

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 Appropriations

BILL: CS/SB 486

INTRODUCER: Education Committee and Senator Bradley

SUBJECT: Juvenile Justice Education Programs

DATE: April 16, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jahnke</u>	<u>Bouck</u>	<u>ED</u>	Fav/CS
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	Recommend: Favorable
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 486 modifies how juvenile justice education programs are operated and funded. These modifications include how instructional time is defined and how funds are allocated between school districts and educational providers. Specifically, the bill:

- Provides for equivalent hours of instruction in the definition of “juvenile justice education programs or schools” for nonresidential programs.
- Requires that at least 95 percent of Florida Education Finance Program (FEFP) funds generated by a student in Department of Juvenile Justice programs or specified education program for juveniles must be spent on instructional costs.
- Requires all contracts between district school boards and juvenile justice education programs to be in writing.
- Requires timely satisfaction of invoices by district school boards, with a penalty for late payments.
- Specifies that district school boards may not delay payment of funds owed to juvenile justice education programs pending receipt of local funds.

The bill has no impact on state revenues or expenditures. However districts will be required to spend an additional 5% of the FEFP funds generated by the Department of Juvenile Justice students on instructional costs. See Section V.

The bill takes effect July 1, 2021.

II. Present Situation:

Juvenile Justice Education Programs and Schools

Juvenile justice education programs or schools operate for the purpose of providing educational services to youth in Department of Juvenile Justice (DJJ) programs, for a school year comprised of 250 days of instruction distributed over 12 months. At the request of the provider, a district school board may decrease the minimum number of days of instruction by up to 10 days for teacher planning for residential programs and up to 20 days for teacher planning for nonresidential programs, subject to the approval of the DJJ and the Department of Education (DOE).¹

A juvenile justice provider is the DJJ, the sheriff, or a private, public, or other governmental organization under contract with the DJJ or the sheriff that provides treatment, care and custody, or educational programs for youth in juvenile justice intervention, detention, or commitment programs.²

Educational Services in DJJ Programs

The DOE acts as the lead agency for juvenile justice education programs and sets the standards for curriculum and other support services.³

Students who do not attend a local public school due to their placement in a DJJ detention, prevention, residential, or day treatment program are provided high-quality and effective educational programs by the local school district in which the DJJ facility is located or by an education provider through a contract with the local school district.⁴ Each program must be conducted according to applicable law providing for the operation of public schools and rules of the State Board of Education.⁵

The district school board must make provisions for each student to participate in basic, Career and Professional Education (CAPE), and exceptional student programs, as appropriate. Students served in DJJ education programs must have access to the appropriate courses and instruction to prepare them for the high school equivalency examination. School districts must provide the high school equivalency examination exit option for all juvenile justice education programs.⁶

With the assistance of the school districts and juvenile justice education providers, the DOE must select a common student assessment instrument and protocol for measuring student learning gains and student progression while a student is in a juvenile justice education program.⁷

¹ Section 1003.01(11)(a), F.S.

² Section 1003.01(11)(b), F.S.

³ Section 1003.52(1), F.S.

⁴ Rule 6A-6.05281(2), F.A.C.

⁵ Section 1003.52(3)(a), F.S.

⁶ *Id.*

⁷ Section 1003.52(3)(b), F.S.

Funding of Students Enrolled in Juvenile Justice Education Programs

Funding for eligible students enrolled in juvenile justice education programs is provided through the Florida Education Finance Program (FEFP).⁸ Students participating in high school equivalency examination preparation programs are funded at the basic program cost factor for DJJ programs in the FEFP.⁹

Funding of instruction in a standard school is limited to 900 hours for a student in Grade 4 through Grade 12 and 720 hours for a student in Kindergarten through Grade 3. DJJ programs are permitted to receive funding for instruction provided beyond the 180 day limit. DJJ students, both residential and nonresidential, are funded for one FTE (900 hours or 180 days of instruction during the regular school year) and up to an additional 45 days (or 350 hours) of instruction during the summer, for a total of 250 days of instruction. DJJ programs are the only exception to the summer school earning and reporting of FTE because their programs are year-round.¹⁰

An hourly equivalent for the 250 days of instruction has not been established in statute, administrative rule, or through DOE guidelines. Flexibility within the 25-hour week was provided to DJJ programs through an October 2010 DOE technical assistance paper. However, when rule 6A-6.05281 of the Florida Administrative Code, was amended, the flexibility was removed.¹¹

At least 90 percent of the FEFP funds generated by students in DJJ programs or in an education program for juveniles must be spent on instructional costs for those students.¹²

One hundred percent of the formula-based categorical funds¹³ generated by students in DJJ programs must be spent on appropriate categoricals, such as instructional materials and public school technology for those students.¹⁴

Contracts with Providers

Each school district that provides educational services to students in a DJJ facility must negotiate a cooperative agreement with DJJ and may negotiate educational service contracts with private education service providers if they do not directly provide the education services.¹⁵ The district school board of the county in which the juvenile justice education prevention, day treatment, residential, or detention program is located must provide or contract for appropriate educational assessments and an appropriate program of instruction and special education services.¹⁶ Such contracts must include the following:

⁸ Section 1011.62, F.S.

⁹ Section 1003.52(3)(a), F.S.

¹⁰ Section 1011.61, F.S.

¹¹ Department of Education, Senate Bill 486 *Legislative Bill Analysis* (Jan. 11, 2021) (on file with the Senate Appropriations Subcommittee on Education).

¹² Section 1003.51(2)(i), F.S.

¹³ Section 1011.62(10), F.S.

¹⁴ Section 1003.51(2)(i), F.S.

¹⁵ Florida Department of Education, *Developing Effective Education in the Department of Juvenile Justice Annual Report 2019-2019* available at <http://www.fldoe.org/core/fileparse.php/7567/urlt/DevEffEduDJJ1819.pdf>.

¹⁶ Section 1003.52(3), F.S. and Rule 6A-6.05281(9), F.A.C.

- Payment structure and amounts;
- Access to district services;
- Contract management provisions;
- Data maintenance and reporting requirements;
- Administrative guidelines and oversight of federal programs; and
- Require that all educational services comply with this rule.¹⁷

III. Effect of Proposed Changes:

The bill modifies how juvenile justice education programs are operated and funded. These modifications include how instructional time is defined and how funds are allocated between school districts and educational providers.

The bill modifies the definition of “juvenile justice education programs or schools” by allowing for the number of instructional days, currently 250 days over 12 months, to be expressed in equivalent hours for nonresidential programs. These hours must be specified by the State Board of Education (SBE) and reviewed annually. Further, the bill specifies that current law authorizing a district school board to decrease the minimum number of days of instruction by up to 20 days for nonresidential programs may also be expressed in hours, subject to SBE rule. In any case, a DJJ nonresidential program will still be funded based on one FTE (900 hours) for the regular school year and up to 350 hours (.38 FTE) during the summer school period.

The bill adjusts the requirements for Florida Education Finance Program (FEFP) funds generated by students in Department of Juvenile Justice (DJJ) or juvenile delinquency education programs. The bill increases the funding amounts that must be spent on instructional cost for students from 90 percent to 95 percent of the funds generated. Increasing the percentage of FEFP dollars that must be provided to a DJJ educational program for instructional cost from 90 percent to 95 percent would have a 5 percent reduction for school districts in administrative dollars which are often used to provide accountability oversight.¹⁸ Districts that have a high administrative overhead may have difficulty providing the same level of administrative support and oversight within the five percent of funds generated by the DJJ program FEFP. If that is the case, then the supplemental administrative funds will have to be provided from some other source.

The bill provides additional requirements for contracts between district school boards and juvenile justice education programs. Specifically, the bill requires:

- All contracts to be in writing between district school boards desiring to contract directly with juvenile justice education programs to provide academic instruction.
- New or renewal contracts to be executed and negotiated within 40 days after the district school board provides the proposal, unless both parties agree to an extension.
- District school boards to satisfy invoices issued by the juvenile justice education program within 15 working days after receipt.
 - If a district school board does not timely issue a warrant for payment, it must pay to the juvenile justice education program interest at a rate of one percent per month, calculated

¹⁷ Rule 6A-6.05281(9), F.A.C.

¹⁸ Department of Juvenile Justice, *Legislative Bill Analysis for SB 486* (Jan. 25, 2021).

- on a daily basis, on the unpaid balance until such time as a warrant is issued for the invoice and accrued interest amount.
- District school boards may not delay payment to a juvenile justice education program of any portion of funds owed pending the district's receipt of local funds.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no impact on state appropriations; however, it does affect school district expenditure of funds for DJJ programs.

The requirement for school districts to spend 95 percent of the funds generated by DJJ students on instructional costs for those students, an increase of 5 percent over the

percentage required under current law, may result in approximately an additional \$2.1 million being spent on instructional costs by districts for DJJ students.¹⁹

This would be a 5% reduction in administrative dollars for the districts, which are often used to provide accountability oversight.²⁰ Districts that have high administrative overhead for the DJJ programs may be challenged to provide the same level of administrative and accountability support within the funds generated by the DJJ program FEFP. If that is the case, then supplemental administrative funds will have to be provided from some other source.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1003.01, 1003.51, and 1003.52.

IX. Additional Information:

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

CS by Education on March 2, 2021:

The committee substitute:

- Clarifies that the use of equivalent instructional days expressed in hours is only applicable to nonresidential programs.
- Removes redundant language regarding equivalent hours as specified in the State Board of Education rule.
- Modifies the length of time district school boards must satisfy invoices issued by juvenile justice programs from 10 working days to 15 working days.
- Removes the requirement that district school boards provide proposed contracts to juvenile justice education programs by April 1.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁹ Department of Education, Senate Bill 486 *Legislative Bill Analysis* (Jan. 11, 2021) (on file with the Senate Appropriations Subcommittee on Education).

²⁰ Department of Juvenile Justice, Senate Bill 486 *Legislative Bill Analysis* (Jan. 25, 2021) (on file with the Senate Appropriations Subcommittee on Education).