

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB CRJ 17-02 Juvenile Justice  
**SPONSOR(S):** Criminal Justice Subcommittee  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1670

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Criminal Justice Subcommittee		White	White

### SUMMARY ANALYSIS

Statistics from the Department of Juvenile Justice (DJJ), based on Fiscal Years (FYs) 2007-14, indicate that on average for children arrested or referred to DJJ in any given fiscal year:

- Fifty-five percent have been previously referred to DJJ for a felony.
- Almost 29 percent have been previously referred to DJJ for a felony against a person or a firearm/weapon charge.
- Fifteen percent have been previously referred to DJJ at least four times.

Law enforcement officials have recently expressed concerns regarding such repeat juvenile offenders because these juveniles are committing new offenses while awaiting:

- Disposition for a delinquency case. Under current law, a child who is charged with a delinquent act is not necessarily required to be placed in detention care pending disposition even if the child has numerous prior arrests or adjudications or other pending delinquency cases.
- Placement in a nonsecure residential commitment program. Under current law, only juveniles who are committed to a high- or maximum-risk residential program must be held in secure detention until placement in the program.

Additionally, concerns have been expressed regarding statute's 21-day maximum for pre-adjudicatory detention and 15-day maximum for pre-disposition detention care. Under current law, these periods are not tolled when it is alleged that a juvenile has violated nonsecure detention care (commonly referred to as "home detention"); thus, if a court does not find a violation before expiration of the period, the court cannot continue the juvenile's detention care as a result of the violation.

To address these issues, the bill:

- Establishes new criteria to identify a narrow class of repeat juvenile offenders at risk of further recidivism who must be placed in secure detention care until disposition of their delinquency cases. Under the bill, these juveniles, who are classified as "Prolific Juvenile Offenders" (PJOs), must:
  - Have their adjudicatory hearing held within 45 days after the filing of a petition of delinquency. Be held in secure detention care until their dispositions have been entered.
- Requires a juvenile who is awaiting placement in a nonsecure residential commitment program to be securely detained until placement in the program.
- Provides that nonsecure detention care periods are tolled on the date that it is alleged that a juvenile has violated the detention care. Moreover, the bill specifies that the court retains jurisdiction over the child during the tolling period for a violation of nonsecure detention care occurring within the tolling period. Finally, the bill specifies that days served by the child in any type of detention care before a violation are not counted toward the 21-day and 15-day maximum detention care periods, so that the child's detention care may be continued by the court after a violation.

The bill will have a fiscal impact on DJJ and local governments. Please see "FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT," *infra*.

The bill provides an effective date of October 1, 2017.

### FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb02.CRJ

DATE: 3/6/2017

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

Juvenile recidivism is an issue of serious concern statewide. Statistics from the Department of Juvenile Justice (DJJ), based on FYs 2007-14, indicate that on average for children arrested or referred to DJJ in any given fiscal year:

- Fifty-five percent have been previously referred to DJJ for a felony.
- Almost 29 percent have been previously referred to DJJ for a felony against a person or a firearm/weapon charge.
- Fifteen percent have been previously referred to DJJ at least four times.<sup>1</sup>

A news story reported last year by the Tampa Bay Times highlights the tragic consequences that can occur when juveniles are not prevented from reoffending. In the case reported, two 15-year-old girls and one 16-year-old girl were killed while fleeing officers in a stolen vehicle. Collectively, the three girls had been arrested for motor vehicle theft seven times during the previous year.<sup>2</sup>

Motor vehicle theft is one area in which crime by juvenile offenders has been rapidly increasing statewide. According to Florida Department of Law Enforcement (FDLE) statistics for the first half of 2016, there were 1,484 arrests of juveniles throughout the state for motor vehicle theft, which represented a 38.2 percent increase over such juvenile arrests for motor vehicle theft during the same period in the previous year.<sup>3</sup>

This increase seems to have particularly affected the Tampa area where law enforcement officials have called juvenile motor vehicle theft an “epidemic,” estimating that in some areas more than half of stolen cars are taken by those younger than 18 years of age.<sup>4</sup> In 2015, St. Petersburg police officers made 461 arrests for auto thefts and of that number, 316 or 68 percent were juveniles. During the same period, Tampa police officers arrested 133 people for auto theft and of that number, 62 or 46 percent were juveniles.<sup>5</sup> Of particular concern to law enforcement in this region is the fact that officers are reporting multiple encounters with the same juvenile offender because such offenders are often released under current law from custody within 24 hours after arrest, giving them the opportunity to reoffend even before the resolution of the original charge.<sup>6, 7</sup>

To address this issue, law enforcement officers and crime analysts from nine different agencies in the Tampa region formed a program in June 2016, entitled “Habitual Offender Monitoring Enforcement,” to provide intensive surveillance and monitoring of a list of approximately 175 chronic juvenile reoffenders in the region. These juveniles have at least five felony arrests and are on court-ordered home detention

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<sup>1</sup> FLORIDA DEPARTMENT OF JUVENILE JUSTICE, *Briefing Report – Analysis of Serious, Violent, & Chronic Delinquency in Florida – UPDATED- January 2015*, [http://www.djj.state.fl.us/docs/research2/briefing\\_report-serious\\_violent\\_and\\_chronic\\_offenders-\(mg-final\).pdf?sfvrsn=2](http://www.djj.state.fl.us/docs/research2/briefing_report-serious_violent_and_chronic_offenders-(mg-final).pdf?sfvrsn=2), (last viewed March 5, 2017).

<sup>2</sup> Kristen Mitchell, *Death of Three Teens Spotlights an Increase in Car Thefts by Juveniles*, April 1, 2016, TAMPA BAY TIMES, available at <http://www.tbo.com/news/crime/death-of-three-teens-spotlights-increase-in-car-thefts-by-juveniles-20160401/> (last viewed March 2, 2017)(reporting on the deaths of three juveniles who died in March 2016, while fleeing officers in a stolen car and who collectively had seven prior arrests for motor vehicle theft in the past year).

<sup>3</sup> FLORIDA DEPARTMENT OF LAW ENFORCEMENT, *Uniform Crime Report, Arrest Total Comparative Date, State of Florida, January-June 2016*, [www.fdle.state.fl.us/cms/FSAC/UCR/2016/2016SA\\_Arrest\\_Comparative.aspx](http://www.fdle.state.fl.us/cms/FSAC/UCR/2016/2016SA_Arrest_Comparative.aspx) (last viewed March 4, 2017).

<sup>4</sup> Dan Sullivan, *Juveniles are the driving force behind stolen vehicles in Tampa Bay*, TAMPA BAY TIMES (April 9, 2016), <http://www.tampabay.com/news/publicsafety/crime/juveniles-are-the-driving-force-behind-stolen-vehicles-in-tampa-bay/2272616> (last viewed March 6, 2017).

<sup>5</sup> *Id.*

<sup>6</sup> Zachary T. Sampson, *St. Petersburg police warn of ‘alarming spike’ in car thefts and burglaries*, TAMPA BAY TIMES (January 30, 2015), <http://www.tampabay.com/news/publicsafety/st-petersburg-police-warn-of-alarming-spike-in-car-thefts-and-burglaries/2215782>.

<sup>7</sup> See also Eric Glasser, *Boy, 12, Arrested 20 Times. Now What?,”* WTSP, Dec. 15, 2015, available at <http://www.delawareonline.com/story/news/crime/2015/12/15/st-petersburg-12-arrested-felon-youth-services-frustrated-programs/77381076/> (last viewed March 2, 2017)(reporting on an 12-year-old auto theft suspect who had been arrested 20 times previously with 12 of the arrests for felony offenses).

with electronic monitoring. In some cases, the juveniles have committed more than 20 offenses.<sup>8</sup> Additionally, officials for Pinellas, Pasco, and Hillsborough formed a committee in August 2016, consisting of sheriffs, chiefs, state attorneys, judges, DJJ staff, and others, to review the issue of juvenile recidivists. The committee concluded that statutory changes were needed to ensure that a narrow class of juvenile offenders with a history of multiple prior offenses are securely detained when arrested for new offenses so that the juveniles do not have the opportunity to reoffend.<sup>9</sup>

### **Eligibility for Pre-Adjudicatory Juvenile Detention**

Florida law provides special procedural rules relating to the detention of a child alleged to have committed a delinquent act or violation of law. A child who is taken into custody and placed into secure<sup>10</sup> or nonsecure<sup>11</sup> detention must appear before a court within 24 hours of his or her arrest for a detention hearing.<sup>12</sup>

Whether the child is subject to detention care pending the detention hearing is determined by the DJJ through the use of a risk assessment instrument (RAI), except in two circumstances.<sup>13</sup> Statute requires secure detention until the child's detention hearing if the child:

- Is charged with possessing or discharging a firearm on school property.<sup>14</sup>
- Has been taken into custody on three or more separate occasions within a 60-day period.<sup>15</sup>

The purpose of a detention hearing is for the judge to determine the existence of probable cause that the child has committed the delinquent act or violation of law that he or she has been charged with and to determine the need for continued detention.<sup>16</sup>

Generally, the court determines the placement of a child utilizing the results of the RAI. The RAI contains information regarding a child's history of: prior offenses, including, but not limited to, unlawful firearm possession, theft of a motor vehicle, or possession of a stolen vehicle; prior failures to appear; offenses committed pending adjudication; the probation status of the child at the time they are taken into custody; and other appropriate aggravating or mitigating circumstances.<sup>17</sup> Completion of the RAI by the DJJ results in points that determine whether and what type of detention care should be imposed:

- Zero to six points indicate that the child should be released.
- Seven to 11 points indicate that the child should be placed on nonsecure detention.
- Twelve or more points indicate that the child should be placed in secure detention.<sup>18</sup>

In most cases, the court must use the RAI results to determine whether to release the child or place him or her in nonsecure or secure detention; however, in the following circumstances use of the RAI is not required:

- If the child is charged with committing an offense of domestic violence<sup>19</sup> and the judge makes written findings that alternative temporary care for the child is not available or that secure

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<sup>8</sup> Mary McGuire, *New Pinellas County program aims to curb juvenile repeat offenders*, June 14, 2016, News Channel 8 on Your Side, <http://wfla.com/2016/06/14/new-pinellas-county-program-aims-to-curb-juvenile-repeat-offenders/> (last visited March 4, 2017); Evan Axlebank, *Program targets report-offender teens*, Fox 13 (June 14, 2016) <http://www.fox13news.com/news/local-news/159484648-story> (last visited March 5, 2017).

<sup>9</sup> Pinellas County Sheriff's Office, *Prolific Juvenile Offender Recommendation PowerPoint*, October 4, 2016 (on file with House of Representatives, Criminal Justice Subcommittee).

<sup>10</sup> Section 985.03, F.S., defines "secure detention" to mean "temporary care of a child while the child is under the physical restriction of a secure detention center or facility pending adjudication, disposition, or placement."

<sup>11</sup> Section 985.03, F.S., defines "nonsecure detention" to mean "temporary, nonsecure custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the department staff pending adjudication, disposition, or placement. Forms of nonsecure detention include, but are not limited to, home detention, electronic monitoring, day reporting centers, evening reporting centers, and nonsecure shelters. Nonsecure detention may include other requirements imposed by the court."

<sup>12</sup> s. 985.255(1), F.S.

<sup>13</sup> s. 985.25(1)(a), F.S.

<sup>14</sup> s. 985.25(1)(b), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> s. 985.255(3)(a), F.S.

<sup>17</sup> *See* s. 985.245(1)(b), F.S.

<sup>18</sup> Rule 63D-8, F.A.C. (DJJ Detention Risk Assessment Instrument).

detention is necessary to protect the victim from injury, the court may place the child in secure detention for up to 72 hours in advance of the next scheduled court hearing, notwithstanding the RAI.<sup>20</sup>

- If the child is charged with possession of a firearm on school property, discharge of a firearm on school property, or illegal possession of a firearm, the court may order the child to secure detention, notwithstanding the RAI.<sup>21</sup>

Additionally, the court may order a child to a placement more restrictive than indicated by the RAI if the court states, in writing, clear and convincing reasons for such placement.<sup>22</sup>

#### *Effect of the Bill on Eligibility for Pre-Adjudicatory Juvenile Detention*

The bill amends s. 985.255, F.S., relating to the criteria to be considered by the court at a detention hearing, to add new criteria under which a child is classified as a “Prolific Juvenile Offender” (“PJO”), who must be securely detained. A child is a PJO if he or she:

- 1) Is charged with a delinquent act that would be a felony if committed by an adult;
- 2) Has been adjudicated or had adjudication withheld for a felony offense, or a delinquent act that would be a felony if committed by an adult, before the current charge(s); and
- 3) In addition to 1) and 2) above, has five or more of the following: an arrest event for which a disposition has not yet been entered; an adjudication; or a withhold of adjudication. Three of the five items must have been for felony offenses or delinquent acts that would have been felonies if committed by adults.

The bill defines the term “arrest event” to mean an arrest or referral for one or more criminal offenses or delinquent acts arising out of the same episode, act, or transaction. The bill specifies in ss. 985.245(1) and 985.255(3)(a), F.S., that the RAI is not applicable to a PJO.

With respect to the new classification of PJO, the bill also amends:

- Section 985.24(1)(f), F.S., which sets forth the findings that support detention care for a child, to include a finding that the child is at risk for recidivism.
- Section 985.25(1), F.S., relating to juvenile detention intake, to require the placement of a child who meets the PJO criteria into secure detention until his or her detention hearing.

#### **Limitations on Pre-Adjudicatory/Pre-disposition Juvenile Detention**

Once a detention hearing has been held and the state has filed a petition alleging a child committed a delinquent act or a violation of law, an adjudicatory hearing must be held as soon as practicable.<sup>23</sup> A child who is held in secure or nonsecure detention before his or her adjudicatory hearing may not be held in such detention for more than 21 days,<sup>24</sup> except that the state or defense, in order to prepare its case, may seek up to a nine-day extension of detention care for a child charged with certain serious offenses.<sup>25</sup>

At the adjudicatory hearing, the judge must determine whether the state’s evidence establishes beyond a reasonable doubt that the child committed the delinquent act alleged. The court may enter an order dismissing the case<sup>26</sup> or may enter an order stating the facts upon which it finds the child committed the delinquent act and either withhold adjudication<sup>27</sup> or enter an adjudication of delinquency.<sup>28</sup>

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<sup>19</sup> “Domestic violence” is defined to mean “any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offenses resulting in physical injury or death or one family or household member by another family or household member.” s. 741.28(2), F.S.

<sup>20</sup> s. 985.255(1)(d), (2), and (3), F.S.

<sup>21</sup> s. 985.255(1)(e) and (3), F.S.

<sup>22</sup> s. 985.255(3)(b), F.S.

<sup>23</sup> s. 985.35(1), F.S.

<sup>24</sup> s. 985.26(2), F.S.

<sup>25</sup> These offenses include any offense, which if committed by an adult, would be a capital felony, a life felony, a felony of the first degree, or a felony of the second degree involving violence against any individual. *Id.*

<sup>26</sup> s. 985.35(3), F.S.

<sup>27</sup> s. 985.35(4), F.S.

<sup>28</sup> s. 985.35(5), F.S.

If the child is found to have committed a delinquent act at the adjudicatory hearing, the disposition of the case is typically entered at the same hearing; however, if the disposition is continued to a later date, statute provides that a child may not be held in secure or nonsecure detention care for more than 15 days following the entry of an order of adjudication.<sup>29</sup> This 15-day period does not include periods of delay that result from continuances granted by the court for cause.<sup>30</sup>

Statute does not require tolling of the 21-day and 15-day maximum detention periods when a child is alleged to have violated nonsecure detention care. As a result, if a child violates his or her nonsecure detention care, days spent by the child in nonsecure detention care after the violation continue to count toward the detention care time limits until the court determines whether the child committed a violation of detention care. For example, if a child violates pre-adjudicatory nonsecure detention care on day nine, but the court does not determine that the child committed the violation until day 15, the court will only be able to continue the child's detention for six more days until the 21-day maximum is reached.

According to data from the DJJ, the statewide average number of days between arrest or referral of a child and the disposition hearing is 115 days for felony charges and 111 days for misdemeanor offenses.<sup>31</sup> For children who meet the PJO criteria, the average number of days between arrest or referral and the disposition hearing is 71.8 days.<sup>32</sup>

#### *Effect of the Bill on Limitations on Pre-Adjudicatory/Pre-Disposition Juvenile Detention*

The bill amends s. 985.26(2), F.S., relating to the detention time limitations, to create an exception for PJOs from the 21-day and 15-day maximums normally applicable to pre-adjudicatory and pre-disposition detention periods, respectively. Under the bill, a PJO must be held in secure detention until the disposition of his or her case. The term "disposition" is defined to mean one of the following: the state declines to file charges;<sup>33</sup> the state enters a nolle prosequi for the charges; an indictment<sup>34</sup> or information<sup>35</sup> is filed; the case is dismissed; or there is a final order of disposition by the court.

The bill also amends s. 985.35, F.S., relating to adjudicatory hearings, to require that a PJO's adjudicatory hearing be held within 45 days after the petition alleging that a child has committed a delinquent act or violation is filed, unless a delay is requested by the child.

Additionally, the bill creates s. 985.26(4)(b), F.S., to establish a tolling period for juveniles placed on nonsecure detention care who are alleged to have violated a condition of the nonsecure detention care. Under the bill, a juvenile's period of nonsecure detention care is tolled on the date that the DJJ or a law enforcement officer alleges a violation of the nonsecure detention care. The period remains tolled until the court enters a ruling on the violation. Additionally, during the tolled period of nonsecure detention care, the court will continue to retain jurisdiction over the child should the child commit an additional violation of the nonsecure detention care. Ultimately, if the court finds that the child violated a condition of his or her nonsecure detention care, the number of days the child served in *any type* of detention care before commission of the violation will be excluded from the normally applicable maximum detention periods of 21-days prior to the adjudicatory hearing and 15-days prior to disposition; thus, allowing the court to continue such child's detention care for another 21-days or 15-days, as applicable.

### **Post-disposition Juvenile Detention**

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<sup>29</sup> s. 985.26(3), F.S.

<sup>30</sup> If such a continuance is granted the court must conduct a hearing at the end of each 72-hour period, to determine the need for continued detention of the child and the need for further continuance of the proceedings. *See* s. 985.26(4), F.S.

<sup>31</sup> E-mail from Meredith Stanfield, Director of Legislative Affairs, DJJ, January 12, 2017 (on file with House of Representatives, Criminal Justice Subcommittee).

<sup>32</sup> E-mail from Meredith Stanfield, Director of Legislative Affairs, DJJ, February 20, 2017 (on file with House of Representatives, Criminal Justice Subcommittee).

<sup>33</sup> Pursuant to s. 985.15(1)(h), F.S.

<sup>34</sup> Pursuant to s. 985.56, F.S., this may occur if the child is charged with a violation of law punishable by death or by life imprisonment.

<sup>35</sup> Pursuant to s. 985.557, F.S., the state attorney may direct file, or in certain cases must direct file, an information for juvenile offenders of a certain age charged with committing certain serious offenses if the state intends to seek adult sanctions.

After the court finds that a child has committed a delinquent act, the court must conduct a disposition hearing in which it determines the appropriate sanction for the child.<sup>36</sup> If the court places a child in a commitment program, the court must also place the child in detention care. If the program is a:

- Nonsecure residential program, the court must place the juvenile in secure or nonsecure detention for up to five days. The DJJ may seek an extension of the five-day period from the court to hold the juvenile in detention care until the commitment placement is made, except that secure detention may not exceed 15 days. If a juvenile violates nonsecure detention, he or she may be placed in secure detention for five days for the first and each subsequent violation.<sup>37</sup>
- High- or maximum-risk residential program, the juvenile must be held in secure detention until the placement is made.<sup>38</sup>

#### *Effect of the Bill on Post-disposition Detention*

The bill amends s. 985.27, F.S., to require secure detention for juveniles awaiting placement in any commitment program, rather than only juveniles awaiting placement in high- or maximum-risk commitment programs.

#### **Other Effects of the Bill**

For the purpose of incorporating amendments made by the bill, multiple sections of law are reenacted as described in the “Section Directory” below. The bill also makes technical changes to consistently use the term “detention care” throughout ch. 985, F.S.

The bill provides an effective date of October 1, 2017.

#### **B. SECTION DIRECTORY:**

Section 1: Amending s. 985.24, F.S.; revising requirements for placement of a child in detention care; revising terminology.

Section 2: Amending s. 985.245, F.S.; providing that a child who is a prolific juvenile offender does not require a risk assessment to be placed in detention care.

Section 3: Amending s. 985.25, F.S.; revising terminology; providing that a child meeting specified criteria shall be placed in secure detention care until the child’s detention hearing.

Section 4: Amending s. 985.255, F.S.; revising terminology; providing criteria for a child to be a prolific juvenile offender; defining term “arrest event”.

Section 5: Amending s. 985.26, F.S.; revising terminology; requiring the court to place a prolific juvenile offender in secure detention care under a special detention order until disposition; defining the term “disposition”; revising terminology; providing for the tolling of the period of detention care for an alleged violation of detention care; providing for the retention of jurisdiction by the court over a child during the tolling period; revising the calculation of detention days served if the child violates detention care.

Section 6: Amending s. 985.26, F.S.; revising terminology.

Section 7: Amending s. 985.27, F.S.; requiring secure detention for all children awaiting placement in a commitment program until the placement or commitment is accomplished.

Section 8: Amending s. 985.35, F.S.; requiring the adjudicatory hearing for a child who is a prolific juvenile offender to held within a specified period unless the child requests a delay.

Section 9: Amending s. 985.514, F.S.; revising terminology.

Section 10: Reenacting s. 790.228(8), F.S.; relating to secure detention for minors charged with an offense involving firearms, to incorporate the amendments made by the act to ss. 985.24, 985.25, 985.255, and 985.26, F.S., in reference thereto.

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<sup>36</sup> s. 985.433, F.S.

<sup>37</sup> s. 985.27(1)(a), F.S.

<sup>38</sup> s. 985.27(1), F.S.

Section 11: Reenacting s. 985.115(2), F.S., relating to release or delivery from custody, to incorporate the amendments made by the act to ss. 985.255 and 985.26, F.S., in reference thereto.

Section 12: Reenacting s. 985.13(2), F.S., relating to probable cause affidavits, to incorporate the amendments made by the act to ss. 985.255 and 985.26, F.S., in reference thereto.

Section 13: Reenacting s. 985.245(2)(b), F.S., relating to risk assessment instruments, to incorporate the amendment made by this act to section 985.255, F.S., in reference thereto.

Section 14: Reenacting s. 985.255(2), F.S., relating to detention criteria and hearings, to incorporate the amendment made by this act to section 985.26, F.S., in a reference thereto.

Section 15: Reenacting s. 985.275(1), F.S., relating to detention of an escapee or absconder, to incorporate the amendment made by this act to s. 985.255, F.S.

Section 16: Reenacting s. 985.319(6), F.S. relating to process and service, to incorporate the amendment made by this act to s. 985.255, F.S.

Section 17: Reenacting s. 985.35(1), F.S., relating to adjudicatory hearings, to incorporate the amendment made by this act to s. 985.26, F.S.

Section 18: Providing an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: Counties that are not fiscally constrained must pay for approximately 50 percent of the costs of secure detention for juveniles residing in those counties.<sup>39</sup> The counties deposit the funds into the DJJ's Shared County/State Juvenile Detention Trust Fund and DJJ uses the funds to cover the cost of secure detention. To the extent that the bill results in additional juveniles placed in secure detention, and for longer periods of time, revenues deposited into the Shared County/State Juvenile Detention Trust Fund will increase. Any increase in revenues will be offset by expenditures.

2. Expenditures:

#### **Pre-adjudicatory detention and Prolific Juvenile Offenders**

The bill requires PJOs to be detained until disposition. The DJJ identified 371 juveniles matching the definition of a PJO in FY 2015-16, and has indicated that the average time between the referral or arrest and disposition for these juveniles was 71 days. The bill will limit the time between the filing of a petition for delinquency and the adjudicatory hearing to 45 days. The bill is silent on the additional time it takes to file the delinquency petition, as well as the time it takes between an adjudicatory hearing and the disposition hearing. While a majority of delinquency cases are a result of plea arrangements, and adjudication and disposition often occur on the same day, such circumstances are not always the case. Therefore, this fiscal analysis assumes an additional 10 days beyond the 45-day limit to account for the time to file the petition, time between adjudication and disposition hearings, and delays requested by the defense, which is a factor contemplated in the bill.

If the additional 371 juveniles remain in secure detention for the entire period of time between the initial referral or arrest and the disposition hearing (55 days), there will be an additional 20,405 service days in secure detention. In FY 2015-16, statewide secure detention utilization was 73 percent, giving DJJ flexibility for an increase in the number of juveniles in secure detention. The inclusion of PJOs would increase the department's utilization rate to 78 percent. As the DJJ should be staffed to cover an uptick in utilization, this analysis will use the department's variable cost rate of \$40.58 for the additional days. The additional 20,405 service days will cost the department \$828,035, which covers the cost of food, clothing, medical services, and basic mental health services.

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<sup>39</sup> s. 985.6865, F.S.

### **Post-disposition detention awaiting placement**

The bill requires juveniles who are committed to a nonsecure residential program to be placed in secure detention until the placement is accomplished, which will increase the number of juveniles housed in secure detention. In FY 2015-16, there were 2,437 juveniles committed to a nonsecure residential program. The average time between the disposition hearing and the placement of a juvenile in a nonsecure residential program was 34 days; thus creating an additional 82,858 detention service days.

This analysis uses two methodologies to calculate the fiscal impact of the bill's post-disposition secure detention provision. When factoring in the additional 20,405 days of pre-adjudicatory detention for PJOs, an additional 82,858 detention days will increase the department's utilization rate to 95 percent. Similar to the analysis for the PJOs, using the variable costs for juveniles in secure detention, the fiscal impact of holding juveniles awaiting placement would be \$3,362,378. However, given DJJ's current challenges in secure detention, using only variable costs may understate the impact.

During FY 2015-16, DJJ paid \$6,842,317 for overtime for detention officers, which is approximately 10 percent of the DJJ's salaries and benefits appropriation. The turnover rate for Juvenile Justice Detention Officer I (JJDO I) positions is approximately 43 percent, which creates the need for overtime. In addition to such turnover, the DJJ experienced significant turnover in JJDO II positions and Juvenile Justice Officer – Supervisor positions, 27 and 22 percent respectively. As of February 1, 2017, DJJ had approximately 17 percent of these positions vacant and over 75 percent of the JJDO I officers have less than one year of experience. In many instances, DJJ currently has difficulty staffing juvenile detention centers while at 73 percent capacity, as is evidenced by the \$6.8 million in overtime costs. In addition to DJJ's staffing challenges, the bill may cause overcrowding at individual centers, forcing DJJ to move juveniles to other centers to alleviate the overcrowding. The variable cost methodology does not account for the additional transportation costs.

To account for the need for additional staffing, additional overtime costs, and transportation costs, the second methodology to calculate the fiscal impact will split the days between the variable costs and the full per diem of secure detention.

For this methodology, the analysis uses the number of service days over 93 percent capacity and multiplies those days by the full per diem of juvenile detention. The number of service days at 93 percent capacity is 441,964. The total number of service days anticipated by this bill is 451,969. The number of days over the 93 percent capacity threshold is 10,005. The full per diem for juvenile detention is \$268.19 and the variable cost is \$40.58. The total cost for the post-disposition secure detention is \$5,639,638 using this methodology.

### **Summary**

The total for the pre-adjudicatory and post-disposition detention components of this bill are \$4,190,413 when using only variable costs and \$6,467,673 when using per diem costs and variable costs. This cost will be split between the State and counties that are not fiscally constrained. After splitting the cost, the fiscal impact on DJJ is expected to range from \$2,095,207 to \$3,233,836.

Fiscal impact data regarding the bill's tolling provisions is not yet available.

## **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues: The bill does not impact local government's ability to raise revenues.
2. Expenditures: Counties that are not fiscally constrained are required to share in the responsibility of the cost of secure detention pursuant to s. 985.6865, F.S. For FY 2016-17, these counties are collectively responsible for paying \$42.5 million toward the cost of operating the juvenile detention system. Beginning in FY 2017-18, counties that are not fiscally constrained will be responsible for 50 percent of the total shared detention costs, which is payable to the department by the first of each month. The impact of the bill will result in additional juveniles being placed in secure detention

and counties that are not fiscally constrained will pay for the additional juveniles. Depending upon the scenario, the non-fiscally constrained counties will be expected to contribute either \$2,095,206 or \$3,233,837 to the cost of housing juveniles in secure detention.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: The fiscal analysis treats the secure detention system as a whole because it is difficult to accurately predict the effect on individual detention centers. Detention centers and their utilization rates vary widely across the state. The bill is likely to cause some centers to reach capacity before others, which could increase transportation costs for DJJ. The last year that DJJ had a statewide utilization rate of over 90 percent was FY 2005-06. The detention center in Escambia County had an average utilization of 136 percent of capacity, while the Bay County detention center had an average utilization rate of 74 percent. Of the 26 detention centers operational at that time, twelve of them had an average utilization rate over 100 percent of capacity.

### **III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: The bill appears to be exempt from the requirements of article VII, section 18 of the Florida Constitution because it is a criminal law.

2. Other: None.

B. RULE-MAKING AUTHORITY: The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A