

# 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 1914

SPONSOR: Criminal Justice Committee and Senator Smith

SUBJECT: Juvenile Justice

DATE: April 10, 2001                      REVISED: \_\_\_\_\_

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

## I. Summary:

This CS does the following:

- Adds additional offenses that disqualify a person from working for the Department of Juvenile Justice (DJJ) and prohibits a disqualification from employment being removed for an offense disposed of within the most recent 10-year period.
- Authorizes the expungement of a nonjudicial arrest record of minors for a non-violent misdemeanor who have successfully completed a prearrest, postarrest, or teen court diversion program, as verified and approved in writing by the state attorney.
- Permits the Secretary to designate individuals holding law enforcement certification in the Inspector General’s Office as certified law enforcement officers to conduct criminal investigations relating to state-operated programs overseen by the department.
- Requires DNA testing of youth transferred to Florida under the Interstate Compact on Juveniles who have committed the enumerated offenses prescribed in s. 943.325, F.S.
- Requires a youth’s parent or guardian to provide personal identification information when the youth is taken into custody, released or delivered from custody, and placed in detention care or in a residential commitment facility in order to determine ability to pay cost of care.
- Requires clerks of court to become the depository for payments for the cost of care and custody of delinquent youth.
- Authorizes the limited use of secure detention for youth being transported from commitment programs, court, or other appointments.
- Authorizes the collection and deposit of provider set aside funds for maintenance and repair of state-owned or leased buildings, to be appropriated by the Legislature.
- Removes the requirement that the Florida Parole Commission consent when youth are transferred between the Department of Corrections and DJJ.

- Provides for technical and conforming changes to definitions and terminology in several statutes in ch. 985, F.S.

This CS substantially amends the following sections of the Florida Statutes: 20.316, 230.23161, 435.04, 943.325, 984.01, 985.01, 985.03, 985.207, 985.213, 985.215, 985.227, 985.231, 985.233, 985.305, 985.3065, 985.31, 985.3155, 985.316, 985.404, 985.417. It also amends s. 14 of ch. 2000-134, Laws of Florida, and creates sections 943.0582, 985.4043, 985.420, and 985.422 of the Florida Statutes.

## II. Present Situation:

Last session, several juvenile justice bills passed amending ch. 895, F.S. Terminology and definitional changes were made in some of the bills, but these changes were not consistent throughout the legislation, resulting in inconsistency in the statutes.

Section 230.23161, F.S., establishes the educational services that are to be delivered to youth in DJJ programs, including legislative direction that these youth be given educational services that meet their individual needs.

Section 985.01(2)(b), F.S., mandates the DJJ conduct employment screening pursuant to ch. 435, F.S., using the level 2 standards set forth in that chapter for personnel working in programs for children. That section also contains a list of prohibited offenses that if found guilty of, disqualify a person from working for the department.

Section 943.0585, F.S., does not contain specific authority for the Florida Department of Law Enforcement (FDLE) to expunge the nonjudicial arrest record of a minor for a non-violent misdemeanor who has successfully completed a prearrest, postarrest, or teen court diversion program verified and approved in writing by the state attorney.

Part V of ch. 985, F.S., contains the provisions for transferring youth to and from other states under the Interstate Compact on Juveniles. Chapter 943, F.S., contains provisions regarding the collection of DNA samples for certain specified crimes. No provision is made in ch. 943, F.S., for juveniles transferred under the Compact. Currently, juvenile sex offenders may be transferred into the state and may refuse to provide a DNA sample for entry into the state database.

Sections 943.085, 943.10, and 943.13, F.S., set forth standards and guidelines for law enforcement and correctional institutions and officers. According to the DJJ, inspector specialists in the Inspector General's Office investigate certified juvenile detention and juvenile probation officers, often for criminal allegations, but do not have the authority to take immediate action if need be to protect youth in these programs because these specialists are not certified.

Sections 984.01(2)(a) and 985.01(2)(a), F.S., authorize the DJJ or the Department of Children and Family Services to contract with other entities for service delivery purposes. The law requires all contracted providers and their personnel in the facility to be of good moral character; however, the law is silent in regard to contracts for services delivered on an appointment or intermittent basis.

Currently, definitions under s. 985.03, F.S., make references to “minimum-risk,” “postcommitment probation,” and “restrictiveness levels,” which were changed during the 2000 Legislative Session. “Respite” is not currently defined in this section. Additionally, the definition of “temporary release” excludes a youth in a postcommitment supervision program.

The DJJ is authorized to collect the cost of care and custody for youth in detention and commitment programs in ss. 985.215, 985.231, and 985.233, F.S. Judges must make specific findings about fee payments in the commitment and/or detention order. The DJJ is required to report to the court any available information concerning the parent’s ability to pay these fees. The court may reduce or waive the fee if it makes a finding of indigency or inability to pay the full cost of care.

Detention cost is specified at \$20 per day and commitment cost is the “actual cost” of care and custody. According to the DJJ, a budget reduction of \$500,000 was adopted by the Legislature based on the department’s anticipated ability to recover costs, and collections to date do not appear adequate to recover that reduction. The department states that \$190,000 has been collected in the first seven months of the program.

Section 985.215, F.S., prescribes the circumstances when a youth may be placed in a juvenile detention center. There is no specific authority for placing a youth in detention when being transported from a commitment program, court, or to other appointments.

Currently, the Juvenile Justice Advisory Board (JJAB) is included in the list to receive written policies and guidelines for filing an information on a juvenile from each state attorney.

According to the DJJ, concerns have been raised by oversight groups that the department’s per diem rates are the same for providers in state-operated buildings and for providers operating programs in their own facilities. The department initiated a pilot program to employ contract provisions requiring providers in state-owned buildings to set aside funds to maintain these facilities. Initial efforts were not successful because although funds were set aside, they reverted to the General Revenue Fund at the end of the fiscal year, leaving no cash or spending authority during the subsequent year to address maintenance needs, according to the DJJ.

Under s. 985.417, F.S., the Florida Parole Commission must consent when a youth is transferred between the Department of Corrections and the Department of Juvenile Justice.

### **III. Effect of Proposed Changes:**

The CS would expand the list of enumerated offenses under s. 435.04, F.S., which disqualify employment by the DJJ, to include assault and battery on a law enforcement officer, felony burglary, and escape. Potential employees would also be required to be of good moral character. No exemptions would be granted for applicants seeking employment in the juvenile justice system for any of these enumerated offenses if it occurred during the most recent 10-year period.

The CS would allow the FDLE to expunge a nonjudicial arrest record of a juvenile for a non-violent misdemeanor who successfully completed a prearrest, postarrest, or teen court diversion program that was verified and approved in writing by the state attorney. This change would

allow these juveniles to apply in the future for another expunction if otherwise qualified under s. 943.0585, F.S.

The CS would also allow the Secretary to designate employees who work within the Office of the Inspector General and who hold law enforcement certifications under ch. 943, F.S., as certified law enforcement officers. This authority would exist as necessary, to enforce any criminal law or to conduct any criminal investigation that relates to state-operated programs or facilities over which the DJJ has jurisdiction.

The CS would require that juveniles who are transferred to Florida under the Interstate Compact on Juveniles must submit to DNA blood testing if such juvenile has committed or has attempted to commit any of the enumerated offenses under s. 943.325, F.S. Failure to comply would result in the State refusing to accept the juvenile under the Interstate Compact on Juveniles.

The CS would also permit the secure detention of a youth overnight, not to exceed 24 hours, who is being transported by the department to or from a commitment facility for the specific purpose of ensuring the safe delivery of the child to the commitment program, return to court, or return to the community.

The CS would also require a youth's parent or guardian to provide personal identification and financial information when the youth is taken into custody, released or delivered from custody, placed in any form of detention care or in a residential commitment facility in order to determine their ability to pay. The information would include name, address, social security number, date of birth, driver's license number and sufficient financial information for the department to determine the parent's or guardian's ability to pay. Upon refusal to provide this information or the required financial information, the parent or guardian could be held in contempt of court. The department would be required to determine the cost of care and report it to the court at the detention hearing and/or disposition hearing. The current detention fee of \$20.00 and the current commitment fee of "actual cost" would be changed to "as determined by the department not to exceed the department's per day cost of services."

The clerk of the court would become the depository for collecting these fees, retaining a service charge of \$2.00. Payments would then be submitted monthly by the clerk into the Grants and Donations Trust Fund. The department would also be given discretion in collecting and settling unpaid fees or judgments, including settling for less than the full amount owed or selling the right to collect to third parties.

The CS would also provide that if the DJJ adjusts payments to any provider that occupies a state-owned or leased juvenile justice facility for the purpose of significant facility maintenance under the provider's contract, the department would be required to deposit these payments into the Administrative Trust Fund. These funds would then be available for appropriation by the Legislature for improvements to the facility under the CS.

The CS would make technical and conforming changes in ch. 985, F.S., as follows:

- Changes references of "community control" to "probation."
- Changes references of "aftercare" to "conditional release."

- Corrects references to “non-residential day treatment programs” to clarify that they are no longer commitment programs.
- Removes references to “minimum-risk” commitment programs.

The CS would also clarify that youth involved in the Early Delinquency Intervention Program are not on conditional release status. It would replace “intent” with “goal” in s. 230.23161, F.S., relating to equal opportunity and access to quality and effective education for youth in DJJ programs. Another technical change would remove references to the Juvenile Justice Advisory Board as it appears in s. 20.316, F.S., requiring timely access to data, and s. 985.227, F.S., requiring state attorneys to provide copies of direct file procedures to the JJAB. (The Board is scheduled to expire on June 30, 2001.)

According to the DJJ, recent administrative transfers of youth between the Department of Corrections and the department revealed that there is no need to have the consent of the Parole Commission. The CS would delete this obsolete provision from s. 985.417, F.S.

The term “respite” would be defined to clarify that respite care is an alternative to secure detention for juveniles charged with domestic violence or in cases where a CINS/FINS shelter bed is not available.

The term “temporary release” would also be revised to eliminate references to commitment levels. Last year’s juvenile justice legislation stated that youth in high or maximum risk programs could not have community access and that moderate risk programs afforded only supervised community access. The CS would remove an obsolete line clarifying that post-commitment probation is not a form of temporary release.

The CS would also remove post-commitment probation as a form of conditional release. According to the DJJ, juvenile probation officers report confusion in mixing post-commitment probation with traditional conditional release youth since the method for handling violations differs. This change would clarify that administrative transfers are not possible for youth on postcommitment probation and that the court must handle violations of postcommitment probation.

#### **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:**

According to the DJJ, the set aside of funds for maintenance may impact provider per diem rates. It will also provide a revenue source for needed improvements to state-owned or leased facilities.

**C. Government Sector Impact:**

According to the DJJ, the estimated costs of maintaining certification for inspector specialists is \$23,400.

The CS requires the clerks of the court to receive payments for the cost of care and custody for juveniles. The clerks may experience a workload increase because of this added responsibility. However, the CS mandates a \$2.00 service charge per payment to the clerks in an attempt to offset this additional duty.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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