

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1425 Juvenile Justice

SPONSOR(S): Yarkosky

TIED BILLS: **IDEN./SIM. BILLS:** SB 1352

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|-----------|---------|--|
| 1) Criminal Justice Subcommittee | 15 Y, 2 N | Leshko | Hall |
| 2) Justice Appropriations Subcommittee | | Saag | Keith |
| 3) Judiciary Committee | | | |

SUMMARY ANALYSIS

HB 1425 amends several statutes relating to the Department of Juvenile Justice (DJJ). Specifically, the bill:

- Amends ss. 330.41, 553.865, 943.0515, 985.02, 985.03, 985.039, 985.126, 985.17, 985.27, 985.441, 985.455, 985.465, and 985.601, F.S., to make changes to juvenile commitment restrictiveness level classifications and terms, to replace the terms “gender-specific” and “gender” with “sex-specific” and “sex,” respectively, as those terms are defined in s. 553.865, F.S., and to strike an obsolete reporting date.
- Amends s. 381.887, F.S., to include any DJJ personnel and any DJJ contracted provider with direct contact with youth in the care of DJJ to the list of persons who are authorized to possess, store, and administer emergency opioid antagonists and who are immune from any civil or criminal liability as a result of administering an emergency opioid antagonist.
- Amends ss. 790.22, 938.17, 948.51, 985.664, 985.668, and 985.676, F.S., to remove and redistribute certain duties from the juvenile justice circuit advisory boards to other entities and to simplify the role of such boards.
- Amends s. 985.115, F.S., to prohibit a person who has taken a child into custody from releasing a child to a juvenile assessment center if the child is suffering from a serious physical condition which requires prompt diagnosis or treatment, is believed to be mentally ill, or appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse.
- Amends s. 985.26, F.S., to authorize the initiation of a transfer to or from secure detention care or supervised release detention care upon a court’s own motion; a motion of the child; or a motion of the state. The bill requires a court to consider any information provided by DJJ regarding a child’s adjustment to detention supervision.
- Amends s. 985.601, F.S., to authorize DJJ to use state or federal funds to purchase and distribute promotional and educational materials for specified purposes.
- Amends ss. 1001.42, 1003.51, and 1003.52, F.S., to make conforming changes to align current education statutes with the controlling provisions of the Florida Scholars Academy adopted in 2023.

The bill does not change currently authorized resources or expenditures, and is not anticipated to have any fiscal impacts.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Juvenile Commitment

Background

The court that has jurisdiction of an adjudicated delinquent child may commit the child to a Department of Juvenile Justice (DJJ) minimum-risk nonresidential, nonsecure residential, high-risk residential, or maximum-risk residential program.¹ Such commitment must be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, monitoring for substance abuse, electronic monitoring, and treatment of the child and release of the child from residential commitment into the community in a postcommitment nonresidential conditional release program.²

Restrictiveness Levels

Minimum-risk nonresidential programs work with youth who remain in and have full access to the community and participate at least five days a week in a day treatment program.³

Nonsecure residential programs are residential but may allow youth to have supervised access to the community. Facilities at this commitment level are either environmentally secure, staff secure, or are hardware-secure with walls, fencing, or locking doors.⁴

High-risk residential programs are residential and do not allow youth to have access to the community, except that temporary release providing community access for up to 72 continuous hours may be approved by a court for a youth who has made successful progress in his or her program in order for the youth to attend a family emergency or, during the final 60 days of his or her placement, to visit his or her home, enroll in school or a career and technical education program, complete a job interview, or participate in a community service project. High-risk residential facilities are hardware-secure with perimeter fencing and locking doors.⁵

Maximum-risk residential programs include juvenile correctional facilities and juvenile prisons. The programs at this commitment level are long-term residential and do not allow youth to have access to the community. Facilities at this commitment level are maximum-custody, hardware-secure with perimeter security fencing and locking doors.⁶

24-hour awake supervision, custody, care, and treatment of residents is provided for all levels of residential commitment.⁷

According to DJJ, in practice some of the restrictiveness level classifications and terms are contradictory, unclear, or are better served through alternative means as follows:

- “Minimum-risk nonresidential” programs present a contradiction as typically a youth who is committed to DJJ is removed from the community and housed in a secure facility; however, the nature of minimum-risk nonresidential programs complicates the line between community probation and traditional commitment. DJJ asserts that the goal of these programs is better accomplished through probation instead of any kind of commitment.
- The term “nonsecure residential” programs is contradictory as it is used to describe programs where youth are *securely* housed with both staff and hardware-secure.

¹ Ss. 985.441(1)(b) and 985.03(44), F.S.

² S. 985.441(1)(b), F.S.

³ S. 985.03(44)(a), F.S.

⁴ S. 985.03(44)(b), F.S.

⁵ S. 985.03(44)(c), F.S.

⁶ S. 985.03(44)(d), F.S.

⁷ S. 985.03(44), F.S.

- The term “maximum-risk residential” is commonly used interchangeably with “juvenile prison” and “juvenile correctional facility” without proper cross-reference, and in practice DJJ and other stakeholders typically refer to all three as “maximum-risk residential.”

Additionally, DJJ provides housing and treatment services for youth based on their “sex,” which is currently undefined in DJJ statutes.⁸

Effect of Proposed Changes – Juvenile Commitment

The bill amends ss. 330.41, 553.865, 943.0515, 985.02, 985.03, 985.039, 985.126, 985.17, 985.27, 985.441, 985.455, 985.465, and 985.601, F.S., as follows:

- Removes “minimum-risk nonresidential” as a restrictiveness level for committed youth and all references to “minimum-risk nonresidential” programs.
- Renames all references to “nonsecure residential” programs to “moderate-risk” programs.
- Removes all references to “juvenile prison” and “juvenile correctional facilities” and replaces them with “maximum-risk residential.”
- Replaces the terms “gender-specific” and “gender” with “sex-specific” and “sex,” respectively, and defines “sex” as it is defined in s. 553.865, F.S.⁹
- Strikes an obsolete reporting date.

Emergency Opioid Antagonist Authorization and Immunity

Background

Section 381.887, F.S., generally governs the prescribing, ordering, and dispensing of emergency opioid antagonists to patients and caregivers and governs who is authorized to store, possess, and administer such antagonists. This section specifically delineates persons who are authorized to possess, store, and administer emergency opioid antagonists as clinically indicated and who are immune from any civil liability or criminal liability as a result of administering such an antagonist to include the following:

- Emergency responders;
- Crime laboratory personnel for the statewide criminal analysis laboratory system; and
- Law enforcement personnel or personnel of another agency, including, but not limited to, correctional probation officers and child protective investigators who, while acting within the scope or course of employment, come into contact with a controlled substance or persons at risk of experiencing an opioid overdose.^{10, 11}

Effect of Proposed Changes – Emergency Opioid Antagonist Authorization and Immunity

The bill amends s. 381.887, F.S., to include any DJJ personnel and any DJJ contracted provider with direct contact with youth in the care of DJJ, as authorized under chs. 984¹² and 985, F.S.,¹³ to the list of persons who are authorized to possess, store, and administer emergency opioid antagonists as clinically indicated and who are immune from any civil liability or criminal liability as a result of administering an emergency opioid antagonist.

Juvenile Justice Circuit Advisory Boards

Background

⁸ Department of Juvenile Justice, Agency Analysis of 2024 House Bill 1425, p. 3 (Jan. 12, 2024).

⁹ Section 553.865(l), F.S., defines “sex” to mean the classification of a person as either female or male based on the organization of the body of such person for a specific reproductive role, as indicated by the person’s sex chromosomes, naturally occurring sex hormones, and internal and external genitalia present at birth. Additionally, s. 553.865(f) and (h), F.S., define “female” to mean a person belonging, at birth, to the biological sex which has the specific reproductive role of producing eggs, and “male” to mean a person belonging, at birth, to the biological sex which has the specific reproductive rule of producing sperm, respectively.

¹⁰ S. 381.887(4), F.S.

¹¹ Section 381.887(7), F.S., does not limit any existing immunities for any emergency responders, crime laboratory personnel, or law enforcement personnel, or personnel of another agency which may be provided in other applicable provisions of law.

¹² Chapter 984 relates to children and families in need of services.

¹³ Chapter 985 relates to juvenile justice and the interstate compact on juveniles.

Section 985.664, F.S., authorizes a juvenile justice circuit advisory board (CAB) to be established in each of the 20 judicial circuits. The purpose of such boards is to provide advice and direction to DJJ in the development and implementation of juvenile justice programs and to work collaboratively with DJJ in seeking program improvements and policy changes to address the emerging and changing needs of Florida's youth who are at risk of delinquency.¹⁴ All CAB memberships must be approved by the Secretary of DJJ, with limited exceptions, and must include:

- The state attorney or his or her designee.
- The public defender or his or her designee.
- The chief judge or his or her designee.
- A representative of the corresponding circuit or regional entity of the Department of Children and Families.
- The sheriff or his or her designee from each county in the circuit.
- A police chief or his or her designee from each county in the circuit.
- A county commissioner or his or her designee from each county in the circuit.
- The superintendent of each school district in the circuit or his or her designee.
- A representative from the workforce organization of each county in the circuit.
- A representative of the business community.
- A youth representative who has had an experience with the juvenile justice system and is not older than 21 years of age.
- A representative of the faith community.
- A health services representative who specializes in mental health care, victim-service programs, or victims of crime.
- A parent or family member of a youth who has been involved with the juvenile justice system.
- Up to five representatives from any of the following who are not otherwise represented:
 - Community leaders.
 - Youth-serving coalitions.¹⁵

The duties of CABs include, but are not limited to:

- Developing a comprehensive plan for the circuit.
- Participating in the facilitation of interagency cooperation and information sharing.
- Providing recommendations for public or private grants to be administered by one of the community partners that support one or more components of the comprehensive circuit plan.
- Providing recommendations to DJJ in the evaluation of prevention and early intervention grant programs.
- Providing an annual report to DJJ describing the board's activities.¹⁶

Except in single-county circuits, each CAB has a county organization representing each of the counties in the circuit that reports directly to the CAB on the juvenile justice needs of county.¹⁷

Effect of Proposed Changes – Juvenile Justice Circuit Advisory Boards

The bill amends ss. 790.22, 938.17, 948.51, 985.664, 985.668, and 985.676, F.S., to remove and redistribute certain duties from the CABs to DJJ and other entities and to simplify the role of such boards, as follows:

- Transfers the responsibility of establishing appropriate community service programs available to the alternative sanctions coordinators of the circuit courts from CABs to DJJ.

¹⁴ S. 985.664(1), F.S.

¹⁵ S. 985.664(4), F.S.

¹⁶ S. 985.664(3), F.S.

¹⁷ S. 985.664(1), F.S.

- Requires a sheriff's office that receives funds to operate a juvenile assessment center to provide an annual written financial report accounting for all funds to DJJ instead of to a CAB.
- Requires the public safety coordinating council of a county to collaborate with DJJ rather than a CAB when developing a comprehensive public safety plan that includes programs and services for juveniles.
- Requires CABs to work with the chief probation officer of the circuit in using data to inform policy and practice that will improve the juvenile justice continuum.
- Removes authorization for county organizations.
- Removes the following duties from CABs:
 - Developing a comprehensive plan.
 - Participating in interagency cooperation and information sharing.
 - Providing recommendations for public and private grants.
 - Providing an annual report of the board's activities.
- Requires membership of the board to be approved by the chief probation officer of the circuit and reduces the number of members on the board by two, by reducing the number of community leader or youth-serving coalition members required from five to three.
- Requires the chief probation officer of the circuit to serve as the chair of the board.
- Removes provisions relating to procedures to fill a vacant chair position, board membership terms, bylaw, quorum, and voting requirements, establishment of an executive committee, and requirements that CABs are subject to the code of ethics for public officers and employees.
- Requires the chief probation officer in each circuit to submit proposals for innovation zones rather than boards.
- Removes requirements for the boards to review applications for community juvenile justice partnership grants.
- Allows for recommendations from community stakeholders to direct which grant proposals should be given priority.
- Removes requirement that grant recipients submit an annual evaluation report to a CAB.

Juvenile Assessment Centers

Background

Section 985.115, F.S., generally governs to where or to whom a child may be released after being taken into custody. Unless otherwise ordered by a court or there is a need to hold a child, the person who has taken a child into custody must attempt to release the child to specified persons or entities contingent upon specific circumstances, including release as follows:

- If a child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, to a law enforcement officer who shall deliver the child to a hospital for necessary evaluation and treatment.
- If the child is believed to be mentally ill,¹⁸ to a law enforcement officer who shall take the child to a designated public receiving facility¹⁹ for involuntary examination.²⁰
- If the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse, to a law enforcement officer who shall deliver the child to a hospital, addictions receiving facility, or treatment resource.
- If available, to a juvenile assessment center²¹ equipped and staffed to assume custody of the child for the purpose of assessing the needs of the child in custody. The center may then release or deliver the child under this section with a copy of the assessment.²²

Effect of Proposed Changes – Juvenile Assessment Centers

¹⁸ For the purposes of s. 985.115, F.S., a person is mentally ill if they meet the criteria in s. 394.463(1), F.S.

¹⁹ Section 394.455, F.S., defines "public facility" to mean a facility that has contracted with the Department of Children and Families to provide mental health services to all persons, regardless of ability to pay, and is receiving state funds for such purpose.

²⁰ S. 394.463, F.S.

²¹ A juvenile assessment center is comprised of community operated facilities and programs which provide collocated central intake and screening services for youth referred to DJJ. S. 985.135(1), F.S.

²² S. 985.115(2)(c)-(f), F.S.

The bill amends s. 985.115, F.S., to prohibit a person who has taken a child into custody from releasing a child to a juvenile assessment center, or such centers from receiving a child, if the child is suffering from a serious physical condition which requires prompt diagnosis or treatment, is believed to be mentally ill, or appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse. This change clarifies existing law and may prevent practical complications when a law enforcement officer attempts to release a medically vulnerable youth to an assessment center that is not equipped to handle the needs of the youth in his or her current state.

Transfer Between Secure Detention Care and Supervised Release Detention Care

Background

Section 985.26, F.S., controls the time period for which a court can order a child to be placed in detention care. A court may order a child to be placed on supervised release detention care²³ or secure detention care.²⁴ Generally, a court may order a child to be placed on supervised release detention care for up to 60 days before a hearing must be conducted to determine the need for continued supervised release detention care.²⁵ However, the court may only order a child to be held in secure detention care for 21 days unless an adjudicatory hearing for the case has been commenced in good faith by the court or unless the court finds good cause to extend the child's length of detention.²⁶

Additionally, the court may transition a child to and from secure detention care and supervised release detention care, including electronic monitoring, if the court finds such a transfer in placement is necessary, certain detention care is no longer necessary, to preserve public safety, or to ensure the child's safety, appearance in court, or compliance with a court order. Each period of secure or supervised release detention care counts toward the time limitations whether served consecutively or nonconsecutively.²⁷

Effect of Proposed Changes – Transfer Between Secure Detention Care and Supervised Release Detention Care

The bill amends s. 985.26, F.S., to authorize the initiation of a transfer to or from secure detention care or supervised release detention care upon:

- A court's own motion;
- A motion of the child; or
- A motion of the state.

The bill requires a court to consider any information provided by DJJ regarding a child's adjustment to detention supervision.

Authorized Use of State or Federal Funds

Background

Section 985.601, F.S., generally provides guidance on administering the services and programs within the juvenile justice continuum. The juvenile justice continuum includes all: children-in-need-of-services programs; families-in-need-of-services programs; other prevention, early intervention, and diversion

²³ Section 985.03(18)(b), F.S., defines "supervised release detention care" to mean temporary, noncustody care of a child while the child is released to the custody of a parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of DJJ staff pending adjudication or disposition.

²⁴ Section 985.03(18)(a), F.S., defines "secure detention care" to mean temporary custody of a child while the child is under the physical restriction of a secure detention center or facility pending adjudication, disposition, or placement.

²⁵ S. 985.26(2)(a)1., F.S.

²⁶ S. 985.26(2)(a)2., F.S.

²⁷ S. 985.26(2)(a)3., F.S.

programs; detention centers and related programs and facilities; community-based residential commitment and nonresidential programs; and delinquency institutions provided or funded by DJJ.²⁸

Effect of Proposed Changes – Authorized Use of State or Federal Funds

The bill amends s. 985.601, F.S., to authorize DJJ to use state or federal funds to purchase and distribute promotional and educational materials for the following purposes:

- Educating youth and families about the juvenile justice continuum, including education on local prevention programs or community services available for participation or enrollment.
- Educating youth and families on youth-specific public safety issues, including, but not limited to, safe storage of adult-owned firearms, consequences of youth firearm offenses, human trafficking, and drug and alcohol abuse.
- Staff recruitment at job fairs, career fairs, community events, and technical education program, community college, or state college campuses.

DJJ Education

Background

The Department of Education (DOE) serves as the lead agency providing coordination and oversight of juvenile justice education programs,²⁹ curriculum, support services, and resources. 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 educational programs by the local school district in which the DJJ facility is located or by a provider through a contract with the local school district.³⁰ The district school board makes provisions for each student to participate in basic, career and professional education (CAPE), and exceptional student programs, as appropriate. Each student must have access to the appropriate courses and instruction to prepare them for the high school equivalency examination. School districts are required to provide the high school equivalency examination exit option for all juvenile justice education programs.³¹

Section 985.619, F.S., was created in 2023 to require DJJ to establish the Florida Scholars Academy (Academy) to deliver educational opportunities to students served in residential commitment programs. DJJ is required to contract with an education service provider with a proven track record of success to operate, provide, or supplement full-time instruction and instructional support services for educational pathways including a K-12 education, high school equivalency diploma, career and technical education credential pursuant to s. 1003.4282(10), F.S.,³² and enrollment in a degree program at a state college or university, with an emphasis on attaining an industry-recognized credential of value from the Master Credentials List under s. 445.004(4)(h), F.S.³³ The contracted education service provider is responsible for the administration of all educational services to students enrolled in the Academy.

Educational services through the Academy will begin July 1, 2024 and the amendment of certain current education statutes is necessary to conform current education policy with the controlling provisions related to the Academy ahead of the 2024 school year.³⁴

Effect of Proposed Changes – DJJ Education

²⁸ S. 20.316(1)(a)–(b), F.S.

²⁹ Juvenile justice education programs or schools operate for the purpose of providing educational services to youth in DJJ programs for a school year comprised of 250 days of instruction distributed over 12 months. S. 1003.01(14)(a), F.S.

³⁰ Juvenile justice education programs are subject to the rules of the State Board of Education. S. 1003.52(2), F.S.

³¹ S. 1003.52(3)(a)–(c), F.S.

³² A student is eligible to complete an alternative pathway to earning a standard high school diploma through the Career and Technical Education (CTE) pathway option. The CTE pathway option requires the student to complete at least 18 credits with a cumulative grade point average of 2.0 and meet other coursework requirements. S. 1003.4282(10), F.S.

³³ Credentials included are: registered apprenticeship programs, industry certifications, licenses, advanced technical certificates, college credit certificates, career certificates, applied technology diplomas, associate degrees, baccalaureate degrees, and graduate degrees. S. 445.004(4)(h), F.S.

³⁴ DJJ, *supra* at note 8.

The bill amends ss. 1001.42, 1003.51, and 1003.52, F.S., to make conforming changes to align current education statutes with the controlling provisions of the Academy adopted in 2023. The conforming changes are as follows:

- Removes references to education being provided by local school districts for students in DJJ residential programs.
- Removes a requirement that academic assessments be completed within the first 10 school days after a student enters a program.
- Requires virtual education be provided by an entity accredited by an accrediting body approved by DOE.
- Removes the DJJ educational accountability system as detention, prevention, and day treatment programs will follow the same accountability process as alternative schools and residential program educational accountability will be provided through the Academy's accountability measures.³⁵
- Replaces certain references to CAPE with "career and technical education."

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 330.41, F.S., relating to Unmanned Aircraft Systems Act.

Section 2: Amends s. 381.887, F.S., relating to emergency treatment for suspected opioid overdose.

Section 3: Amends s. 553.865, F.S., relating to private spaces.

Section 4: Amends s. 790.22, F.S., relating to use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.

Section 5: Amends s. 938.17, F.S., relating to county delinquency prevention; juvenile assessment centers and school board suspension programs.

Section 6: Amends 943.0515, F.S., relating to retention of criminal history records of minors.

Section 7: Amends s. 948.51, F.S., relating to community corrections assistance to counties or county consortiums.

Section 8: Amends s. 985.02, F.S., relating to legislative intent for the juvenile justice system.

Section 9: Amends s. 985.03, F.S., relating to definitions.

Section 10: Amends s. 985.039, F.S., relating to cost of supervision; cost of care.

Section 11: Amends s. 985.115, F.S., relating to release or delivery from custody.

Section 12: Amends s. 985.126, F.S., relating to diversion programs; data collection; denial of participation or expunged record.

Section 13: Amends s. 985.17, F.S., relating to prevention services.

Section 14: Amends s. 985.26, F.S., relating to length of detention.

Section 15: Amends s. 985.27, F.S., relating to postdisposition detention while awaiting residential commitment placement.

Section 16: Amends s. 985.441, F.S., relating to commitment.

Section 17: Amends s. 985.455, F.S., relating to other dispositional issues.

Section 18: Amends s. 985.465, F.S., relating to juvenile correctional facilities or juvenile prison.

Section 19: Amends s. 985.601, F.S., relating to administering the juvenile justice continuum.

Section 20: Amends s. 985.664, F.S., relating to juvenile justice circuit advisory boards.

Section 21: Amends s. 985.668, F.S., relating to innovation zones.

Section 22: Amends s. 985.676, F.S., relating to community juvenile justice partnership grants.

Section 23: Amends s. 1003.51, F.S., relating to other public educational services.

Section 24: Amends s. 1003.52, F.S., relating to educational services in Department of Juvenile Justice programs.

Section 25: Amends s. 1001.42, F.S., relating to powers and duties of district school board.

Section 26: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

³⁵ *Id.*

1. Revenues:
None.

2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.

2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill does not make changes to currently authorized resources or expenditures. It authorizes DJJ to use available state or federal funds for specified educational materials, but does not appropriate any additional funding. DJJ reports that the bill is not anticipated to have a fiscal impact.³⁶

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:
None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

³⁶ DJJ, *supra* at note 8.
STORAGE NAME: h1425b.JUA
DATE: 2/2/2024