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DATE: March 28, 2001

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

BILL #: CS/HB 617

RELATING TO: Youthful Offenders

SPONSOR(S): Committee on Juvenile Justice, Representative Harper, Gelber, 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
- (3) COUNCIL FOR HEALTHY COMMUNITIES
- (4)
- (5)

I. SUMMARY:

CS/HB 617 amends s. 958.11, F.S., which relates to the designation of institutions and programs for youthful offenders. The bill provides authorization for the Department of Corrections to assign any inmate aged 19 years or younger to a youthful offender facility, as a residential assignment, if it is determined that the inmate's safety may be in jeopardy in a nonyouthful offender facility. Further, the bill provides legislative intent that any inmate 18 years of age or younger be housed in a youthful offender facility unless the inmate presents an unacceptable disciplinary problem at that facility.

The bill provides 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:

A "Youthful Offender" (YO) is a classification made by the Department of Corrections (Department or DC) or an adjudication made by the sentencing court. To be eligible for YO 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 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 (65.4 percent) of those inmates currently designated as YO were so designated by the Department rather than the sentencing court. One of the factors DC currently uses to determine whether an eligible inmate receives a YO designation is the availability of space in the six facilities that house YOs. According to the Department, if more YO beds were available, DC would classify more of the inmates as YOs. Please refer to the "Fiscal Comments" section for additional information on YO bed costs.

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. DC also operates one YO prison for females. According to Department statistics and OPPAGA reports, there are approximately 3,500 YO inmates in these six facilities.

As of June 30, 2000, there were 464 inmates under the age of 18 in Florida prisons. In FY 1999-00, 564 persons under the age of 18 were admitted to prison, and 6,910 persons ages 18-24 were admitted to prison.

Currently, there are 74 state inmates under the age of 18 who are not assigned to a YO prison or program. Of this number, 17 are serving sentences for capital or life felonies, which makes them ineligible for YO classifications or designations, under s. 958.04(1)(c), F.S. Others were sentenced to more than ten years in state prison and are thus ineligible for YO treatment by the Department under s. 958.11(4), F.S.

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., which is 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.

Pursuant to s. 958.11, F.S., the Department of Corrections designates separate institutions and programs for youthful offenders who are 14-19 years of age, and youthful offenders who are 19-24 years of age. The Department has the authority to reassign an offender who is 14-19 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 if necessary to protect the safety of the youthful offender or the institution.¹

C. EFFECT OF PROPOSED CHANGES:

CS/HB 617 amends s. 985.11, F.S., which relates to the designation of institutions and programs for youthful offenders. The bill provides authorization for the Department of Corrections to assign any inmate 19 years of age or younger to a youthful offender facility, as a residential assignment, if it is determined that the inmate's safety may be in jeopardy in a nonyouthful offender facility. Further, the bill provides legislative intent that any inmate 18 years of age or younger be housed in a youthful offender facility unless the inmate presents an unacceptable disciplinary problem at that facility.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides authorization for the Department of Corrections to assign any inmate 19 years of age or younger to a youthful offender facility, as a residential assignment, if it is determined that the inmate's safety may be in jeopardy in a nonyouthful offender facility.

Provides legislative intent that any inmate 18 years of age or younger be housed in a youthful offender facility unless the inmate presents an unacceptable disciplinary problem at that facility.

Section 2. Provides an effective date of July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments section.

¹ See s. 958.11, F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There should be no impact upon the private sector. Two YO facilities are geared to house inmates aged 14-18, Indian River Correctional Institution and Hillsborough Correctional Institution. The privately-run YO facility at Lake City is geared to house inmates aged 19-24.

D. FISCAL COMMENTS:²

The Department of Corrections states that it is currently using all available YO beds. According to the Department, to increase the number of YO beds available, the Department would have to either build a new YO facility, convert an existing prison to a YO facility, or expand an existing YO facility. The department's current "five year fixed capital outlay plan" calls for spending approximately \$15,000,000 between the years 2002 and 2006 for improvements to youthful offender institutions. According to the Department's 2001-2002 Legislative Budget Request, this money would be used to replace old structures and add new, resulting in a net gain of 291 YO beds.

If or when there is space made available for an additional 75 YO beds, the bill would have a fiscal impact on the Department's budget due to the higher cost of YO treatment. Economic and demographic research drawn from statistics published by the Department indicates the cost would be in the range of \$375,000 in the first year. This is derived by multiplying the average of 75 inmates under 18 not currently in YO status times the difference between the per diem for a YO and that of an adult male inmate.

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.

² See Staff Analysis CS/SB 322, March 13, 2001.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

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 housing for youthful offenders.

VII. SIGNATURES:

COMMITTEE ON JUVENILE JUSTICE:

Prepared by:

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