

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1348

SPONSOR: Criminal Justice Committee and Senator Crist

SUBJECT: Youthful Offenders

DATE: April 10, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gardner	Cannon	CJ	Favorable/CS
2.	_____	_____	APJ	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 1348 makes several changes to ch. 958, F.S., dealing with the treatment of youthful offenders in the Department of Corrections (department). This bill would provide the following revisions:

- The trial court would not be able to sentence as a youthful offender persons who pled no contest or guilty to, or were found guilty of committing a capital felony, a life felony, a first degree felony, or a second degree felony involving the use of force or violence;
- The trial court would not be able to sentence as a youthful offender a person who used a weapon or firearm in the commission of a crime that would make the offender subject to s. 775.087(2) and (3), F.S.;
- The maximum term a youthful offender could be sentenced to would increase to 8 years from 6 years;
- The department would not be able to put into disciplinary confinement those youthful offenders assigned to the basic training program who become unmanageable, rather, the department would only be able to revoke gain-time, terminate the offender from the program and return the offender to the general prison population; and
- Following completion of basic training, the court would be able to place the offender on community control as well as probation, based on the offender’s performance.

The provisions of this bill would become effective on October 1, 2001.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 951.231, 958.04, 958.045, 958.046, and 958.11(4).

II. Present Situation:

A “Youthful Offender” (YO) is a classification made by the department or an adjudication made by the sentencing court. To be eligible for YO status:

- The offender must be at least 18 years of age or if under 18 must be waived up to adult court pursuant to ch. 985, F.S;
- The offender must have committed the qualifying offense prior to reaching the age of 21; and
- The offender cannot have committed a capital or life felony, nor can the offender have been previously sentenced or classified as a YO.

According to the department, almost two out of three of those inmates currently designated as YO were so designated by the department pursuant to s. 958.11(4) and (6), F.S., rather than the sentencing court. The department may designate an inmate as a YO if the inmate is under 24, sentenced to less than 10 years, and did not commit a capital or life felony. One of the factors determining those designations as YO was the availability of space in the six facilities housing YOs. According to the department, if more YO beds were available, more of the eligible inmates would be classified as YOs.

Currently, Florida maintains five YO prisons for males, four of which are operated by the department, and one private prison operated by Corrections Corporation of America. There is one predominately YO prison for females operated by the department. According to department statistics and OPPAGA reports, there are approximately 3,500 YO inmates in these six facilities. In fiscal year 1999-00, 7,474 persons under the age of 24 were admitted to prison.

The per diem rate for inmates in YO prisons and programs are higher than the average for all inmates in state or privately operated prisons. According to the department, the reason for the higher per diem cost is the “enhanced vocational, educational, counseling, or public service” opportunities afforded YOs under s. 958.021, F.S., designed to improve the chances of correction and successful return to the community. The per diem rate for male YOs is \$55.08. The per diem rate for the average adult male is \$41.34.

The maximum sentence allowed under s. 958.04(2), F.S., is 6 years. This sentence can be divided between incarceration in a YO facility and some form of community supervision. The YO sentence can not exceed the statutory maximum allowed under s. 775.082, F.S. For instance, a YO can not be sentenced to more than five years for a third degree felony, unless the total scoresheet points would allow a sentence in excess of the statutory maximum.

There are two references in the statutes expressing the findings and intent of the Legislature with respect to a need to create a basic training program to alleviate prison over crowding and to address serious and violent crime. ss 958.04(4) and 958.045(10), F.S.

The “youthful offender basic training program” described in s. 958.045, F.S., is located at Sumter C.I. The program is of the nature of a boot camp, emphasizing rigorous physical training, basic education, health and life skills. Inmates who can be classified as youthful offenders are screened by the department for the basic training program. When an inmate is deemed eligible,

the department must write to the sentencing court and ask its approval of the assignment to the program. The sentencing court is supposed to notify the department of its approval within 21 days, but if the court fails to do so, it is considered an approval. The assignment is required to last not less than 120 days. At any given time, there are about 100 inmates in the program.

The department promulgates the rules of conduct for the basic training program. If the offender becomes unmanageable, the director of the basic training program can take away gain-time, place the offender in disciplinary confinement for up to 30 days, or terminate the offender from the program and place the unmanageable offender in the general prison population.

Following successful completion of the basic training program, the offender is transferred to a community residential program and the department writes a report to the sentencing court on the offender's performance. If the offender's performance is satisfactory, the sentencing court can modify the offender's sentence and place the offender on probation. s. 958.045(5)(c), F.S. If the offender then violates probation, the court may impose any sentence it could have imposed as a condition of probation.

III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 1348 makes several changes to ch. 958, F.S., dealing with the treatment of youthful offenders in the Department of Corrections (department). This bill would provide the following revisions:

- The trial court would not be able to sentence as a youthful offender persons who pled no contest or guilty, or were found guilty to committing a capital felony, a life felony, a first degree felony, or a second degree felony involving the use of force or violence;
- The trial court would not be able to sentence as a youthful offender a person who used a weapon or firearm in the commission of a crime that would make the offender subject to s. 775.087(2) and (3), F.S.;
- The maximum term a youthful offender could be sentenced to would increase to 8 years from 6 years;
- The department would not be able to put into disciplinary confinement those youthful offenders assigned to the basic training program who become unmanageable, rather, the department would only be able to revoke gain-time or terminate the offender from the program and return the offender to the general prison population; and
- Following completion of basic training, the court would be able to place the offender on community control as well as probation, based on the offender's performance.

Section 1 of this bill would prohibit the sentencing court to sentence almost every offender who committed a crime of violence as a youthful offender. Under the proposed language, persons who committed capital felonies, life felonies, and first or second degree felonies involving the use or threat of use of force or violence would also be not eligible. This section also disallows a person who is "subject to" s. 775.087(2) and (3), F.S., from eligibility to be sentenced as a youthful offender. That provision would include everyone who used a weapon or firearm in the commission of any violent crime, burglary, and any drug crime involving large amounts of drugs, described as trafficking or capital importation. Further, this legislative proposal provides an increase of the maximum term allowable for sentencing as a youthful offender, from the

present 6 years (incarceration, probation or a combination of both) to a proposed maximum of 8 years.

The increase of the maximum term for a youthful offender from 6 years to 8 years could give the sentencing court and the department more jurisdiction and discretion concerning youthful offenders, especially those placed on community supervision. Some youthful offenders serving a split sentence may not have sufficient time on community supervision to begin and complete community programs (drug, alcohol, education, mental health etc.) designed to facilitate their rehabilitation or re-entry into the community.

Section 2 of this bill only reenacts s. 958.03(5), F.S., which defines the term, “youthful offender.”

Section 3 of this bill only reenacts s. 958.046, F.S., dealing with boot camps as alternative sanctions.

Section 4 of this bill only reenacts s. 958.11, F.S., which authorized the Assistant Secretary for Youthful Offenders to screen the inmate population for persons who would be eligible for department designation as a youthful offender.

Section 5 of this bill makes a change to s. 951.231(1)(c), F.S., to reflect the provision of this bill that would repeal s. 958.04(4), F.S., which expressed the Legislature’s finding and intent that prison overcrowding necessitated the creation of a basic training program. This bill also repeals s. 958.045(10), F.S., which expressed the Legislature’s finding and intent that violent crime necessitated the creation of a basic training program.

Section 6 of this bill makes three changes to s. 958.045, F.S., dealing with the state’s basic training program, a YO program housed in Sumter C.I.

1. The department would not be able to put into disciplinary confinement those youthful offenders assigned to the basic training program who become unmanageable, rather, the department would only be able to revoke gain-time, terminate the offender from the program and return the offender to the general prison population.
2. Court approval of the department’s assignment of a YO to the basic training program would be considered denied if the court did not notify the department of its approval within 21 days, rather than such inaction being considered an approval, as is now the law.
3. Community control, as well as probation, would now be available to the sentencing court as a form of community supervision to be used following successful completion of the basic training program.

The bill would amend s. 958.045(5)(a), F.S., to read in part, “If an offender in the basic training program becomes unmanageable, the department may revoke the offender’s gain-time, terminate the offender from the program, and return the offender to the general population of inmates in the correctional system to complete the remainder of the offender’s sentence.” The language, if adopted, would specify only one possible sanction for offenders who become unmanageable and that is to terminate them from the program and return them to the general population. It does not

say that this is the only thing the department can do if an offender becomes unmanageable because the use of the word “may” implies that termination is not required.

The bill would change the current law regarding sentencing court approval for department assignment of youthful offenders to the basic training program. The department would still be required to notify the sentencing court and request its approval for the offender to participate in the program. This bill would amend s. 958.045(2), F.S., to make participation in the program contingent upon the court’s approval within 21 days rather than presuming court approval if the court fails to respond to the department’s request in a timely manner. According to the department, it follows up on recommendations that have not been responded to within 21 days and considers court approval for basic training programming important.

The bill would change current law regarding inmate release following successful completion of the basic training program pursuant to s. 958.045(8)(d), F.S. The department, as the releasing authority, would not have the authority to release the offender until it received from the sentencing court the court order modifying the offender’s sentence pursuant to s. 958.045(5)(c), F.S. The department could then establish a release date within 20 days of receiving the court’s order, in effect permitting release from incarceration and transfer to community supervision, rather than, establishing a release date within 30 days of successful completion of the basic training program. The offender who successfully completed the basic training program would have to remain incarcerated until the department received the modification order from the sentencing court.

The bill would amend ss. 958,045(5)(c) and 958.045(6)(a), F.S., so that the sentencing court could place graduates of the department’s basic training program on community control as well as probation as a form of community supervision. Those offenders who successfully complete the program are transferred to a community residential program or are placed on community supervision. This would allow the court to provide heightened supervision for these offenders if the case calls for it.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Corrections this bill would have no financial impact on the department. There are a set number of department designated YO facilities and spaces available for offenders to be assigned to. This bill would change the eligibility concerning who can be sentenced to a YO facility, reducing the pool of available inmates, and by increasing the maximum term of YO incarceration could reduce the overall number of persons who pass through a YO facility.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.