

**STORAGE NAME:** h0617s2.hcc.doc  
**DATE:** April 20, 2001

**HOUSE OF REPRESENTATIVES**  
**COUNCIL FOR HEALTHY COMMUNITIES**  
**ANALYSIS**

**BILL #:** CS/CS/HB 617  
**RELATING TO:** Youthful Offenders  
**SPONSOR(S):** Council on Healthy Communities and Committee on Juvenile Justice and Representatives Harper and Others

**TIED BILL(S):**

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

- (1) JUVENILE JUSTICE YEAS 6 NAYS 0
- (2) CRIME PREVENTION, CORRECTIONS & SAFETY YEAS 8 NAYS 0
- (3) COUNCIL FOR HEALTHY COMMUNITIES YEAS 14 NAYS 0
- (4)
- (5)

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I. SUMMARY:

Council Substitute for Committee Substitute for House Bill 617 requires the Department to begin housing inmates who are age 17 and younger separately from the rest of the adult inmate population (those age 18 and older). The bill also mandates that inmates who are age 17 and younger be separated from all inmates who are age 18 and older during the following specified activities: food services, education, training, and recreation.

CS/CS/HB 617 requires that inmates who are age 17 and younger, and who meet certain criteria, be housed in a designated youthful offender facility until the offender reaches the age of 18.

CS/CS/HB 617 requires that an inmate, regardless of age or youthful offender status, be removed and reassigned to the general inmate population if his or her behavior threatens the safety of other inmates or correctional staff.

CS/CS/HB 617 has an effective date of July 1, 2001.

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:

There are currently no statutory requirements that mandate separate housing for offenders based on age, except for offenders classified as youthful offenders. This means that if a 14 year old is sentenced as an adult, and is not classified as a youthful offender, then he or she will be housed with the general adult population, regardless of his or her age.

A "Youthful Offender" is a classification made by the Department of Corrections (Department) or an adjudication made by the sentencing court. To be eligible for youthful offender status, the offender has to come into the adult criminal justice system under the following circumstances:

The offender must be at least 18 years of age or if under 18 must be waived up to adult court pursuant to Chapter 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 youthful offender.

The Department may classify an inmate as a youthful offender if he or she is 24 years or younger, with a sentence of 10 years or less. According to the Department, almost two out of three (65.4 percent) of those inmates currently designated as youthful offenders were so designated by the Department rather than the sentencing court.

Currently, Florida maintains 12 facilities for youthful offenders, one of which (Lake City Correctional Facility) is a private facility run by the Corrections Corporation of America. Of the remaining 11 facilities, 8 are for males and 3 are for females. Two of the facilities for males are work camps, not prisons, and two of the other facilities are boot camps (one for males and one for females).

Pursuant to s. 958.11, F.S., the Department of Corrections designates separate institutions and programs for youthful offenders who are 14-18 years of age, and youthful offenders who are 19-24 years of age. The Department has the authority to reassign an offender who is 14-18 years of age to a facility designated for the 19-24 age group if it is determined that the offender is disruptive, incorrigible, or uncontrollable. Conversely, the Department has the authority to reassign an offender who is 19-24 years of age to a facility designated for the 14-18 age group if it is determined that the offender is

mentally or physically vulnerable and that reassignment is necessary to protect the safety of the youthful offender or the institution.<sup>1</sup>

There were 4,617 youthful offenders in Florida's correctional system in FY 99-00. In FY 1999-00, 564 persons age 17 and younger were admitted to prison, and 6,910 persons ages 18-24 were admitted to prison.

Currently, there are 63 state inmates under the age of 18 who are not assigned to a youthful offender prison or program. Of this number, 15 are serving sentences for capital or life felonies, which make them ineligible for youthful offender classifications or designations, under s. 958.04(1)(c), F.S. Of the remaining 48 inmates, 15 were either sentenced to more than ten years in state prison or are on their second commitment and thus are ineligible for youthful offender treatment by the Department under s. 958.11(4), F.S. The remaining 33 inmates were designated as youthful offenders in the past but have been decertified (most likely due to behavior problems) and are no longer considered youthful offenders.<sup>2</sup>

#### C. EFFECT OF PROPOSED CHANGES:

The Department of Corrections currently does not provide separate housing for inmates based on age, except for designated youthful offenders. CS/CS/HB 617 will require the Department to begin housing inmates who are age 17 and younger, and who are not classified as "youthful offenders," separately from the rest of the adult inmate population (those age 18 and older). The bill also mandates that inmates who are age 17 and younger be separated from all inmates who are age 18 and older during the following specified activities: food services, education, training, and recreation.

CS/CS/HB 617 also requires the Department to house certain inmates in designated youthful offender facilities if the offenders meet the follow criteria:

- The inmate must be less than 18 years of age,
- The inmate must have been less than 15 years of age at the time of his or her offense, and
- The inmate must not have been previously adjudicated as a juvenile.

The bill does not authorize the Department of Corrections to classify such inmates as "youthful offenders" if they do not otherwise meet the existing statutory requirements under § 958.11(4), F.S.

CS/CS/HB 617 allows the Department of Corrections to remove and reassign to the general inmate population any inmate who has been assigned to 1) a youthful offender facility, or 2) a facility for non-youthful offenders who are less than 18 years old, if the inmate's behavior threatens the safety of other inmates or of correctional staff.

A possible consequence of CS/CS/HB 617 may be that older youthful offenders will be phased out of the youthful offender program and returned to the general inmate population. This would be done for population management reasons as the Department endeavors to accommodate younger inmates who may be reassigned to youthful offender housing as a result of the bill.

#### D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only at the discretion of the Committee.

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<sup>1</sup> See § 958.11, F.S.

<sup>2</sup> All statistics provided in this paragraph were supplied by DOC on 4/20/01.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Criminal Justice Impact Conference concluded that CS/CS/HB 617 will not have any prison bed impact upon the Department of Corrections.<sup>3</sup> After discussion among staff present at the CJIC meeting, it was determined that the bill should not have a fiscal impact upon the Department.

The Department of Corrections has indicated that they do not expect the bill to have a fiscal impact on their agency.<sup>4</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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.

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<sup>3</sup> The Criminal Justice Impact Conference discussed CS/CS/HB 617 on April 23, 2001.

<sup>4</sup> Information based on correspondence received from John Washington, Legislative Director for the Department of Corrections, on April 23, 2001.

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.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 20, 2001, the Committee on Juvenile Justice adopted a "strike-everything" amendment that eliminated the issue of combination sentencing, and voted the bill out as a Committee Substitute. The Committee Substitute now only addresses the issue of inmate housing based on age and other criteria.

On April 12, 2001, the Committee on Crime Prevention, Corrections & Safety adopted a "strike-everything" amendment that clarified that inmates age 19 and younger may be housed in designated youthful offender facilities, for residential assignment purposes only, without being reclassified by the Department of Corrections as youthful offenders.

On April 18, 2001, the Council for Healthy Communities adopted a strike-everything amendment that changed the substance of the bill. The strike-everything amendment requires the Department of Corrections to separate inmates based on their age: inmates age 17 and younger must be housed, fed, and educated separately from the adult population (those age 18 and older). The strike-everything also requires the Department of Corrections to house inmates who are age 17 and younger, and who meet certain criteria, in designated youthful offender facilities. The strike-everything amendment was incorporated into a Council Substitute, to which this bill analysis is written.

Although not expressly prohibited, as in the strike-everything amendment adopted by the Committee on Crime Prevention, Corrections & Safety, CS/CS/HB 617 would not authorize the Department of Corrections to classify inmates as "youthful offenders" if they did not meet the requirements of existing law.

VII. SIGNATURES:

COMMITTEE ON JUVENILE JUSTICE:

Prepared by:

Shari Z. Whittier

Staff Director:

Lori Ager

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AS REVISED BY THE COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY:

Prepared by:

Staff Director:

Melinda Smith

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David De La Paz

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AS FURTHER REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:

Council Director:

Melinda Smith

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Mary Pat Moore

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