minor's records shall be retained for five years after the minor reaches 19 years of age.

### **Crime Prevention**

The State's Comprehensive Plan, as set forth in s. 187.201, F.S., was enacted in 1985 for the purpose of setting broad directional objectives for state agencies. Implementation of many of these objectives has been provided for in statute or by annual appropriations policies. For example, subsection (7) of the plan provides that it is a state objective to emphasize and protect the rights of crime victims. Implementation of this objective is provided for in s. 960.001, F.S. (1998 Supp.), which requires specified agencies involved in the justice system, including the DJJ, to develop and implement guidelines for the fair treatment of victims and witnesses. Subsection (7) of the plan also provides that it is a state objective to increase crime prevention efforts to enhance the protection of individual personal safety and property. This subsection, however, does not indicate which state agencies are to be involved in crime prevention.

### **Furlough**

The term "furlough" is repeatedly mentioned in ch. 985, F.S., but is not statutorily defined. According to the DJJ, this term is obsolete in the juvenile context because only adults are furloughed.

### **Aftercare Placement**

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<sup>1</sup>Sections 39.001(2)(b) (1998 Supp.), and 985.01, Florida Statutes.

Pursuant to s. 985.316, F.S., *all* juveniles who are released from a residential commitment program *shall* be placed on aftercare. The term “aftercare” is not defined by statute, and due to the lack of a definition, it has been difficult for those implementing ch. 985, F.S., to know exactly what programs fall within the aftercare category. Generally, in practice, however, “aftercare” consists of non-commitment day treatment, re-entry, postcommitment community control (PCCC), and furlough programs, and either the DJJ or the trial court may order a juvenile’s placement in an aftercare program.<sup>2</sup>

In the event a juvenile violates any *aftercare* program, the state attorney must file a petition alleging the violation, and the case must be heard by the trial court.<sup>3</sup> If the court finds that a juvenile has violated his or her aftercare, the court may subject the juvenile to numerous statutorily defined sanctions, including placement of the juvenile on home detention with electronic monitoring.<sup>4</sup> As a result of this required violation procedure, the caseloads of juvenile state attorneys and trial courts have substantially increased throughout the state.

On the other hand, if a juvenile violates a *commitment* program, e.g., a non-aftercare program, the court need not become involved; instead, the DJJ may administratively transfer the juvenile to another commitment program.<sup>5</sup>

### **Sexual History Disclosure**

Under ss. 39.0132 and 985.04 (1998 Supp.), F.S., the DJJ is required to disclose to a school superintendent that a student who is under the supervision of the DJJ:

- ◆ has a known history of sexual behavior with other juveniles;
- ◆ is an alleged juvenile sex offender; or
- ◆ has pled to or been found guilty of sexual battery, prostitution, lewdness/indecent exposure, sexual performance by a child, or distributing obscene material to a minor.

The phrase, “a known history of sexual behavior” is undefined and has resulted in confusing constructions. For example, a juvenile, whose past behavior consists only of innocuous acts such as kissing between consenting juveniles, could fall within the meaning of this vague phrase.

### **Taking a Child into Custody**

Pursuant to s. 985.207(1)(d), F.S. (1998 Supp.), a juvenile may be taken into custody when an officer has probable cause to believe that the juvenile is violating his community control or aftercare supervision. An officer, however, may not take a child into custody when he or she has probable cause to believe that a juvenile is violating his home detention. Instead, the officer must first obtain a pick up order for the juvenile.

### **Sexual Abuse Intervention Networks**

Section 985.308, F.S., (1998 Supp.), provides that the DJJ, the Department of Legal Affairs, and the Department of Children and Family Services, may, when funds are specifically appropriated, award grants to sexual abuse intervention networks. The grants may be used for training, aftercare, evaluation, public awareness, and other needs identified by the network. Furthermore, the Department of Legal Affairs is given the authority to adopt rules governing the award of grants. In practicality, however, the DJJ manages the grant program without any oversight by or involvement with the Department of Legal Affairs.

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<sup>2</sup>Section 985.231, F.S. (1998 Supp.).

<sup>3</sup>Section 985.231, F.S. (1998 Supp.).

<sup>4</sup>Section 985.231, F.S. (1998 Supp.).

<sup>5</sup>Section 985.404, F.S. (1998 Supp.).

## **Hiring Standards for DJJ Employees**

Section 985.406, F.S. (1998 Supp.), creates the DJJ Standards and Training Commission, which is required to establish a program for juvenile justice training. Specifically, the Commission must design and implement training programs for certain types of jobs in the DJJ. The program must include a curriculum based examination, and all DJJ program staff and providers who deliver direct care services must successfully complete the training.

Furthermore, s. 985.01, F.S., provides that the DJJ must use the level two screening standards provided for in ch. 435, F.S. Level two screening standards require a security background check which includes, but is not limited to, employment history checks, fingerprinting, statewide criminal and juvenile record history checks, and federal criminal record checks.

## **Direct-Support Organization**

The DJJ has had an ongoing partnership with the Florida Business Partners for Prevention (FBPP) since 1994. At present, the organization has no bylaws or articles of incorporation, but it desires to organize for the purpose of serving as an advisory and support group of the DJJ, with reciprocal staff provided by the DJJ. Moreover, the organization wishes to apply for incorporation as a non-profit charitable Direct Service Organization (DSO).

Florida law currently allows certain state entities to form DSOs. For example, ss. 240.331 and 240.299, F.S., provide that state colleges may have a DSO for the purpose of receiving, holding, investing and administering property, and of making expenditures to or for the benefit of a community college. The DSO is permitted to use the property, facilities, and personal services of the college, and to invest funds.<sup>6</sup> At the present time, however, the DJJ has no statutory authority to have a DSO.

## **Transferring Juvenile Offenders to Adult Court**

According to a December 1998 publication by OJJDP entitled *Trying Juveniles as Adults in Criminal Court: An Analysis of State Transfer Provisions*, all 50 states allow for juveniles to be transferred to adult court for criminal prosecution. Among these, three states (New York, Connecticut, and North Carolina) have set the age of juvenile court jurisdiction to an upper age limit of 15. Ten states (most notably Texas, Illinois and Massachusetts) have set the upper age limit for juvenile court jurisdiction at age 16.

Under current Florida law, there are three ways for a juvenile offender charged with a criminal offense to have his or her case prosecuted in adult court. A juvenile offender transferred to adult court who is found guilty of the charged offense, or lesser included offense, must be handled thereafter in every respect as an adult for any subsequent violation of state law, unless the adult court judge imposes juvenile sanctions pursuant to s. 985.233(4)(b), F.S. The three ways a juvenile offender can be prosecuted in adult court are indictment, waiver hearing, and direct file. Each of these will be discussed separately below:

(1) **INDICTMENT** - An indictment for a capital felony or a felony punishable by life imprisonment operates to require the handling of a juvenile offender as an adult. [s. 985.225(1), F.S.].

(2) **WAIVER HEARING** - This is a proceeding conducted in juvenile court for the judge to authorize the transfer of a juvenile's criminal case for prosecution in adult court. There are three types of waivers.

The first type of waiver is known as a *voluntary waiver*. In this type of waiver, a juvenile court judge must transfer the case to adult court if prior to the start of an adjudicatory hearing, the juvenile offender, joined by a parent or legal guardian, demands in writing to be tried as an adult. [s. 985.226(1), F.S.].

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<sup>6</sup>Section 944.802, F.S., authorizing the Department of Corrections to form a DSO.

The second type of waiver is a *discretionary waiver*. Current Florida law provides the state attorney with the discretion to file a motion requesting the court to transfer a juvenile offender, 14 years-of-age or older, for prosecution as an adult for any violation of law. [s. 985.226(2), F.S.].

The third type of waiver is a *mandatory waiver*. In this type of waiver the state attorney must file a motion requesting the court to transfer a juvenile for prosecution as an adult if the juvenile offender was 14 years of age or older at the time the offense was committed, and has been previously adjudicated delinquent for murder, sexual battery, robbery, car jacking, home invasion robbery, aggravated battery, or aggravated assault, and is charged with a second or subsequent violent crime against a person. [s. 985.226(2), F.S.].

Notably absent from the list of qualifying prior violent felonies are attempts to commit and conspiracies to commit any of the listed offenses. As a result, a juvenile that has a prior adjudication of delinquency for **attempted** first degree murder who is charged with a subsequent violent crime would **not** fall within the scope of this provision while someone with an adjudication for aggravated battery who is charged with a subsequent violent crime would fall within the scope of this section.

The state attorney must also move the court to transfer a juvenile who was 14 years-of-age or older at the time of committing a fourth or subsequent felony offense, and who has been adjudicated for three previous felony offenses, at least one of which involved the use or possession of a firearm or violence against a person. [s. 985.226(b), F.S.].

In all waiver hearings (except voluntary waiver hearings), the juvenile court judge makes the final determination of whether adult prosecution of a juvenile is warranted based on the facts and circumstances surrounding the offense.

(3) DIRECT FILE - This is a procedure whereby, pursuant to specific statutory criteria, the state attorney is authorized to file an information (a formal charging document) against a juvenile offender which directly transfers the case to adult court. There are two types of "direct files."

The first type of direct file is a *discretionary direct file*. The state attorney has the discretion to file an information on a juvenile offender 14 or 15 years of age who is charged with one of the following offenses:

- arson
- sexual battery
- robbery
- kidnaping
- aggravated child abuse
- aggravated assault
- aggravated stalking
- murder
- manslaughter
- throwing, placing or discharging a destructive device or bomb
- armed burglary in violation of s. 810.02(2)(b)
- burglary of a dwelling in violation of s. 810.01(2)(c)
- aggravated battery
- lewd or lascivious assault or act in the presence of a child carrying, displaying, using, threatening or attempting to use a weapon or firearm during the commission of a felony, or
- grand theft in violation of s. 812.014(2)(a) [s. 985.227(1)(a)].

Neither attempts to commit, nor conspiracies to commit, any of these above listed felonies qualifies for discretionary direct file criteria.

The state attorney also has the discretion to file an information on a juvenile offender who is 16 or 17 years of age for any felony offense. Also, if the juvenile offender has two previous adjudications or adjudications withheld for delinquent acts, at least one of which was a felony, the state attorney may direct file the juvenile offender to adult court for a misdemeanor offense. [s. 985.227(1)(b), F.S.].

The second type of direct file is a *mandatory direct file*. The state attorney must file an information if a juvenile offender is 16 or 17 years-of-age and is currently charged with a second or subsequent violent crime against a person, and the juvenile offender has a previous adjudication for murder, sexual battery, armed or strong-armed robbery, car jacking, home invasion robbery, aggravated battery, or aggravated assault. [s. 985.227(2)(a), F.S.]. Currently, neither attempts to commit, nor conspiracies to commit, any of these aforementioned felonies qualifies the juvenile for mandatory direct file criteria. The state attorney is also required to direct file a juvenile offender, regardless of age, if the juvenile has previously been adjudicated three or more times for felony offenses and three of the adjudications resulted in placement in a residential commitment facility [s. 985.227(2)(b), F.S.]. Lastly, the state attorney must direct file a juvenile offender, regardless of age, if the juvenile is charged with an offense involving theft of a motor vehicle and while driving the motor vehicle caused the death or serious bodily injury to a person. [s.985.227(2)(c), F.S.]

### **Educational Programs**

Local school districts provide educational and vocational instruction to youth committed to the DJJ programs. This instruction is currently funded through local school districts and can be administered by the districts or contracted to be delivered by private providers. Each school district also has a cooperative agreement with the DJJ to deliver educational and vocational instruction to juveniles in residential commitment programs. The instruction must be a minimum of five days per week and 25 hours weekly (300 minutes of instruction daily). (Chapter 230, Florida Statutes)

The vocational/work training available to youth in commitment programs is designed to assist youth in locating and maintaining employment after release in order to reduce the possibility of reentry into the justice system. (Section 985.315, F.S.) The programs provide relevant education, training and post-release job training.

Youth placed in high-risk, maximum-risk or serious/habitual offender programs may be required to participate in vocational work programs. In addition, the DJJ may also develop agricultural and industrial production and marketing programs to provide training facilities for such offenders. (Section 985.315, F.S.)

### **Department of Juvenile Justice Recommendations to the State Attorney**

Currently, s. 985.21(4), F.S., requires the DJJ to provide a recommendation to the State Attorney regarding whether, in a particular case, charges should be brought against a juvenile and whether or not such charges should be brought in adult court (by filing an information) or juvenile court (by filing a petition for delinquency). The law requires a recommendation be made by the DJJ in every case. In many circumstances, however, a recommendation is not necessary such as in cases where a juvenile has had previous contacts with the juvenile justice system and the decision to file a petition of delinquency is virtually a forgone conclusion.

In addition s. 985.227(4), F.S., requires the State Attorney from each judicial circuit to develop and annually update written policies and guidelines to govern determinations of whether to file an information on a juvenile to prosecute him or her as an adult. These guidelines are sent to the Governor, the Speaker of the House of Representatives and the President of the Senate every year. For juveniles falling within these guidelines, a recommendation from the DJJ is also unnecessary.

### **Possession of Firearms by Adjudicated Delinquents**

Currently in the adult system, s. 790.23, F.S., makes it a second degree felony for an adult convicted of a felony to possess a firearm. Unless and until a convicted felon petitions for and has his or her civil rights restored, they may never lawfully possess a firearm. [s. 940.03, F.S., and s. 940.04, F.S.]. Current law also prohibits juveniles who have been adjudicated delinquent for a felony level offense from possessing firearms. Unlike adults, however, the prohibition for juveniles from possessing firearms no longer applies when the jurisdiction of the juvenile court expires.

### **Education for Juvenile Offenders**

At the direction of the Legislature, the Juvenile Justice Accountability Board (JJAB) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) performed independent reviews of education programs in juvenile justice facilities. The reports were conducted between July and December 1998 and provided numerous findings and recommendations for improving educational funding and services for committed youth.

### **OPPAGA - Review of Education Services in Juvenile Justice Residential Facilities**

OPPAGA conducted a performance review of the education services offered to youth in the 150 juvenile justice residential facilities. The study found that in reading skills, 80% of youth were one or more years below the grade level appropriate for their age and in math skills, 90% of the youth scored one or more years below the grade level appropriate for their age. Even though the majority of youth improved by at least one grade level during their residential stay, most youth remained below their age-appropriate grade level when released.

In most cases the report found youth benefiting from the educational services offered at residential programs; however, the programs fail to assist youth in completing their high school education through alternative ways such as the General Equivalency Diploma (GED) or the General Equivalency Diploma/High School Competency Test (GED/HSCT). According to the OPPAGA report, 93% of youth leaving residential programs enter the workforce, and only 13 percent of youth earned a high school diploma during their commitment. One other hindrance for educational providers is the difficulty of obtaining educational records for the youth served. Records from previous schools describe skill levels, performance and course work. Without these records it is difficult to develop appropriate educational goals.

While reviewing the types of education programs offered, the report identified a lack of training in the area of vocational education. Most residential programs offered a range of subjects including math (87%), language (85%), life skills (69%), social studies (67%), science (64%), and vocational education (44%), with vocational education being the least offered training area. There are 24 programs that do not offer any vocational training.

Moreover, school districts are not held accountable for the educational services provided in residential commitment facilities. Many residential programs are not included in the Blueprint 2000 school improvement process nor are they subject to the Department of Education's critically low performing school list. The only standard reviews come from DJJ 's yearly Quality Assurance review of every juvenile justice program.

Lastly, the OPPAGA report identified a lack of consistent, ongoing education classes. Thirty-one percent of the facilities surveyed reported that they were unable to provide instruction for extended periods of time due to school district calendars.

### **General Findings and Recommendations from OPPAGA**

#### **Findings in Student Performance**

- (1) Most students enter residential facilities performing below their grade level in reading and math. Furthermore, over one-third are considered exceptional education students and two-thirds have a history of truancy.
- (2) Most youth remained below their age-appropriate grade level when released despite some gains in educational programs.
- (3) Funding and age requirements limit opportunities for youth to earn GEDs while in residential programs.

#### **Findings in Classroom Conditions**

- (1) Eighty-three percent of teachers in residential programs are certified, but more teachers certified in Exceptional Student Education are needed.
- (2) Educational planning is hindered by difficulty in obtaining records from out-of-county schools.
- (3) More vocational education is needed.
- (4) Student/teacher ratios met correctional standards and students/computer ratios were adequate in most education programs.



(5) At over 25 percent of the facilities, the number of days that instruction is not available due to summer vacation and other breaks is a concern.

Findings in Accountability

(1) The success of residential education programs is not determined by whether school districts provide education directly or hire contractors. Either model can achieve success with the right support and active participation of the school district and the juvenile justice facility.

(2) School districts are not held accountable for the educational services provided in residential commitment facilities

**JJAB - Report of Findings on the Education of Juvenile Offenders**

The Legislature directed the JJAB "conduct a study to determine the extent and nature of education programs for juvenile offenders committed by the court to the DJJ and for juvenile offenders under court supervision . . . analyze existing juvenile justice education policy, statutes, programs, services and resources and identify new directions for juvenile justice education." Chapter 98-186 Laws of Florida. The JJAB report identified 30 findings including many of those identified by the OPPAGA study. To avoid repetition and highlight the findings and recommendations, only certain findings are listed in detail and a condensed version of the recommendations are provided here.

The JJAB report identified the lack of consistent funding for juvenile justice programs statewide. Generally, all school districts reported using the standard funding Florida Education Finance Program (FEFP) formula for calculating the budget allocations for juvenile justice facilities whether those services were contracted or provided by the school districts. The FEFP bases financial support upon the individual student participating in a particular education program. Students are counted in July, October, February and June. FEFP funds are primarily generated by multiplying the number of unweighted full-time equivalent students (UWFTEs) in each of the funded educational programs by cost factors to obtain weighted FTEs. Weighted FTEs are then multiplied by a base student allocation and by a district cost differential to determine the base funding from state and local FEFP funds. Program cost factors are determined by the Legislature and represent relative cost differences among the FEFP programs. If a student is not enrolled and present in an education program during the FTE count, no funds are generated to support that student's participation in the program.

The entry and exit of students in commitment and detention programs is not consistent with the FTE counting. The JJAB recommended that education programs in commitment and detention facilities should be funded by the Legislature based on the number of beds or programs slots contracted to each facility whether or not the bed or slot is filled at the time of reporting.

There were four total funding recommendations provided in the JJAB's report. The others were that education services be funded on a 12-month calendar with the extended service funded by a supplemental appropriation. At least 90 percent of the FEFP funds generated and a prorated share of state and federal categorical funds for education (based on unweighted FTE or other state and federal categorical funds for education) should be spent on direct services in juvenile justice education facilities. State and categorical funding includes discretionary lottery, technology, instructional materials, transportation, Title I and the Individuals With Disabilities Education Act (IDEA).

Lastly, the JJAB recommended that students in juvenile justice residential and non-residential facilities should be funded at the Dropout Prevention weight or at an enhanced level justified by the Exceptional Students Education matrix (ESE).

In total the JJAB report identified 31 recommendations (26 of which appear in HB 1033) addressing funding, facilities, governance, contracts, QA, transition, records, assessment, accountability, education options and education programs in detention centers.

Section 230.23161, F.S., lists the statutory provisions for educational services in juvenile justice programs. Students participating in DJJ commitment or detention programs must receive educational programs according to the rules of the State Board of Education. These students are eligible for services offered to students enrolled in dropout prevention programs and all

corresponding State Board of Education rules. The school board of the county in which the facility is located provides the basic, vocational and exceptional student programs appropriate for each student. School districts may contract for the services offered through private providers. Funding is based on the FEFP for all students in juvenile justice facilities.

Each school district is required to negotiate a cooperative agreement with the DJJ on the delivery of educational services for committed youth. The DOE, in consultation with the DJJ, must establish standards and a comprehensive quality assurance review process and schedule for evaluation of the educational component in juvenile justice programs. The district school boards are not charged rent, maintenance, utilities or overhead on facilities. Maintenance, repairs and remodeling of existing facilities is provided by the DJJ.

The DOE retains the authority to adopt rules necessary to implement the provisions of s. 230.23161, F.S.

**B. EFFECT OF PROPOSED CHANGES:**

**Use of Firearms by Minors**

**Section 1.** HB 349 amends s. 790.22(5)(a), F. S., dealing with minors who violate subsection (3), which is the simple possession of a firearm. For a first violation, the bill authorizes the circuit court to hold a minor in a secure detention for three days facility in addition to performing 100 hours of community service. For a second or subsequent violation of simple possession of a firearm by a minor, the bill increases the penalty from a first degree misdemeanor to a third degree felony, and authorizes placement in a secure juvenile detention facility for up to 15 days in addition to performing no less than 100 hours and no more than 250 hours of community service as current law provides.

The bill defines "community service" for the purpose of dispositions for a minor charged with simple possession of a firearm or for an offense involving the possession or use of a firearm as service performed, if possible, in a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds. Under the changes to subsection (8) of 790.22, F.S., a minor charged with an offense violating subsection (3) of 790.22, F.S., will be detained in secure detention unless the state attorney authorizes release of the minor.

The bill amends s. 790.22(9), F.S., by increasing the mandatory time in detention from five to 15 days for a minor found to have committed an *offense that involves the use of a firearm*, other than a violation of subsection (3) of s. 790.22, F.S. The youth would also be committed to the DJJ for placement on community control or in a nonresidential or residential commitment program. For a second or subsequent offense, the mandatory minimum time in detention is increased from 10 to 21 days. The youth would also be committed to the DJJ for placement on community control or in a nonresidential or residential commitment program. Any detention time served prior to adjudication under these provisions would not be credited towards the mandatory detention ordered by the court at disposition. Community service is still required (100 hours for the first offense and between 100 and 250 hours for second and subsequent offenses) and is defined above.

**Section 2.** The bill adds the possession or discharge of a weapon at school to the list of charges for which a minor must be fingerprinted.

**Section 3.** HB 349 adds a new subsection (4) to section 790.115, F.S., which provides that if a minor under 18 years of age is charged with *possessing or discharging weapons or firearms on school property*, the minor shall be detained in secure detention (unless the state attorney

authorizes the release of the minor) and given a probable cause hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention for a period of 21 days, during which time the minor shall receive medical, psychiatric, psychological, or substance abuse examinations and a written report can be completed.

The bill provides that the state attorney may authorize the release of a child prior to the probable cause hearing, for instance where the child was wrongly or inappropriately charged with possession of a firearm at school. At the probable cause hearing, the court has the discretion to order that the minor continue to be held in secure detention for a period of 21 days for psychological or medical, psychiatric, psychological, or substance abuse testing, and the preparation of a written report.

**Section 4.** The bill modifies the several provisions in Section 985.215, F.S., pertaining to juvenile detention, to specifically allow for secure detention for a child charged with possessing or discharging weapons or firearms on school property. The bill also amends Section 985.227, F.S., giving the state attorney the discretion to charge 14 and 15 year olds committing this offense as adults. For those juveniles charged as adults under this provision, the adult court judge would have the discretion to impose either juvenile or adult sanctions.

### **Level Two Employment Screening**

**Section 5.** HB 349 amends s. 435.04(2), F.S. (1998 Supp.), by adding new offenses to those currently delineated, which preclude the employment of persons subject to level two employment screening. The newly added offenses are: battery on a detention or commitment facility staff; removing a child beyond state limits with a criminal intent pending custody proceeding or to avoid producing a child at a hearing or delivering a child to the designated person; exhibiting weapons within 1,000 feet of a school; possessing an electric weapon or device, destructive device, or other weapon on school property; resisting arrest with violence; depriving an officer of protection or communication; aiding in an escape; inflicting cruel treatment on an inmate resulting in great bodily harm; aiding an escaped prisoner; introducing contraband into a correctional or detention facility; and sexual misconduct in juvenile justice programs.

### **Criminal History Records of Minors**

**Section 6.** HB 349 broadens s. 943.0515, F.S. (1998 Supp.), to also require the CJIP to retain criminal history records of minors who are committed to a maximum-risk residential program, for five years after the minor reaches 21 years of age.

### **Crime Prevention**

**Section 7.** HB 349 amends s. 960.001(1), F.S., to require specified agencies involved in the justice system, including the DJJ, to implement crime-prevention for the purpose of preventing crimes which create victims or which further harm former victims. Also, the bill provides that the agencies may participate in and expend funds for crime prevention, public awareness, public participation, and educational activities.

### **Furlough**

**Sections 8, 13, 22.** The bill amends provisions in Chapters 984 and 985, F.S., to delete references to the obsolete term "furlough."

### **Aftercare Programs**

**Sections 9, 15, 17, 18.** HB 349 amends ss. 985.03, 985.231 and 985.404, F.S. (1998 Supp.), and s. 985.316, F.S., for the purpose of creating a clear distinction between postcommitment non-residential aftercare programs and PCCC, both of which fall under the umbrella of aftercare programs. Under the bill, aftercare is defined to include, but not be limited to, non-residential minimum risk programs, re-entry and PCCC, in which a juvenile may be placed after he or she has been released from a residential commitment. Also, the bill provides that aftercare is no longer required for all juveniles released from residential commitment; instead, the DJJ, after conducting

a needs assessment, will determine whether a juvenile should receive aftercare services. This provision may have the effect of lowering aftercare costs by targeting only those juveniles who truly need the services.

The bill also provides that when a juvenile violates the conditions of a postcommitment nonresidential aftercare program, the DJJ may administratively transfer the juvenile to another commitment program without a court hearing. Under the bill, if a trial court wishes to insure that a juvenile is supervised after release from a residential commitment program, the court may order PCCC. By ordering PCCC, the trial court retains jurisdiction over the juvenile. Any violations of PCCC must be alleged in a petition and heard by the trial court. If the court finds that the juvenile has violated PCCC, the court may subject the juvenile to several statutorily defined sanctions. The bill provides that for violations of PCCC the detention period may be up to five days for a first offense and up to 15 days for a second or subsequent violation.

### **Sexual History Disclosure**

**Section 10,11.** HB 349 amends ss. 39.0132 and 985.04, F.S., to provide that the DJJ need only disclose to a school superintendent that a student, under the DJJ's supervision, has a criminal history of sexual behavior with other juveniles. In so providing, the bill eliminates current law's ambiguity concerning exactly what type of sexual behavior with other juveniles triggers the disclosure requirement.

### **Taking a Child into Custody**

**Section 12.** HB 349 amends s. 985.207(1)(d), F.S. (1998 Supp.), to provide that an officer, who has probable cause to believe that the juvenile is in violation of home detention, or has absconded from a commitment program, may take the juvenile into custody.

### **Fingerprinting and Photographing of Juveniles**

**Section 14.** HB 349 amends s. 985.212(1)(b), F.S., to provide that FDLE may include a juvenile's record in its state criminal history database, thereby enabling other criminal justice agencies which are entitled to these records under existing law, to readily access these records without having to go through the current cumbersome process of contacting the law enforcement agency which compiled the original record.

### **Sexual Abuse Intervention Networks**

**Section 16.** HB 349 amends s. 985.308, F.S., (1998 Supp.), for the purpose of deleting the Department of Legal Affairs' authority to promulgate rules for the implementation of the sexual abuse intervention network grant program. As a result, the DJJ, the agency which currently implements the program by itself, will be able to promulgate rules through its general rulemaking powers for the program.

### **Hiring Standards for DJJ Employees**

**Section 19.** HB 349 amends s. 985.406, F.S. (1998 Supp.), to provide that the training program developed by the DJJ Standards and Training Commission must be certifiable, and must include a competency, rather than a general curriculum, based examination. The DJJ employee must pass the competency exam.

The bill further amends s. 985.406, F.S. (1998 Supp.), to provide criterion, in addition to that currently provided for in ch. 435's level two screening standards, which must be satisfied in order for a person to be hired as a DJJ program staff member or to be contracted with as a provider of direct-care services. In order for a person, who is hired after October 1, 1999, to be eligible he or she must:

- ◆ be at least 19 years old;
- ◆ be a high school graduate or its equivalent;

- ◆ not have been convicted of a felony or a misdemeanor involving perjury, or have been dishonorably discharged from the military;
- ◆ have abided by the fingerprinting and background investigations required in ch. 435;
- ◆ have submitted an affidavit attesting to the person's compliance with this section; and
- ◆ have completed any commission-approved basic training program offered by the DJJ.

The purpose of these changes is to bring juvenile justice training programs and personnel standards up to the same level as those in the FDLE and the Department of Corrections.

### **Direct-Support Organization**

**Section 20.** HB 349 creates s. 985.4145, F.S., to provide the DJJ with the statutory authority to have a DSO. Specifically, the bill states that a DSO is an organization which is:

- ◆ a corporation not for profit incorporated under ch. 617 and approved by the Department of State;
- ◆ operated to conduct activities, raise funds, receive grants and bequests, invest in securities, funds, objects of value, or other property, and to make expenditures to or for the benefit of the DJJ, or a county or district board juvenile justice system; and
- ◆ determined by the DJJ to be consistent with the goals of juvenile justice.

Furthermore, the committee substitute for committee substitute contains numerous provisions that enure accountability of the DSO, such as, reporting requirements, a requirement that the DSO operate under contract, and the contents of the contract.

### **Community Juvenile Justice Partnership Grants**

**Section 21.** HB349 broadens the criteria for awarding community juvenile justice partnership grants to include consideration of "other delinquency early-intervention and diversion services." The awards criteria was revised to require the DJJ to give priority to those geographic areas having the highest number of youths between the ages of 10 to 17 when making their selection. In addition, the revised criteria requires grant applicants to provide information concerning the extent to which their program targets high juvenile crime neighborhoods and public schools located within such neighborhoods, as well as information concerning the validity and cost-effectiveness of the program.

### **Statutory References**

**Sections 23, 24, 25, 27, 28, 29, 30, 33.** HB 349 corrects statutory cross-references in various statutes.

### **Direct Filing**

**Section 26.** HB 349 adds attempts to commit, and conspiracies to commit, any of the qualifying violent felonies to the offenses listed in the discretionary direct file criteria, and the mandatory direct file criteria which are set forth in s. 985.227, F.S. In addition, the offenses of burglary with an assault or battery, car jacking, possessing or discharging any weapon or firearm on school property, and home invasion robbery, are added to the list of violent felonies qualifying for discretionary direct filing.

This section also clarifies the procedure for addressing juvenile cases which are pending at the time a case is transferred to the adult court. The bill requires pending juvenile felony cases to be transferred to the adult court for further prosecution. In the event the juvenile is acquitted of the original transferred case, the remaining pending cases are subject to juvenile sanctions only. Juvenile sanctions for these remaining pending cases could be imposed by the adult court, or these cases could be transferred back to the juvenile court for disposition.

In addition, this section provides that a direct filed information may include all offenses occurring during the same criminal episode as the primary offense.

### **Appeals from Juvenile Court**

**Section 31.** HB 349 requires that appeals from juvenile court rulings, or rulings affecting a party to a case involving a child are to be subject to the same rules that apply to adult court.

### **Educational Programs**

**Section 32.** HB 349 expands vocational programs by renaming them educational/technical and vocational work-related programs thereby enlarging the scope of these programs and the types of activities which could be taught.

The DJJ or DOE must create educational/technical or vocational work-related programs catering to the needs of youth in juvenile justice facilities. The bill does not designate which agency would provide the additional instruction although the school districts now provide classroom instruction. According to the provisions of the bill, committed youth would be required to attend classes five hours a day/five days a week on a year-round basis. Currently youth spend five days a week and five hours a day in some type of educational training with breaks for summer school and the usual school-year interruptions.

The DJJ is strongly encouraged to place youth in high-risk residential, maximum-risk residential or a serious/habitual offender program in educational/technical or vocational work-related programs five hours per day, five days per week and on a year round basis. Furthermore, all youth in juvenile justice facilities and requiring educational/technical and vocational work-related programs shall participate on a five-day-per week, five-hour-per-day year-round basis.

The DJJ must seek the advice of private labor and management to assist youth with meaningful placement upon release. As part of this directive, the DJJ and providers are strongly encouraged to work in partnership with local businesses and trade groups in the development and operation of educational/technical and vocational programs.

Two reports will be completed in relation to juvenile justice educational programs. The first study shall be conducted by the JJAB regarding the types of effective juvenile vocational and work programs in operation across the country. The key ingredients of these programs, relevant research on educational and vocational programs and the status of these programs must be reported to the Legislature and the DJJ no later than January 31, 2000. The second study shall be conducted by the DJJ in cooperation with providers. The department shall inventory juvenile vocational and work training programs and list the commitment programs, the types of vocational or work programs offered, the relevant job skills provided and which programs work with the trades industries to place youth in jobs upon release.

### **Department of Juvenile Justice Recommendations to the State Attorney**

**Section 34.** HB 349 authorizes the State Attorney and the DJJ on a district by district basis to enter into interagency agreements regarding which cases which will require a DJJ recommendation and report.

### **Effect of Transfer by Indictment**

**Section 35.** HB 349 clarifies the procedure for addressing juvenile cases which are pending at the time a case is transferred to the adult court by indictment. The bill requires pending juvenile felony cases to be transferred to the adult court for further prosecution and disposition. In the event the juvenile is acquitted of the indicted case, the remaining pending cases are subject to juvenile sanctions only. Juvenile sanctions for these remaining pending cases could be imposed by the adult court, or these cases could be transferred back to the juvenile court for disposition.

### **Speedy Trial**

**Section 36.** HB349 repeals paragraph (6) of s. 985.218, F.S., regarding speedy trial. This statutory provision is superseded by Florida Rule of Juvenile Procedure 8.090.

### **Mandatory Waiver**

**Section 37.** HB 349 adds attempts to commit, and conspiracies to commit, any of the qualifying previous violent felonies to the offenses listed in the mandatory waiver hearing criteria set forth in s. 985.226(2), F.S. In addition, the offense of “burglary with an assault or battery” is added to the list of qualifying previous violent felonies.

### **Possession of Firearms by Adjudicated Delinquents**

**Section 38.** HB 349 disqualifies a person who has been adjudicated delinquent of a felony from possessing a firearm until age 24.

**Section 39.** HB 349 makes it a second degree felony for a person who has been adjudicated delinquent for a felony to possess a firearm until such person reaches 24 years of age.

### **Juvenile Correctional Facilities or Juvenile Prisons**

**Section 40.** HB 349 adds carjacking, home invasion robbery, and burglary with an assault or battery to the offenses qualifying a juvenile for placement in a “Maximum Risk Residential Program” and renames those facilities “Juvenile Correctional Facilities” or “Juvenile Prisons.”

### **Education at Juvenile Justice Facilities**

**Section 41.** The bill amends s. 228.041, F.S., to provide definitions for juvenile justice providers and the school year for juvenile justice programs. The school year for juvenile justice programs is defined as a 12 month period, consisting of 250 days of instruction. The school board may decrease the minimum number of days of instruction by up to ten days for teacher planning. Juvenile justice providers are the Department of Juvenile Justice or any organization (e.g., a private, public, or other government organization) under contract with the department that provides treatment, care and custody, or educational programs for youth in juvenile justice intervention, detention or commitment programs.

**Section 42.** The bill amends s. 228.051, F.S., relating to organization and funding of required public schools, to specify that public schools must provide 13 consecutive years of instruction for youth in the Department of Juvenile Justice programs, as may be required by law.

**Section 43.** The bill amends s. 228.081, F.S., relating to other public educational services, to require the Department of Education to make recommendations for an administrative rule. The State Board of Education must adopt administrative rules prescribing expectations for high quality, effective educational programs for youth in Department of Juvenile Justice (DJJ) programs. The rule must articulate policies and standards for these education programs and must include the following:

- the interagency collaborative process needed to ensure effective programs with measurable results;
- responsibilities of the Department of Education, the Department of Juvenile Justice, school districts, and providers of education services to youth in Department of Juvenile Justice programs;
- academic expectations;
- service delivery options for school districts;

- specific assessment procedures;
- recommended instructional programs;
- funding requirements;
- qualifications and selections procedures for instructional staff;
- transition services;
- procedures and time frames for the transfer of education records upon entrance or exit from a facility;
- requirements for maintenance and transmittal of academic transcripts for Department of Juvenile Justice youth;
- contract requirements;
- performance expectations for providers and school districts;
- roles and responsibilities of the school districts in securing workforce development funds;
- a series of graduated sanctions for school districts; and
- other aspects of program operations, including clarification on how the GED is to be delivered to students in juvenile justice programs.

The assessment procedures must include specific components, including appropriate academic and vocational assessments administered at program entry and exit which are selected by the Department of Education, in partnership with representatives of the Department of Juvenile Justice, school districts, and providers.

By January 1, 2000, the Department of Education, in partnership with the Department of Juvenile Justice, school districts, and providers must develop model contracts for the delivery of appropriate education services to youth in Department of Juvenile Justice programs. The model is for use in developing future contracts. The bill specifies the content of the contracts. The Department of Education must ensure that appropriate school district personnel are trained and held accountable for managing and monitoring contracts for education programs for youth in juvenile justice residential and nonresidential facilities.

The two agencies must also develop model procedures for moving youth into and out of Department of Juvenile Justice (DJJ) programs. Also, the agencies must develop standardized required content of education records as part of a youth's commitment record and develop model procedures for securing the education record. The roles and responsibilities of the juvenile probation officers and others involved with the withdrawal of students from school and assigned to a commitment or detention facility must be included. School districts must respond to certain requests for student education records. The Department of Education must ensure that school districts notify students in juvenile justice residential and non-residential facilities of attendance requirements and the option to attain a general education development diploma (GED) prior to release from the facility. School districts must waive GED testing fees for youth in DJJ residential programs. The districts must, upon request, designate certain schools as GED testing centers, subject to GED testing center requirements.

The Department of Education must establish and operate a mechanism to provide quality assurance reviews of all juvenile justice education programs. The department must also provide technical assistance and related research to school districts and providers on how to establish, develop, and operate educational programs that exceed the minimum quality assurance standards.

**Section 44.** The bill amends s. 229.57, F.S., relating to a statewide assessment program. The Commissioner of Education must include schools providing educational services to youth in DJJ programs in the existing requirements for a statewide program of educational assessment in



public schools. Students served in DJJ programs must participate in the student achievement testing program as part of the statewide assessment program. The Department of Education must develop or select and implement a common battery of assessment tools that reflect criteria in specific state standards.

**Section 45.** School boards are authorized, under s. 229.58, F.S., to establish a district advisory council to develop and monitor a district school improvement plan for schools providing education services to youth in DJJ programs.

**Section 46.** The bill amends s. 229.592, F.S., relating to the implementation of the state system of school improvement and education accountability. The bill amends legislative intent language to subject schools providing educational services to youth in DJJ programs to the existing requirements for the statewide school improvement plan.

The bill adds schools providing educational services to youth in DJJ programs to the existing requirements for the Commissioner for the following:

- a system for data collection and analysis to improve information about the educational success of individual students and schools;
- a school improvement program that analyzes information to identify schools in need of improvement;
- a method of delivering services to assist school districts and improve schools; and
- annual reporting requirements associated with recommendations of the Florida Commission on Education Reform and Accountability that lists schools for which school boards have developed assistance and intervention plans.

The bill adds schools providing educational services to youth in DJJ programs to the existing requirements for the Department of Education to provide technical assistance and training. The bill prohibits the department from releasing funds from the Educational Enhancement Trust Fund to any district in which a school operating to provide educational services to youth in DJJ programs for the following reasons: the district does not have an approved school improvement plan; or the district does not comply with school advisory council membership composition requirements.

**Section 47.** The bill amends s. 230.23, F.S., relating to the powers and duties of school boards, to allow a school board to establish a district school improvement plan which includes all schools in the district providing educational services for youth in DJJ programs. In addition, the bill expands current requirements for school boards to provide information about student performance and educational programs to include schools providing educational services for youth in DJJ programs. For these schools, the school board must report on the elements specified in s. 230.23161(21), F.S., relating to the amount of funding provided by local school districts to juvenile justice programs, the amount retained for administration, the status of the development of cooperative agreements, and the results of the quality assurance reviews.

**Section 48.** The bill amends s. 230.23161, F.S., relating to educational services in Department of Juvenile Justice programs. The bill provides legislative findings related to the rehabilitation of adjudicated delinquent youth in the custody of the Department of Juvenile Justice in detention or commitment facilities. The Department of Education is designated as the lead agency for juvenile justice education programs. The Department of Education and the Department of Juvenile Justice must each designate a Coordinator for Juvenile Justice Education Programs to serve as a point of contact for resolving issues not addressed by local district school boards. The positions will ensure each department's participation in:

- training, collaborating, and coordinating with the Department of Juvenile Justice, local school districts, educational contract providers and juvenile justice providers;
- collecting information on the academic performance of students in juvenile justice commitment and detention programs and reporting on results;

- developing protocols that provide guidance to school districts and providers in all aspects of education programming; and
- prescribing the roles of program personnel.

The bill provides that appropriate students who served in the Department of Juvenile Justice programs must have access to GED instruction to prepare them for the GED test. Students participating in GED preparation programs must be funded at the weighted cost factor for DJJ programs in the FEFP.

The bill provides an exception to the requirements for participation in education programs by students of noncompulsory school attendance age who have not received a high school diploma or its equivalent. A student is not required to participate if the student files the formal declaration required in s. 232.01(1)(c), F.S., and is afforded the opportunity to attain a GED prior to the release from a facility.

Academic improvement plans must be developed for students scoring below the level specified in local school board policy in certain subject areas or below the level specified by the Commissioner on statewide assessments. The bill specifies the contents of the plans. The bill requires each school district to maintain academic records for each student enrolled in juvenile justice facilities. The bill specifies the contents of the records for certain courses completed. Schools must include certain academic information in the discharge packet when the student leaves the facility. The Department of Education must ensure that all school districts make provisions for high-school-level committed youth to earn credits toward graduation while in facilities. The bill provides for transfer of credits.

The school district's planning and budgeting process must include the needs of DJJ programs in the district's plan for expenditures for state categorical and federal funds. Juvenile justice education programs must be funded through the Florida Education Finance Program with a weighted cost factor for Department of Juvenile Justice programs, in accordance with s. 236.081, F.S., with an exception for students with disabilities. These students must be funded at the higher of the weights for which the students qualify. Funding for students in DJJ programs beyond the 180 day school year and summer school must be specified in the General Appropriations Act. The bill specifies which DJJ programs will receive the weighted cost factor, including those operated through a contract with the Department of Juvenile Justice and those under the purview of the Department of Juvenile Justice quality assurance standards for education.

School districts are permitted and required to request an alternative FTE survey for DJJ programs that experience fluctuations in student enrollment. FTE count periods must be prescribed in State Board of Education rule. The bill specifies when the summer school period begins for students in DJJ programs. Students must be funded for no more than 25 hours per week of direct instruction. The Department of Education must develop a method to capture all direct instructional time provided to students during the summer school period.

The Department of Education, in consultation with the Department of Juvenile Justice and others, must establish quality assurance standards for educational components of residential and nonresidential juvenile justice facilities. The standards must rate school district performance as a provider and a contractor. The rating for the education component must be "disaggregated" from the overall score and reported separately. The Department of Education must develop and implement a quality assurance review process and schedule. The bill requires the quality assurance site visits to be conducted at the same time. The Department of Education, in consultation with school districts and providers, must establish minimum thresholds for standards and key indicators for education programs in juvenile justice facilities.

School districts are given opportunities to comply with performance standards. However, there are sanctions, including cancellation of the contract and loss of funds for failure to comply, unless extenuating circumstances are documented.

**Section 49.** The bill creates s. 235.1975, F.S., related to cooperative development of educational facilities in juvenile justice programs. The Department of Management Services, in consultation with the Department of Education and the Department of Juvenile Justice, is required to conduct a review and analysis of existing education facilities in DJJ facilities to determine the adequacy of

the facilities for educational use. The information is used to generate a 3-year plan that must be submitted to the Legislature, the Governor, and the Secretary for the Department of Juvenile Justice. The plan must be sufficiently detailed to allow for the development of a fixed capital outlay request. The bill provides an appropriation of \$100,000 in nonrecurring general revenue to the Department of Education for the study.

The Department of Juvenile Justice must provide early notice to school districts for the siting of new juvenile justice facilities. School districts must include specific student projections in annual estimates. The bill provides for consultation with the school districts on the types of students expected to be assigned to commitment facilities. The bill provides for notice by the Department of Juvenile Justice to the Department of Education related to requests for proposals for the construction or operation of commitment or detention facilities. The bill also provides for notice to school districts. The Department of Juvenile Justice must provide notice to school superintendents related to the award of a contract for the construction or operation of commitment or detention facilities.

**Section 50.** The bill amends s. 237.34, F.S., relating to cost accounting and reporting, to require school districts to expend at least 90 percent of the funds generated by juvenile justice programs on the aggregate total school costs for the programs.

**Section 51.** The bill amends s. 985.401, F.S., to require the Juvenile Justice Accountability Board to study the extent and nature of education programs for juvenile offenders committed by the court to the Department of Juvenile Justice and for juvenile offenders under court supervision in the community. The board is required to use a subcommittee acting as a task force to assist with the study. The bill specifies minimum issues for inclusion in the study.

**Section 52.** The bill amend s. 985.413, F.S., to require the district juvenile justice boards to provide advice on educational services. The bill makes a technical correction to the Juvenile Justice Accountability Board's name.

**Section 53.** The bill requires the Department of Education to work with the Department of Juvenile Justice and local school districts to develop a plan for education programs in detention centers and submit the plan to the Legislature and Governor prior to January 1, 2000. The bill specifies the contents and direction of the plan.

**Section 54.** The bill provides an effective date of July 1, 1999.

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?

No.

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

No.

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

No.

- 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?

No.

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

No.

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

No.

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

No.

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

No.

3. Personal Responsibility:

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

No.

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

No.

4. Individual Freedom:

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

No.

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

No.

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 790.22, 943.015(3)(b), 985.212(1)(b), 790.115, 985.215, 985.227, 435.04, 943.0515, 960.001, 984.03, 39.0132, 985.04, 985.207, 985.208, 985.212, 985.231, 985.308, 985.316, 985.404, 985.406, 985.4145, 985.415, 985.417, 419.001, 784.075, 984.05, 985.227, 985.31, 985.311, 985.312, 985.234, 985.315, 985.03, 985.201, 985.21, 985.225, 985.218(6), 985.226, 985.227, 985.228, 790.23, 985.313, 228.041, 228.051, 228.081, 229.57, 229.592, 230.23, 235.1975, 237.34, 985.401, 985.413, and 985.404, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

N/A

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See, Fiscal Comments.

2. Recurring Effects:

See, Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See, Fiscal Comments.

4. Total Revenues and Expenditures:

None.

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 the Department of Juvenile Justice, this provisions of this bill will have operational costs of \$439,945 and costs of \$1,455,692 in non-recurring fixed capital.

V. 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

VI. COMMENTS:

N/A

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VIII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:

Prepared by:

Staff Director:

Kurt E. Ahrendt

Kurt E. Ahrendt

AS REVISED BY THE COMMITTEE ON JUVENILE JUSTICE:

Prepared by:

Staff Director:

David De La Paz

David De La Paz

**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:**

Prepared by:

Staff Director:

Kurt E. Ahrendt

Kurt E. Ahrendt

**STORAGE NAME:** h0349z.lec

**DATE:** June 15, 1999

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