

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 882

INTRODUCER: Senator Gibson and others

SUBJECT: Administering County & Municipal Juvenile Detention Facilities

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Pre-meeting
2.	_____	_____	CA	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill prescribes additional criteria and standards that must be satisfied by a county or municipal program to ensure that a county is in compliance with operating a secure juvenile detention facility for preadjudicated youth under s. 985.688, F.S.

This bill substantially amends section 985.688 of the Florida Statutes.

II. Present Situation:

A county or municipal government is authorized under s. 985.688, F.S., to establish and operate a juvenile detention facility if it is operated in compliance with this section.¹ Prior to July 1, 2011, subsection (9) of this section required such facility to be certified by the Department of Juvenile Justice (DJJ) to be in compliance with the department's rules prescribing the standards and requirements for operating a secure juvenile detention facility. The rules for certification of locally operated detention facilities were required to be consistent with the rules for certification of secure juvenile detention facilities operated by the department. Additionally, quarterly inspections and evaluations were required under the statute.²

During the 2011 Legislative Session, the Legislature passed a bill authorizing counties to establish and operate a secure juvenile detention facility for preadjudicated youth with no

¹ Section 985.688(9), F.S.

² Section 985.688(9)(a) and (b), F.S.

oversight by the DJJ.³ Instead, the legislation required counties to do the following to be in compliance with the statute:

- Provide for the full cost of preadjudication detention for juveniles;
- Authorize the county sheriff, any other county jail operator, or contracted provider to provide preadjudication detention care for juveniles;
- Ensure that the county sheriff or other county jail operator is accredited by the Florida Corrections Accreditation Commission or American Correctional Association;
- Ensure that the facility is inspected annually and meets the Florida Model Jail Standards; and
- Ensure that the county sheriff or other county jail operator follows the federal regulations requiring sight and sound separation of juveniles from adult inmates.⁴

The bill also provided that a county or county sheriff that is in compliance with this new subsection is not subject to any additional training, procedures, or inspections required under ch. 985, F.S.⁵

There are three counties currently operating their own secure juvenile detention facilities, none of which are monitored by the DJJ.⁶

III. Effect of Proposed Changes:

The bill establishes additional statutory criteria and standards that must be satisfied by a county or municipal program to ensure that a county is in compliance with operating a secure juvenile detention facility for preadjudicated youth as follows:

- Prohibit personnel from carrying chemical and electric restraints on their person while in the presence of youth⁷;
- Require chemical and electric restraints be locked away from direct-care staff, to be used only in exigent circumstances, with the approval of the facility director;
- Provide that chemical restraints must be weighed after all uses;
- Require direct-care staff be stationed inside the living areas where youth are housed at a staff-to-youth ratio of 1 adult to 8 youth during awaking hours, and 1 adult to 10 youth during sleeping hours;
- Limit the use of video or audio recording equipment as the sole method for monitoring youth;
- Use a positive behavior management system that tracks and specifies rewards and consequences for specific behavior;

³ Chapter 2011-53, Laws of Florida. (Senate Bill 2112 originated as a committee bill by Budget, SPB 7124.)

⁴ *Id.* These provisions were codified in s. 985.688(11)(a) and (c), F.S.

⁵ *Id.* This provision was codified in s. 985.688(11)(d), F.S.

⁶ The three counties are Marion, Polk, and Seminole. *Department of Juvenile Justice 2013 Legislative Session Bill Analysis for Senate Bill 882 and Senate Bill 506* (on file with the Senate Committee on Criminal Justice).

⁷ Recently, the use of pepper spray by guards on juveniles being held in the juvenile detention facility in Polk County was called into question by a federal magistrate judge in the Middle District of Florida, Tampa Division, in *Hughes v. Judd*, case No. 8:12-cv-568-T-23MAP (March 27, 2013).

- Use programming, recreation, educational materials and activities that ensure youth are not confined to their cells except for sleeping; and
- Prohibit using isolation, solitary confinement, or cell confinement unless recommended by a licensed physician.

The bill also deletes the provision allowing a county sheriff who is in compliance with current requirements under s. 985.688(11), F.S.,⁸ to be exempt from additional training, procedures, or inspections otherwise required by ch. 985, F.S.

Finally, the bill deletes the provision requiring the DJJ to charge (and the county or municipality to pay) a monitoring fee equal to 0.5 percent of the direct operating costs of the juvenile detention facility.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the DJJ, this bill does not result in any fiscal impact to the department.⁹

⁸ These requirements include providing for the full cost of preadjudication detention for juveniles, being authorized by the county to provide preadjudication detention care for juveniles, being accredited by the Florida Corrections Accreditation Commission or American Correctional Association, being inspected annually, meeting the Florida Model Jail Standards, and adhering to the federal regulations requiring sight and sound separation of juveniles from adult inmates.

⁹ *Department of Juvenile Justice 2013 Legislative Session Bill Analysis for Senate Bill 882 and Senate Bill 506* (on file with the Senate Committee on Criminal Justice).

It may, however, have an impact upon those counties operating their own secure juvenile detention facility if the bill results in more personnel being required to meet the newly prescribed staff-to-youth ratio.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.