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 Children, Families, and Elder Affairs Committee

BILL: CS/SB 2094

INTRODUCER: Committee on Children, Families, and Elder Affairs and Senator Crist

SUBJECT: Juvenile Justice

DATE: April 1, 2009 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	**Favorable**
2.	Ray	Walsh	CF	**Fav/CS**
3.			JA	
4.			WPSC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

Committee Substitute for Senate Bill 2094 makes changes to the juvenile justice chapter, along with conforming changes to a few other relevant statutes such as the "Children and Families in Need of Services" (CINS/FINS) statute and the "Comprehensive Child and Adolescent Mental Health Services Act" in an effort to enhance services for youth in the juvenile justice system. Specifically, the bill:

- Encourages the diversion of youth nine years of age or younger, who are found by a court to pose no danger to the community and are unlikely to recidivate;
- Amends the definition of the term "Child in need of services" to allow these youth to be served by the CINS/FINS network;
- Adds counties, municipalities, and the Department of Juvenile Justice (DJJ) to the specified entities that are encouraged to create pre-arrest or post-arrest diversion programs for youth nine years of age or younger and youth who are first time misdemeanants;
- Provides rulemaking authority to govern the procedure for ordinary medical care, mental health, substance abuse, and developmental disability services in DJJ facilities and programs;
- Authorizes the court to commit a juvenile mother or expectant juvenile mother to DJJ for placement in a mother-infant residential program and requires DJJ to adopt rules to govern this program; and

- Transfers training responsibility from the defunct Juvenile Justice Standards and Training Commission to DJJ.

The bill provides an effective date of July 1, 2009.

The bill substantially amends the following sections of the Florida Statutes: 394.492, 435.04, 984.03, 985.02, 985.03, 985.125, 985.441, 985.601, and 985.644.

II. Present Situation:

The mission of DJJ is to increase public safety by reducing juvenile delinquency through effective prevention, intervention and treatment services that strengthen families and turn around the lives of troubled youth.[1] In Fiscal Year 2007-08, 89,876 youth were referred to the department for delinquency offenses. Referrals are the juvenile equivalent of arrests and are the first step in the delinquency process.[2]

The Department of Children and Families (DCF) and DJJ are working together to improve outcomes for children and youth served by both agencies. One area of focus has become the need to divert young children from the juvenile justice system, while identifying and addressing contributing factors to their delinquency.[3]

Emotional Disturbance Risk Factors
Section 394.492(4), F.S., defines a "child or adolescent at risk of emotional disturbance" as a person under 18 years of age who has an increased likelihood of becoming emotionally disturbed because of certain specified risk factors. Currently, DCF uses this definition to determine which youth to serve through the Comprehensive Child and Adolescent Mental Health Services Act.

CINS/FINS
Child In Need of Services (CINS): This is an adjudication status for a child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by DJJ or DCF for an adjudication of dependency or delinquency. The court must also find the child:

- To have persistently run away from the child's parents or legal custodians despite reasonable efforts of the child, the parents or legal custodians, and appropriate agencies to remedy the conditions contributing to the behavior; or
- To be habitually truant from school, while subject to compulsory school attendance, despite reasonable efforts to remedy the situation pursuant to and through voluntary participation by the child's parents or legal custodians and by the child in family counseling services, and treatment offered; or
- To have persistently disobeyed the reasonable and lawful demands of the child's parents or legal custodian, and to be beyond their control despite efforts by the child's parents or

[1] Department of Juvenile Justice website, available at: http://www.djj.state.fl.us/AboutDJJ/index.html (last visited March 27, 2009.)
[2] Florida Government Accountability Report, Department of Juvenile Justice, available at: http://www.oppaga.state.fl.us/profiles/1073/ (last visited March 27, 2009).
[3] Department of Children and Families, Staff Analysis and Economic Impact, SB 2094, on file with the committee.

legal custodians, and appropriate agencies to remedy the conditions contributing to the behavior.

Families In Need of Services (FINS): A family that has a child for whom there is no pending investigation of abuse, neglect, or abandonment or no court ordered supervision by DJJ or DCF for an adjudication of dependency or delinquency. The court must also find that the child has been:

- Running away; or
- Disobeying the reasonable and lawful demands of parents or legal guardian or custodian and being beyond their control; or
- Truant from school or engaging in other behavior that places the child at risk of future abuse, neglect, or abandonment, or at risk of entering the juvenile justice system.

Diversion

Diversion uses programs that are alternatives to the formal juvenile justice system for youth who have been charged with a minor crime. These individuals share certain high-risk factors, including first offense at the age 15 or younger, poor school performance and truancy, lack of parental supervision, substance abuse problems, or gang affiliation. Diversion programs include Community Arbitration, Juvenile Alternative Services Program (JASP), Teen Court, Civil Citation, Boy and Girl Scouts, Boys and Girls Clubs, mentoring programs, and alternative schools. These programs employ a variety of non-judicial sanctions, including:[4]

- Restitution (payment) to the victim(s);
- Community service hours;
- Letter of apology to the victim(s);
- Curfew;
- Forfeiture of driver's license;
- Encouragement to avoid contact with co-defendants, friends, or acquaintances who are deemed to be inappropriate associations;
- Referrals to local social service agencies; and
- Substance abuse or mental health counseling.

Section 985.125, F.S., currently allows a law enforcement agency or a school district, in cooperation with the state attorney, to create a prearrest or postarrest diversion program.

Women in Need of Greater Strength (WINGS) for Life

WINGS for Life South Florida, Inc. was established in 2001 as a residential commitment program for females in an educational environment. On July 1, 2006, WINGS became a residential commitment treatment program for 20 pregnant or postpartum females and their babies. The mission of the WINGS for Life program is to be committed to celebrating diversity and womanhood by working to enhance the quality of life for the young woman and her child.[5]

---

[4] Department of Juvenile Justice, Probation and Community Intervention website, available at: http://www.djj.state.fl.us/Probation/index.html (last visited March 27, 2009).

[5] Department of Juvenile Justice, WINGS website, available at: http://www.djj.state.fl.us/Residential/Facilities/south_facilities/WINGS_FOR_LIFE.html (last visited March 27, 2009).

The objectives of the program are to provide a structured and supervised transition from residential placement to the community and to closely monitor the youth to ensure public safety. The goal is to return these youth back into the mainstream of their communities with the skills to lead productive lives and successfully parent their children. The WINGS for Life program currently has the capacity to serve 20 women ages 14 – 19.[6]

Section 985.441, F.S., governs the operation of commitment facilities. Currently, there is no statutory provision for programs designed for pregnant girls or mothers with infants.[7]

Juvenile Justice Standards and Training Commission
The Juvenile Justice Standards and Training Commission is a 14 member commission whose duties include but are not limited to, consulting and cooperating with all entities concerning the development of juvenile justice training; making contracts and agreements with other agencies as are necessary for the performance of its duties; making all pertinent recommendations to the Department of Juvenile Justice.[8]

Subsection (9) of s. 985.66, F.S., provides for the termination of the Juvenile Justice Standards and Training Commission in June 2001. Since that time, DJJ has taken over the responsibilities of the Commission in operating its training programs.[9]

III. Effect of Proposed Changes:

Section 1
Committee Substitute for Senate Bill 2094 amends the definition of "Child or adolescent at risk of emotional disturbance" in s. 394.492, F.S., to include the additional risk factor of being nine years of age or younger at the time of referral for a delinquent act. According to DJJ, this change will allow those youth who qualify to receive treatment services through DCF's community based care network.

Section 2
The bill makes a technical change in s. 435.04, F.S., prescribing Level 2 background screening requirements, so that the statutory reference to domestic violence is to the definition of domestic violence rather than domestic violence injunctions.

Section 3
The bill amends the definition of "Child in need of services" in the CINS/FINS statute, s. 984.03(9), F.S., to include youth who are nine years of age or younger who have a delinquency referral. As a result, these youth will be able to receive CINS/FINS services even though an active referral to DJJ exists.

Section 4
The bill amends s. 985.02, F.S., providing legislative intent language for youth nine years of age or younger in the juvenile justice system. The newly created subsection provides a finding that

[6] *Id.*
[7] Department of Juvenile Justice 2009 Legislative Bill Analysis, SB 2094, on file with the committee.
[8] Section 985.66, F.S.
[9] Department of Juvenile Justice 2009 Legislative Bill Analysis, SB 2094, on file with the committee.

very young children need age-appropriate services to prevent future delinquent acts. It specifically encourages the diversion of youth nine years of age or younger who are found by the court to pose no danger to the community and are unlikely to recidivate. The bill also requires DJJ to cooperate with the youth's parent or legal guardian and DCF in providing the most appropriate mental health and substance abuse services to these youth.

Section 5
The bill amends the definition of "Child in need of services" in s. 985.03(7), F.S., just as it does in s. 984.03(9), F.S. (See Section 3 above.)

The bill also adds a definition of "Ordinary medical care in department facilities and programs" to include routine medical procedures such as inoculations, physical examinations, remedial treatment for minor illnesses and injuries, preventive services, medication management, chronic disease detection and treatment, and other medical procedures that do not involve hospitalization, surgery, or use of general anesthesia.

Section 6
The bill amends s. 985.125, F.S., providing that counties, municipalities, and DJJ are qualified entities that may establish prearrest and postarrest diversion programs. It also encourages the use of prearrest and postarrest diversion programs for first-time misdemeanants and youth who are nine years of age or younger.

Section 7
The bill amends s. 985.441, F.S., authorizing the court to commit a juvenile mother or expectant juvenile mother to DJJ for placement in a mother-infant program. The mother-infant program must be licensed as a childcare facility under s. 402.308, F.S. The bill also requires DJJ to adopt rules to govern this program.

Section 8
The bill amends s. 985.601, F.S., to require DJJ to adopt rules for ordinary medical care, mental health services, substance abuse treatment services, and developmental disabilities services.

Additionally, the bill requires DJJ to coordinate its rulemaking effort with DCF and the Agency for Persons with Disabilities to ensure there is no encroachment on either agency's substantive jurisdiction.

Section 9
The bill amends s. 985.644, F.S., prescribing personnel screening and standards, by deleting several duplicative provisions relating to DCF personnel standards.

The bill also removes a background screening exemption for DJJ volunteers who work less than 40 hours a month to conform the statute to current practice.

Section 10
The bill amends s. 985.66, F.S, deleting obsolete references to the Juvenile Justice Standards and Training Commission and authorizing DJJ to continue operating the Juvenile Justice Training Program. It also defines "Delinquency program staff" to include supervisory and direct care staff

and support staff having direct contact with youth in a delinquency program owned and operated by DJJ.

Section 11
The bill provides an effective date of July 1, 2009.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill contains several of the recommendations made by the Juvenile Justice Blueprint Commission in 2008.

Rulemaking

DJJ is required to adopt rules relating to the operation of the mother-infant program created by the bill (Section 7). The bill also requires that the program must be licensed as a child care

facility. Child care facilities are licensed by DCF,[10] and by Brevard, Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota counties, which have elected to regulate those facilities by ordinance.[11] It will be incumbent upon DJJ to work closely with all child care licensing entities when promulgating rules for the mother-infant program.

The bill directs DJJ to adopt rules to ensure effective delivery of services to children in its custody (Section 8). The newly-created section of law details the matters to be addressed in the rule, and requires that DJJ coordinate its rulemaking in this area with DCF and APD.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on April 1, 2009:

- Provides that in addition to DCF, DJJ cooperate with a child's parent or legal guardian when deciding what is most appropriate for his or her child as it relates to substance abuse or mental health treatment.

B. Amendments:

None.

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

[10] Chapters 65C-20, 65C-22 and 65C-25, F.A.C.
[11] Local regulation is provided in s. 402.306, F.S.