

STORAGE NAME: h1759.jj

DATE: March 14, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUVENILE JUSTICE
ANALYSIS**

BILL #: HB 1759 (PCB JJ 00-01A)

RELATING TO: Classification and Placement of Juveniles

SPONSOR(S): Committee on Juvenile Justice and Representative Merchant and Others

TIED BILL(S):

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

(1) JUVENILE JUSTICE YEAS 13 NAYS 0

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I. SUMMARY:

The bill addresses classification and placement of juvenile offenders, amending several sections of ch. 985, F.S. The proposed committee bill amends s. 985.03, F.S., which provides definitions for the chapter. Specifically, subsection (47) of s. 985.03, F.S., is amended to provide a new definition relating to classification and residential placement of juvenile offenders. The bill amends substantive sections of the chapter that are relevant to classification and residential placement determinations. These amendments affect Delinquency Case Processing, ch. 985, Pt. II, F.S., and the Juvenile Justice Continuum, ch. 985, Pt IV, F.S.

The bill takes effect October 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Please refer to the "Section-by-Section Analysis" at Paragraph II-D, below.

C. EFFECT OF PROPOSED CHANGES:

Please refer to the "Section-by-Section Analysis" at Paragraph II-D, below.

D. SECTION-BY-SECTION ANALYSIS:

OVERVIEW:

Chapter 985, F.S., divides responsibility for classification and placement of juvenile offenders between the courts and the Department of Juvenile Justice ("DJJ"). DJJ staff, state attorneys, and defense counsel make recommendations to the court concerning a juvenile offender's risk classification at the case disposition hearing. Prior to the disposition hearing, a predisposition report is prepared and made available to the court, the state attorney, the defense counsel, DJJ, and the child. With regard to the predisposition report, s. 985.229(1), F.S., provides:

The predisposition report shall be the result of the multidisciplinary assessment when such assessment is needed, and of the classification and placement process, and it shall indicate and report the child's priority needs, recommendations as to a classification of risk for the child in the context of his or her program and supervision needs, and a plan for treatment that recommends the most appropriate placement setting to meet the child's needs with the minimum program security that reasonably ensures public safety.

At the disposition hearing, the court enters a commitment order informed by the predisposition report and the recommendations of DJJ staff, the state attorney, and the defense counsel. The commitment order specifies the risk level at which DJJ is to place the child. DJJ is responsible for placing the child in a risk level-appropriate program that will meet the child's treatment needs. Pursuant to s. 985.231(1)(d), F.S., any commitment of a delinquent child must be for an indeterminate period of time.

SECTION 1.

The bill amends s. 985.03, F.S., which provides definitions for the chapter. Section 985.03(47), F.S., defines the phrase "restrictiveness level" to mean the level of custody provided by programs that service the custody and care needs of committed children. The subsection further defines five restrictiveness levels:

- (a) Minimum-risk nonresidential.
- (b) Low-risk residential.
- (c) Moderate-risk residential.
- (d) High-risk residential.
- (e) Juvenile correctional facilities or juvenile prison.

Respectively, these levels are often referred to as Level 2, Level 4, Level 6, Level 8, and Level 10. The levels are a continuum, with each successive level intended to indicate the increased degree of risk that the youth presents to public safety. A variety of commitment programs are operated within each level. Some programs, like boot camps and halfway houses, operate at several levels.

A review of DJJ Residential Commitment Services was conducted by the Office of Program Policy Analysis and Governmental Accountability ("OPPAGA"). In Report No. 96-48, issued February 10, 1997, OPPAGA reported:

Finding 1.1

There is very little or no difference from one restrictiveness level to the next in primary program elements, which are security, length of stay, and treatment services.

...

Finding 1.2

There is considerable overlap across restrictiveness levels in criminal histories and the ages of assigned youth.

...

Finding 1.3

Although program services are similar and the characteristics of youth overlap, there is much variation in the daily rates the Department pays program providers.

In response to this report, DJJ noted that program elements such as length of stay and treatment services are driven by the assessed risk and service needs of individual offenders, not by commitment levels. See Report No. 96-48, p. 8. However, DJJ acknowledged that physical security of facilities is a major challenge in the current commitment level system. See id.

The bill amends s. 985.03(47), F.S., for the purpose of better differentiating residential commitment levels relative to the issue of security. The amendment is consistent with recommendations made by the Juvenile Justice Classification and Placement Workgroup, which was assembled at the request of the House Committee on Juvenile Justice to address OPPAGA Report No. 96-48 and make legislative recommendations. See, e.g., Report of Recommendations of the Juvenile Commitment Classification Workgroup.

Participants in the Workgroup identified a lack of understanding by the general public, and even among officers of the court, relative to the level of security required of programs operating within each commitment level. See Juvenile Justice Classification and Placement Workgroup Minutes, Jan. 21, 2000. Consistent with the OPPAGA report, the Workgroup found that similar types of programs are offered at various commitment levels and that there is overlap in the criminal histories of youth at all levels of commitment. See id. The Workgroup found that such inconsistencies hinder an understanding of the present commitment system. See id. The inconsistency among program levels relative to whether or not youth committed to the program have unsupervised access to the community was a primary security concern identified by the Workgroup. See id. The Workgroup recommended descriptive definitions of the commitment levels in order to facilitate understanding and improve placement of youth in appropriate commitment programs. See id.

Incorporating recommendations of the Workgroup, the bill provides a definition for "residential commitment level" in subsection (47) of section 985.03, F.S., rather than "restrictiveness level." The "residential commitment level" is defined as the "level of security" provided by a program rather than the "level of custody." Four levels of residential commitment are provided and minimum security measures are specified for programs operated at each level. By specifying minimum security measures for each level of residential commitment, the bill strengthens the continuum of levels. Each successive level is intended to represent the increased degree of risk that a committed youth presents to public safety. Recognizing this intent, the bill provides successive increases in the required minimum security measures at each successive level of residential commitment.

Under the bill, youth committed to the low-risk residential commitment level may have opportunities to engage in community activities away from the facility without direct staff supervision. Youth assessed at this level should represent a low risk to public safety. DJJ may require that facilities operated at this level be staffed with 24-hour awake supervision of residents. Children found to have committed delinquent acts involving firearms or sexual offenses, or delinquent acts that would be life felonies or first degree felonies if committed by an adult are not to be committed to a low-risk residential commitment level pursuant to the provisions of the bill.

Recognizing that youth committed to the moderate-risk residential commitment level represent a moderate risk to public safety, the bill provides that these youth may only have supervised access to the community. The bill requires minimum security measures for facilities operating within the moderate-risk level. In addition to providing 24-hour awake supervision of residents, facilities at this level must be either environmentally secure or hardware-secure with walls, fencing, or locking doors. DJJ reports that existing programs within the moderate-risk restrictiveness level currently meet these proposed security requirements.

Recognizing that youth committed to the high-risk residential commitment level represent a high risk to public safety, the bill requires that these youth shall not have access to the community. The bill requires minimum security measures for facilities operating within the high-risk level. Such facilities must be hardware-secure with perimeter security fencing and locking doors. DJJ reports that the majority of existing programs within the high-risk restrictiveness level meet the proposed security requirements. DJJ notes that some facilities presently classified as high-risk may require security upgrading if they are to continue operating at this level. Alternatively, these programs could be reclassified to the moderate-risk commitment level. The additional security measures and interventions provided in this section of the bill are consistent with current DJJ policy for existing

programs in the present high-risk restrictiveness level. DJJ reports that no change in practice is anticipated for programs operating in this level.

The bill specifies that youth committed at the maximum-risk residential commitment level shall not have access to the community. Youth assessed at this level represent a significant threat to public safety. Juvenile correctional facilities and juvenile prisons are specifically included as programs that fall within the maximum-risk residential commitment level. Facilities that operate within this level are required to be hardware-secure with additional minimum security features to include perimeter security fencing and locking doors. Single-cell occupancy is required. However, youth may be housed together during pre-release transition. DJJ reports that current juvenile correctional facilities meet the minimum security requirements provided in the bill for programs operating in the maximum-risk residential commitment level. The additional security measures and interventions provided in this section of the bill are consistent with current DJJ policy for juvenile correctional facilities. Therefore, no change in practice is anticipated.

The bill deletes references to specific programs that operate at each commitment level. At the recommendation of the Workgroup, commitment programs are to be classified pursuant to the level of security provided at the facility. See id. Pursuant to the new definition provided for subsection (47) of s. 985.03, F.S., some programs may be reclassified at a commitment level other than the level at which they are presently specified by statute.

Following the recommendations of the Workgroup, the bill deletes the minimum risk non-residential commitment restrictiveness level from subsection (47) of s. 985.03, F.S. See id. However, the bill does not delete the programs and services that currently operate within that level. The workgroup recommended that programs and services presently operated at the minimum risk non-residential be considered as part of the Probation / Community Control continuum of services. See id. With regard to security concerns, there is little difference minimum risk non-residential programs and Probation / Community Control services. Under the bill, nonresidential programs and services (with the exception of aftercare) will no longer have commitment-level status. The effect of this amendment is that any transfers of youth from nonresidential placement programs to residential commitment placement programs will require court action. Presently, DJJ transfers youth from one placement level to another through administrative action. It should be noted that some members of the Workgroup contended that due process requires any affected youth to be afforded an opportunity to be heard in court before placement level transfer. See id.

SECTION 2.

The bill amends paragraph (a) of s. 985.21, F.S., which relates to intake and management of delinquency cases. Current law provides that each child receiving a delinquency referral shall be screened for a broad array of problems and conditions that may have caused the child to come to the attention of DJJ or law enforcement. At the recommendation of the Workgroup, the bill amends s. 985.21(1)(a), F.S., to provide for more comprehensive screening. See id. In addition to screening for the presence of medical, psychiatric, psychological, substance abuse, or educational problems, the bill also directs screening for vocational problems and for determining whether the child poses a danger to self or others in the community.

The bill directs that the results of the screening shall be made available to the court and to officers of the court. The consensus of the Workgroup was that early comprehensive screening for and identification of problems or conditions that may have caused the child to come to the attention of DJJ or law enforcement is critically important to the classification

and placement process, which is considered to be offender-based rather than offense-based. See id.

SECTION 3.

The bill adds a new paragraph (d) to s. 985.215 (5), F.S., which specifies the conditions under which a child may be held in detention care. The new paragraph provides that a child who was not in secure detention at the time of the adjudicatory hearing may be placed under a special detention order for a period not to exceed 72 hours, excluding weekends and legal holidays, for the purpose of conducting a comprehensive evaluation if it is anticipated that the child may ultimately be placed in a residential commitment program. The circumstances under which a comprehensive evaluation may be ordered are specified in section 5 of the bill, which amends s. 985.229(1), F.S., relative to predisposition reports and other evaluations.

The consensus of the Workgroup was that this amendment to s. 985.215, F.S., is needed to carry out the provisions of the amendment to s. 985.229(1), F.S., and to insure that the comprehensive evaluation is completed. See id. Judges, state attorneys, and public defenders who participated in the Workgroup agreed that some adjudicated youth would have to be placed in detention care in order to be available for evaluation. See id. The bill specifies that the court shall order the least restrictive level of detention necessary to complete the comprehensive evaluation process that is consistent with public safety.

SECTION 4.

This section of the bill amends s. 985.224, F.S., which relates to examination and treatment of youth found to have committed delinquent acts. The amendment to this section was not contemplated by the Workgroup. Instead, the Workgroup recommended that a comprehensive evaluation be conducted for any child for whom residential placement was anticipated or recommended. See id. The recommendation of the Workgroup, and DJJ's plan, was to reinvest approximately \$4.5 million presently appropriated to juvenile assignment centers for the purpose of conducting the comprehensive evaluations. See id.

This section of the bill requires the court to order an educational needs assessment for any child who is adjudicated delinquent or for whom adjudication has been withheld. Pursuant to the provisions of the bill, the educational needs assessment is to be conducted by "the district school board or the Department of Children and Family Services." This provision could have a significant fiscal impact on the district school boards and the Department of Children and Family Services.

Supporters of this section of the bill have advised that their primary interest was to ensure that the educational needs of every child going into a residential program were identified by DJJ prior to program placement. Language in section 5 of the bill, which amends s. 985.229, F.S., only provides that a comprehensive evaluation of the child's educational and other treatment needs *may* be ordered by the court for any child for whom residential placement is anticipated. Use of the word "may" in this context concerned supporters of this section of the bill. They feared that the educational needs of some children going to residential programs might not be identified or addressed pursuant to the provisions of section 5 of the bill. However, supporters of this section have advised that if section 5 was amended to provide that a court *shall* order the comprehensive evaluation of any child for whom residential placement was anticipated, their concerns would be allayed.

Such an amendment would also conform with the original recommendations of the Workgroup. Supporters of this section of the bill have acknowledged that this section could have unintended fiscal impacts on the local school districts and the Department of Children and Family Services. However, if section 5 of the bill is amended to replace the "may" with a "shall," supporters of this section would agree that this section should be removed from the bill. Together, such amendments would ensure that neither local school districts, nor the Department of Children and Family Services suffered any unintended fiscal impact from the bill. Instead, such amendments would clarify that the responsibility and fiscal impact for the comprehensive evaluations belongs to DJJ. This was the original intent of the Workgroup and the plan of DJJ for reinvesting the \$4.5 million presently allocated to assignment centers.

SECTION 5.

The bill amends subsections (1) and (3) of s. 985.229, F.S., which relates to predisposition reports and other evaluations. Current law provides that the court shall order a predisposition report at the disposition hearing. The bill provides that the court may order a predisposition report, upon a finding that the child has committed a delinquent act. The effect of this change is to insure that the predisposition report is completed and available for consideration at the disposition hearing. The bill adds the child and the child's parents or legal guardian to the list of specified parties to whom the predisposition report, as well as any other report or evaluation used to prepare the predisposition report, is to be made available prior to the disposition hearing.

The bill allows the court discretion to dispose of some cases without a predisposition report. This change could facilitate timely disposition of minor offenses where residential commitment is not anticipated. The bill provides that a predisposition report shall be ordered for any child for whom a residential commitment disposition is anticipated or recommended by an officer of the court or by DJJ.

Consistent with the recommendations of the Workgroup, the bill authorizes the court to order a comprehensive evaluation for physical health, mental health, substance abuse, academic, educational, or vocational problems for any child for whom a residential commitment disposition is anticipated or recommended by an officer of the court or by DJJ. The consensus of the Workgroup was that a comprehensive evaluation may be essential in some cases to ensure that the classification and placement decision fully considers the child's treatment needs. See id. If a comprehensive evaluation is ordered, the bill requires that a summary of the comprehensive evaluation be included in the predisposition report. The bill specifies that the predisposition report shall be submitted to the court upon completion, but no later than 48 hours prior to the disposition hearing.

SECTION 6.

The bill amends subsection (2) of s. 985.23, F.S., which relates to disposition hearings in delinquency cases. Section 985.23(1)(d), F.S., requires the court to allow all parties present at the disposition hearing an opportunity to comment on the issue of disposition and any proposed rehabilitative plan. At the recommendation of the Workgroup, the bill amends subsection (2) of s. 985.23, F.S., for purposes of consistency with case law and the provisions of s. 985.23(1)(d), F.S. See id. The bill requires that the court's disposition determination include consideration of DJJ's recommendations, which may include a predisposition report. If the court elects to dispose of the case in a manner differing from DJJ's recommendation, the bill requires the court to state the reasons for doing so on the

record. The bill allows the court to make recommendations to DJJ as to specific treatment approaches to be employed.

SECTION 7.

The bill amends paragraph (d) of subsection (1) of s. 985.231, F.S., which relates to the court's powers of disposition in delinquency cases. Section 985.231(1)(d), F.S., provides that any commitment of a delinquent child must be for an indeterminate period of time. The Workgroup recommended amending this section for clarification purposes. See id.

In amending paragraph (d), the bill specifies that the duration of a child's placement in a residential commitment program is to be determined by objective performance-based treatment planning. The length of stay in a program may be extended if a child fails to comply with or participate in treatment activities. The length of stay may not be extended as a sanction or punishment. These amendments are consistent with current DJJ policy and should not require any change in practice for programs. DJJ anticipates that treatment plans will be developed by treatment teams rather than individual programs. Information developed through predisposition reports and comprehensive evaluations will be available to the treatment teams for purposes of formulating treatment plans. DJJ anticipates that performance objectives based on treatment plans will be developed by the programs.

The bill requires that the child's treatment plan progress be reported to the court each month. Such a report is also required when release from a residential commitment program is requested. Court approval is required for any temporary release of a child from a residential commitment program. However, youth committed to low risk residential programs are allowed to have unsupervised community access pursuant to the bill. To avoid confusion and inconsistency, it may be appropriate to further specify the temporary release provisions relative to the residential commitment levels and public safety concerns.

SECTION 8.

The bill amends s. 985.404, F.S., which relates to the administration of the juvenile justice continuum. The bill provides statutory authority for a Classification and Placement Workgroup. This amendment was recommended by the current Workgroup assembled at the request of the House Committee on Juvenile Justice to examine the present classification and placement systems.

The current Workgroup reached a consensus on several commitment and placement issues. Additional considerations were identified by the Workgroup as pertinent to commitment and placement; however, no consensus was reached with regard to recommendations. The bill authorizes the continued efforts of the Workgroup to consider pertinent issues and make recommendations concerning the development of a system for classifying and placing juvenile offenders who are committed to residential programs in a report to the Governor and Legislature is due no later than September 30, 2001. The Workgroup will also recommend a process for testing and validating the effectiveness of the recommended classification and placement system.

SECTION 9.

Provides an effective date of January 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

Expenditures may be required in connection with the bill. Please refer to the "Fiscal Comments" at Paragraph III-D, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to a review of Department of Juvenile Justice ("DJJ") residential commitment services conducted by the Office of Program Policy Analysis and Government Accountability ("OPPAGA"), the Legislature appropriates approximately \$150 million to DJJ for residential commitment programs. See Report No. 96-48. DJJ served more than 3,300 youth in 211 residential commitment programs in fiscal year 1996 - 1997. See id. OPPAGA reported that approximately 90% of DJJ's residential programs were operated as contracted services from private providers. See id.

These private providers of residential commitment programs could be impacted by the bill relative to any reclassification pursuant to the provisions concerning residential commitment level definitions. OPPAGA reported that DJJ pays the present Level 4 programs between \$60 and \$80 per day per youth served. See id. Present Level 6 programs receive between \$47 and \$110 per day per youth served, Level 8 programs receive between \$94 and \$176 per day per youth served, Level 10 programs receive between \$93 and \$130 per day per youth served. See id.

DJJ reports that, pursuant to the bill, some residential commitment programs may have to either be reclassified at levels lower than their current classification or make security upgrades to remain at their current levels. Private providers of programs that are subject to reclassification could be impacted by the bill if reclassification effects the daily amount received from DJJ by the providers for each youth served or causes the providers to expend funds in order to maintain their present classification level.

Currently, DJJ contracts with private providers for program services for youth committed to the minimum-risk nonresidential level. The bill deletes minimum-risk nonresidential from the continuum of commitment levels. However, the bill does not

delete the programs and services that are currently provided at that level. The Workgroup recommended that programs and services presently operated at the minimum-risk nonresidential level be considered as part of the Probation / Community Control continuum of services since there is little, if any, difference relative to the issue of security between minimum risk non-residential programs and Probation / Community Control services. See Juvenile Justice Classification and Placement Workgroup Minutes, January 21, 2000. It is not anticipated that this change will cause a direct economic impact to private providers.

Private providers of comprehensive screening and evaluation services may be positively impacted by the bill. DJJ will have the ability to contract these services as it deems necessary to carry out the screening and evaluation processes required by the bill. See id.

D. FISCAL COMMENTS:

The bill amends several sections of ch. 985, F.S., which relate to the classification and placement of committed youth. However, DJJ anticipates that the only significant fiscal consequence of the bill may be the additional expenditures for detention care associated with the provisions that authorize special detention orders where necessary to complete comprehensive evaluations of some committed youth. DJJ reports that many of the other provisions in the bill are consistent with current DJJ policy. Those provisions are not expected to have a significant fiscal impact, nor are they expected to require a change in practice for programs.

The bill deletes minimum-risk nonresidential programs from the commitment level continuum. However, the bill does not delete the programs and services that are currently provided at that level. The Workgroup recommended that programs and services presently operated at the minimum-risk nonresidential level be considered as part of the Probation / Community Control continuum of services since there is little, if any, difference relative to the issue of security between minimum risk non-residential programs and Probation / Community Control services. See id.

No direct significant fiscal consequence associated with minimum-risk nonresidential program reclassification is anticipated. However, such reclassification may have an indirect fiscal impact. Under the bill, nonresidential programs and services (with the exception of aftercare) will no longer be considered to have commitment-level status. The effect of this amendment is that any transfers of youth from nonresidential placement programs to residential commitment placement programs will require court action. Presently, DJJ transfers youth from one placement level to another through administrative action. There may be additional costs associated with transferring youth among placement levels if the process requires court action. It should be noted that some members of the Workgroup contended that due process requires any effected youth to be afforded an opportunity to be heard in court before placement level transfer. See id.

DJJ estimates little significant fiscal impact from the reclassification of programs that may be necessary pursuant to the new residential commitment level definitions provided by the bill. DJJ personnel may have to conduct on-site inspections of some residential facilities for the purpose of verifying the presence of the minimum security measures specified in the bill.

DJJ reports that programs presently operating at the low-risk and moderate-risk levels already meet the minimum security measures that proposed committee bill requires for programs operating at those levels. The bill is not anticipated to have a fiscal impact on these programs, nor to require any change in practice for programs.

DJJ reports that the majority of existing programs within the high-risk restrictiveness level meet the minimum security measures specified in the bill for facilities operating at that level. DJJ notes that some programs presently classified at the high-risk level may require security upgrades, specifically security fencing, if they are to continue operating as high-risk residential facilities. DJJ estimates that upgrading each affected facility would cost approximately \$41,000 per facility for the perimeter fencing alone. DJJ reports uncertainty as to the number of facilities that would need upgrading pursuant to the bill. DJJ may need to inspect existing high-risk residential facilities relative to the proposed minimum security requirements in order to identify which facilities may need additional security measures.

Alternatively, the facilities that would no longer meet the requirements for classification as high-risk residential under the bill could be reclassified to the moderate-risk residential commitment level. Any reclassification should consider the number of program types per level relative to placement needs and public safety concerns. In its review of residential commitment services, OPPAGA reported that the majority (59%) of programs and youth are concentrated at the moderate-risk commitment level. See Report No. 96-48. Reclassification of the facilities that would no longer meet the requirements for classification as high-risk residential to the moderate-risk residential commitment level could increase the availability of moderate-risk placement beds and shorten the time that youth spend awaiting placement. Pursuant to the requirements of s. 985.215(10)(a)2., F.S., the court must place all children who are adjudicated and awaiting placement in a residential commitment program in detention care. To the extent that program reclassification may result in youth spending less time in detention care while awaiting placement, a cost savings may be expected.

DJJ reports that current programs operated at the maximum-risk residential commitment level meet the minimum security measures that the bill requires for programs operating at this level. The bill is not anticipated to have a fiscal impact on these programs, nor to require any change in practice for programs.

DJJ reports that the additional security interventions provided by the bill, such as the use of seclusion and mechanical restraints, are consistent with current DJJ policy for the affected classification levels. These provisions of the bill are not expected to have any fiscal impact and should not require a change in practice for programs. DJJ reports that, although not authorized by the bill, some of these interventions may be appropriate for discretionary use at the low-risk commitment level as well.

The bill requires comprehensive screening of all detained youth. The provisions of the bill that require screening for vocational problems and determining if the child is a danger to self or others are consistent with current DJJ policy. DJJ does not anticipate that these provisions would result in any additional workload. In fact, the bill authorizes DJJ to contract these services. A comprehensive evaluation may also be ordered for any youth found to have committed a delinquent act when residential commitment is anticipated or recommended. The comprehensive evaluation services may also be contracted services.

The bill allows the court to issue a special detention order if necessary to ensure that the comprehensive evaluation is completed. Upon a finding of delinquency, youth who were not in secure detention at the time of the adjudicatory hearing may be ordered to detention care for a period not to exceed 72 hours, excluding weekend and legal holidays, for the purpose of conducting comprehensive evaluations. The bill specifies that the court shall order the least restrictive level of detention necessary to complete the evaluation that is consistent with public safety. Upon further order of the court and if necessary to complete the evaluation, detention may be extended up to an additional 72 hours.

DJJ anticipates that the direct costs of conducting the comprehensive evaluations will not result in an additional fiscal impact as the costs can be absorbed by reprogramming existing funds of more than \$4.5 million. These funds are presently appropriated to juvenile assignment centers. However, DJJ has closed the juvenile assignment centers.

Indirect costs associated with comprehensive evaluations are anticipated to the extent that some adjudicated youth may have to be placed in detention care to ensure that they are available for evaluation. DJJ data for fiscal year 1997 - 1998 reveals that the cases of 54,609 youth were resolved through court proceedings. 21,867 of those youth were placed in pretrial detention care. The remaining 32,742 youth who received judicial processing were not placed in detention care. This is the group of youth who could potentially be affected by the provision of the bill that allows the court to issue a special detention order for purposes of conducting a comprehensive evaluation.

DJJ evaluated the potential costs that might be associated with the bill's special detention order provision. DJJ started with the assumption that the eligible youth could be evaluated at the least restrictive detention status (home detention) at a cost of \$15 per day. Using fiscal year 1997 -1998 data, DJJ projected that a maximum of 32,742 youth would be placed in home detention care at a cost of \$15 per day for a maximum of three days at a potential cost of \$1,473,390. This cost could potentially be doubled if the special detention orders were extended another 72 hours, for a cost of \$2,946,780 annually.

Several factors should be considered when evaluating the accuracy of the predicted fiscal impact of the special detention provision. DJJ calculated cost using the daily rate for the least restrictive form of detention care, which is home detention care at a cost of \$15 per day. Some youth may have to be detained at more restrictive levels in order to ensure that the comprehensive evaluation is completed. The more restrictive the level of detention, the higher the daily cost for detention care. To the extent that DJJ's calculation of the potential costs of the special detention provision fails to consider this factor, the projected fiscal impact of the bill may be low.

Other factors relied on by DJJ to calculate the potential costs of the special detention provision cause the projected fiscal impact to be skewed artificially high. DJJ projected costs relying on a maximum number of potentially eligible youth being detained for a maximum period of time. Some comprehensive evaluations of detained youth may be completed in less than 72 hours, resulting in a cost savings over DJJ's projected fiscal impact. Similarly, some evaluations may be completed without necessity of any detention care placement. DJJ calculated costs on the assumption that all youth who received judicial processing, but were not placed in detention care, could be affected by the bill. However, only those youth who received judicial processing and were not held in pretrial detention care are in the universe of youth who are potentially subject to

a special detention order. The DJJ data does not reveal how many youth in this universe also fall within the group of youth who are likely to be placed in a residential program. This would be the only group actually affected by the bill. DJJ did not have any data readily available to indicate how many youth who were not initially held in secure pretrial detention are subsequently placed in a residential commitment facility.

The risk factors that determine the appropriateness of pretrial secure detention are often the same factors that affect residential commitment placement decisions. One would expect that many youth who are held in pretrial secure detention are ultimately committed to residential programs. Therefore, the number of youth who were not held in secure pretrial detention but who are likely to be placed in a residential commitment facility probably represent a small group from the universe of youth who were not held in secure pretrial detention.

The bill only allows the court to order a comprehensive evaluation for this small group of youth who were not held in secure pretrial detention, but who are likely to be placed in a residential commitment facility. The number of youth who are actually ordered to participate in a comprehensive evaluation is likely to be only a subgroup of those who are potentially subject to such an order. Of the subgroup who are actually ordered to participate in a comprehensive evaluation, only a fraction of those would likely require detention placement to complete the evaluation. It is with regard to this last fraction of youth that any fiscal impact may result. To the extent that the DJJ cost calculation fails to consider this issue, the projected fiscal impact of the bill may be high.

Section 4 of the bill could have potentially significant fiscal impacts on local school districts and the Department of Children and Family Services. However, the intent of the Workgroup was that the costs associated with this section of the bill be the responsibility of DJJ. See Juvenile Justice Classification and Placement Workgroup Minutes, January 21, 2000. DJJ planned to take on this responsibility by reprogramming more than \$4.5 million presently appropriated to juvenile assignment centers. Please refer to Section 4 of the "Section-by-Section Analysis" at Paragraph II-D, above.

The bill requires that a summary of any court-ordered comprehensive evaluation be included in the predisposition report. This requirement is consistent with DJJ policy. No change in current practice or fiscal consequence is anticipated. The bill requires that court-ordered predisposition reports be submitted to the court upon completion, but no later than 48 hours prior to the dispositional hearing. The report must be made available to the child and the child's parent or the legal guardian, in addition to the parties specified in current law. These provisions are not anticipated to have a fiscal impact or to affect personnel workloads and are generally consistent with current DJJ policy. However, the bill could have a positive fiscal impact associated with allowing the courts discretion to resolve cases without a predisposition report if residential commitment of the child is not anticipated. This provision could ensure more timely case disposition by alleviating the need for a subsequent hearing after a finding of delinquency, especially in those cases involving less serious offenses.

The bill provides that a youth's length of stay in a residential commitment program is to be based on objective performance-based treatment planning. The bill also specifies that length of stay may be extended for failure to comply with treatment services, but cannot be extended for purposes of sanction or punishment. Monthly reports to the court of the child's treatment progress are required. The court must also be notified of the child's treatment plan and progress when release from a residential commitment

program is requested. These provisions of the bill are consistent with current DJJ policy. No change in DJJ practice or fiscal impact is anticipated. However, the provision of the bill that requires the court to approve any period of temporary release from a program may have a fiscal impact associated with increased workloads of programs and court personnel. The most significant impact associated with this provision would be at the low-risk residential level, although the impact could be offset by tailoring the definition of "temporary release" relative to the commitment level.

Finally, the bill authorizes a Workgroup of juvenile justice stakeholders to continue examining the classification and placement system. The current Workgroup was assembled to evaluate current classification and placement systems and processes and make legislative recommendations to the House Committee on Juvenile Justice. The current Workgroup reached a consensus on several commitment and placement issues. See id. Additional considerations were identified by the Workgroup as pertinent to the commitment and placement process; however, no consensus was reached on those additional issues. See id. The bill authorizes the continued efforts of the Workgroup to consider pertinent issues and make recommendations concerning the development of a system for classifying and placing juvenile offenders who are committed to residential programs in a report to the Governor and Legislature is due no later than September 30, 2001. The Workgroup will also recommend a process for testing and validating the effectiveness of the recommended classification and placement system. Some expenditures may also be required to carry out the mission of the Workgroup.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority of municipalities or counties to raise revenues in the aggregate.

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

The bill would not reduce the percentage of a state tax shared with counties or municipalities. Therefore, it would not contravene the requirements of Article VII, Section 18 of the Florida Constitution.

V. COMMENTS:

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A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON JUVENILE JUSTICE:

Prepared by:

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