

# 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 2326

SPONSOR: Education Committee and Senator Bennett

SUBJECT: Juvenile Justice Education

DATE: April 1, 2004                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>deMarsh-Mathues</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	<u>AED</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill makes several changes related to funding, including:

- Providing an increase in the percentage of the Florida Education Finance Program (FEFP) funds generated by students in juvenile justice programs that must be spent on instructional costs; and
- Requiring the expenditure of all formula based categorical program funds on the education of eligible juvenile justice students.

The bill also contains program related changes, including:

- Requiring the Department of Education to identify and select a uniform entry and exit assessment instrument and to ensure that eligible juvenile justice students receive an equitable amount of federal funds;
- Requiring access by juvenile justice students to Florida Virtual School courses;
- Providing that juvenile justice teachers are eligible for all teacher recruitment and retention programs;
- Amending the requirements for the career and technical education plan; and
- Requiring school districts to make the GED Exit Option available to any student in a juvenile justice program.

Also, the bill requires a workgroup to provide strategies for meeting the requirements under the federal No Child Left Behind legislation.

This bill substantially amends ss. 985.412, 1001.42, 1010.20, 1003.51, and 1003.52, F.S.

The effective date of the act is July 1, 2004.

## II. Present Situation:

### Florida Law

#### *Assessment and Student Progression*

Students participating in a detention, commitment, or rehabilitation program under chapter 985, F.S., which is sponsored by a community-based agency or is operated or contracted for by the Department of Juvenile Justice must receive educational programs according to rules of the State Board of Education.<sup>1</sup> A cooperative agreement and plan for juvenile justice education service enhancement must be developed each year between the Department of Juvenile Justice and the Department of Education.

Current law (s. 1008.22(3)(c)6., F.S.) provides that participation in the statewide assessment program is mandatory for all students attending public school, including students served in Department of Juvenile Justice programs. The law requires an administrative rule for expectations for effective education programs for youth in Department of Juvenile Justice programs that includes academic expectations and assessment procedures. The Department of Education, in partnership with the Department of Juvenile Justice, the district school boards, and providers must maintain standardized required content of education records to be included as part of a youth's commitment record. These requirements must include assessment data, including grade level proficiency in reading, writing, and mathematics, and performance on tests taken according to s. 1008.22, F.S.

The law requires an academic improvement plan for students who score below the level specified in district school board policy in reading, writing, and mathematics or who score below the level specified by the Commissioner of Education on statewide assessments. The plans must address academic, literacy, and life skills, as well as provisions for intensive remedial instruction in the areas of weakness. Current administrative rule (Rule 6A-6.05281, F.A.C.) provides for educational programs for youth in Department of Juvenile Justice detention, commitment, day treatment, or early delinquency intervention programs and includes provisions for student records, student assessments, and individual academic plans.

#### *Juvenile Justice Enhancement Program (JEEP)*

According to the Juvenile Justice Enhancement Program, delinquent youths are more likely to have lower GPA scores, have poorer attendance records be retained in the same grade, and receive more disciplinary action when compared to nondelinquent youth.<sup>2</sup> During the 2003-2004 school year, school districts provided educational services to 46,232 students in juvenile justice facilities.<sup>3</sup>

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<sup>1</sup> Detention centers are juvenile facilities operated by the Florida DJJ that detain students while they are awaiting their court appearances or awaiting placement in a commitment facility. Residential commitment programs include low, moderate, high, and maximum risk Florida DJJ programs. Students temporarily reside in these programs while committed to DJJ. Day treatment programs are non-residential programs operated by or under contract with the DJJ. Day treatment programs include prevention, intensive probation, and conditional release programs that have educational services that are provided on site. All students in day treatment programs who are under the responsibility or supervision of the DJJ are subject to educational quality assurance reviews. See Educational Quality Assurance Standards, Juvenile Justice Educational Enhancement Program, 2004.

<sup>2</sup> See <http://www.jjeep.org/annual.htm> Annual Report to the Florida Department of Education, Juvenile Justice Educational Enhancement Program, 2002.

<sup>3</sup> Florida Department of Education, 2004.

Of these students:

- 95.6 percent taking the General Educational Development (GED) test passed.
- 70 percent were promoted at the end of the school year.
- 62 percent graduated.
- 4.5 percent in grades 9-12 dropped out of school.
- 70 percent were overage for grade placement, compared with 53 percent of all dropout prevention students.
  - Of these overage students in juvenile justice education, 61 percent who were to graduate did so, while 69 percent of those not eligible to graduate were promoted to the next grade.

The JEEP's recommendations include the following:

- Continue to increase the number of certified teachers teaching in their areas of professional certification in the state's juvenile justice education programs; and
- Continue to increase requirements and expectations for individualized education services and instruction in juvenile justice educational programs.

#### *GED Prep/GED Exit Option Model*

School districts in which DJJ facilities are located may directly provide educational services to DJJ students or may enter into a contract with a private entity to provide services. Current law (s. 1003.52(3), F.S.) requires students served in DJJ programs to have access to the appropriate courses and instruction to prepare them for the GED test. Students participating in GED preparation programs must be funded at the basic cost factor for DJJ programs in the FEFP. Current administrative rule for juvenile justice education programs requires GED preparation to meet GED course requirements. The rule also requires school districts with an approved GED/HSCT Exit Option to meet DOE requirements.<sup>4</sup>

The GED Exit Option Model is a strategy developed by DOE and the American Council on Education (ACE). This strategy allows currently enrolled high school students to take the GED Test and helps students who may be at risk of not graduating with their class to gain a standard high school diploma through an alternate graduation route. Students utilizing this model must meet all of the following criteria:

- be at least 16 years old and currently enrolled in a public school program;
- be enrolled in courses that meet high school graduation requirements;
- be overage for grade, behind in credits, have a low GPA, and be in jeopardy of not graduating with their cohort group;<sup>5</sup> and
- have a minimum reading level at seventh grade.

Students who enter the program must pass the FCAT or HSCT<sup>6</sup> and then pass the GED Tests in order to receive a standard high school diploma.

School districts must apply to DOE and be approved on an annual basis to implement the GED Exit Option Model for all schools using this strategy. The application must address the guidelines developed by ACE to ensure the integrity of this model. DOE reviews the

<sup>4</sup> Rule 6A-6.05281, F.A.C.

<sup>5</sup> The cohort group is defined as the class with which they entered kindergarten.

<sup>6</sup> High School Competency Test.

applications submitted by districts wishing to use this strategy. Through this process, the DOE is able to gather data required by ACE and comply with the required assurances developed by ACE. DOE must also collect and report student outcome data regarding this strategy. These data are provided in the annual Supplemental Academic Instruction Report.

Twenty school districts do not have an approved school site for the GED Exit Option. Juvenile justice programs are located in 12 of these districts: Alachua, Brevard, Collier, Hardee, Holmes, Jefferson, Levy, Liberty, Madison, Manatee, Pinellas, and Volusia.<sup>7</sup>

#### *Funding*

Currently, the law requires that at least 80 percent of the FEFP funds generated by students in Department of Juvenile Justice (DJJ) programs must be spent on instructional costs for these students. The law requires 100 percent of the formula-based categorical funds generated by these students to be spent on appropriate categoricals. There is no separate cost factor in s. 1011.62, F.S., for programs for DJJ students.

#### *Other*

The law (s. 1003.52(19), F.S.) allows DJJ detention and commitment programs to be designated as second chance schools. The DJJ and DOE, in consultation with other entities, are responsible for developing a multiagency plan for career and technical education. The law enumerates the contents of the plan. District school boards are charged with recruiting and retaining teachers who are interested, qualified, and experienced in educating students in juvenile justice programs. The law provides access for teachers to the substitute teacher pool. Full-time teachers are eligible for the critical teacher shortage tuition reimbursement program.

### **No Child Left Behind Act**

#### *Adequate Yearly Progress*

The federal No Child Left Behind Act (NCLB) sets forth specific testing requirements for public school students. This testing is used to measure whether states, districts, and schools are making adequate yearly progress (AYP) toward state student proficiency goals. NCLB requires reporting of testing information for students disaggregated by certain specific subgroups, including the major ethnic and racial groups, economically disadvantaged students, limited English proficient students, students with disabilities, as well as the overall student population as a whole.

Federal regulations require a state's academic assessment system to provide for the participation of all children. In developing federal regulations for NCLB, the U.S. Department of Education (U.S. DOE) discussed the participation of mobile children for purposes of calculating AYP for states. The U.S. DOE noted that the statute already requires that students who have attended several schools in a district for a full academic year, but who have not attended the same school for a full academic year must be included in assessments. The students' performance must be used in determining whether the district makes AYP. As a result, data for these students will influence whether states make AYP. The department also indicated that even if mobile children

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<sup>7</sup> *List of Approved School Sites for Implementation of the GED Exit Option Model*, Florida DOE (March 9, 2004).

attend schools in several districts, the students must be assessed and their performance would be included in determining state AYP.<sup>8</sup>

According to the DOE, all students who are mobile (e.g., students who attend more than one school during the year) must be included in the statewide assessment system and be included in the district or state AYP calculation.<sup>9</sup> Schools with highly mobile populations (e.g., juvenile justice facilities) will not receive an AYP status designation. Rather, the students' performance and participation rates will be "rolled up" to the district or state level.

#### *Highly Qualified Teacher Requirements for Special Programs*

Federal law requires all teachers of core academic subjects to meet the requirements for designation as a "highly qualified teacher" by June 30, 2006. In January 2004, the U.S. DOE issued non-regulatory guidance related to teacher quality. The guidance features information on implementing standards and providing assistance and support. It also provides clarification of many NCLB provisions, including the distinction between the requirements for "current teachers" and "new teachers." Other issues addressed in the guidance include points for states to consider in developing high objective uniform state standards of evaluation (HOUSSE) criteria to allow current teachers to demonstrate subject mastery.<sup>10</sup>

States have the option of developing a method by which current teachers can demonstrate competency in each subject they teach on the basis of HOUSSE. States can establish a process of evaluating teacher knowledge and ability based on a high, objective uniform state standard of evaluation that meets each of the following criteria:

- Be set by the state for both grade-appropriate academic subject matter knowledge and teaching skills;
- Be aligned with challenging state academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;
- Provide objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;
- Be applied uniformly to all teachers in the same academic subject and teaching in the same grade level throughout the state;
- Take into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject; and
- Be made available to the public upon request.

In developing HOUSSE procedures, states may involve multiple, objective measures of teacher competency. Each evaluation should have a standard that the candidate is expected to meet or exceed. The standards for evaluation must be applied to each candidate in the same way.

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<sup>8</sup> *Federal Register*, Vol. 67, No. 129, July 5, 2002, p. 45046, Final regulations (See 34 C.F.R. s. 200.6(c)(d)).

<sup>9</sup> *Florida Consolidated State Application Accountability Workbook*, Florida Department of Education, March 26, 2003, p. 16.

<sup>10</sup> *Improving Teacher Quality State Grants, Title II, Part A, Non-Regulatory Guidance*, Academic Improvement and Teacher Quality Program, Office of Elementary and Secondary Education, U.S. Department of Education, January 16, 2004. See <http://www.ed.gov/programs/teacherqual/guidance.doc>

The U.S. DOE encourages states that choose to adopt this alternative means for assessing whether current teachers are highly qualified to consider going on record to establishing how teachers of various subjects at different grade levels may meet the statutory criteria (e.g., a resolution passed by the State Board of Education). A state can demonstrate that it has established procedures that conform to federal law by keeping this formal approval on file, with an explanation for how the demonstration of competency meets the required criteria.

The Florida DOE's technical assistance paper provides that teachers in DJJ dropout prevention programs are subject to the NCLB highly qualified teacher requirements for core academic subjects.<sup>11</sup> This paper is also referenced in the 2004 quality assurance standards for day treatment programs (juvenile justice prevention, intensive probation, and conditional release). Some teachers in juvenile justice education programs have expressed an interest in the HOUSSE provisions. According to DOE staff, no final decision has been made on the use of HOUSSE in Florida. With the recent guidelines issued by the U.S. DOE, the Florida DOE will look at this alternative.

### III. Effect of Proposed Changes:

**Section 1.** The bill amends s. 1003.51, F.S., to increase the minimum threshold of FEFP funds that must be spent on instructional cost for students in DJJ programs from 80 percent to 90 percent. All formula-based categorical program funds must be spent on the education of eligible DJJ students.

**Section 2.** The bill amends s. 1003.52, F.S., by changing references to Department of Juvenile Justice *detention or commitment facilities* to DJJ *programs*. School districts must make the GED Exit Option available to any student in a juvenile justice program. The bill corrects a cross-reference for the definition of a juvenile justice school year.

Students in juvenile justice education programs must have access to Florida Virtual School courses. DOE and school districts must adopt policies to ensure access to these courses. The bill removes the reference to youth *committed* to residential and nonresidential facilities as it relates to the requirement for these students to earn credits toward high school graduation. The bill provides that full-time teachers in juvenile justice schools are eligible for all teacher recruitment and retention programs. The DOE must identify and select a uniform entry and exit assessment instrument to use in juvenile justice education programs during the 2004-2005 school year. DOE must also ensure that eligible juvenile justice students receive an equitable amount of federal funds.

In developing the multiagency plan for career and technical education, the DOE and DJJ must consult with additional entities (Workforce Florida, Inc., and community colleges) and the contents of the plan must also include a description of funding and the transfer of credits. This plan must be reviewed on an annual basis. The bill deletes the provision allowing DJJ detention and commitment programs to be designated as "second chance" schools.

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<sup>11</sup> *Highly Qualified Teacher Requirements for Special Programs under the No Child Left Behind Act (NCLB)*, Florida Department of Education, August 2003.

**Section 3.** The bill amends s. 1010.20, F.S., to increase the required threshold (from 80 to 90 percent) for expenditures on juvenile justice programs.

**Section 4.** The bill requires the DOE and the DJJ , in collaboration with school districts, juvenile justice education providers, and the Florida Juvenile Justice Association, to convene a workgroup to suggest strategies for the following purposes:

- meeting the requirements of the federal No Child Left Behind Act; and
- rewarding juvenile justice education programs for high performance on positive student outcomes.

The DOE is charged with reporting the workgroup's findings to the Senate President and the Speaker of the House of Representatives by December 1, 2004.

**Section 5.** The bill amends s. 985.412, F.S., to conform a cross-reference for an annual report by the DOE and the DJJ related to educational programs.

**Section 6.** The bill amends s. 1001.42, F.S., to conform a cross-reference for an annual report by the DOE and the DJJ related to educational programs.

**Section 7.** The effective date of the act is July 1, 2004.

#### **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:

To use the GED Exit Option, a student must pass the FCAT and the GED test. There is no cost for DJJ students to take the FCAT. According to DJJ, if a private entity provides

education services to a student in a DJJ program (through a contract with a school district), the provider pays the cost of the GED test.

**C. Government Sector Impact:**

While the proposed changes to increase the percentage of funds that must be spent on educational instruction in DJJ programs will benefit the programs, it will likely result in less flexibility for school districts. The bill requires the expenditure of all formula based categorical funds on programs for eligible students. This may clarify that the categoricals are more than instructional materials and public school technology (e.g., ESE, school lottery enhancement, supplemental academic instruction and teacher training and recruitment).

Juvenile justice programs are located in 12 school districts without an approved school site for the GED Exit Option (Alachua, Brevard, Collier, Hardee, Holmes, Jefferson, Levy, Liberty, Madison, Manatee, Pinellas, and Volusia). Under the bill, school districts must make this option available to any student in a juvenile justice program. DJJ indicates that there is no cost for a school district to have a school site approved for the GED Exit Option on an annual basis.

To use the GED Exit Option, a student must pass the FCAT and the GED test. There is no cost for DJJ students to take the FCAT. According to DOE, payment for GED test costs may be made in a variety of ways, depending upon the terms of contractual arrangements between school districts with private providers, state universities, or community colleges and negotiated agreements with other entities (e.g., between programs within the school district). In some instances, the private provider may pay the cost of tests. Some districts may cover these testing costs for students in juvenile justice education programs. However, it is also possible that some school districts may require students to pay for the GED test.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.