JUVENILE JUSTICE COMMITTEE

MEETING PACKET

Tuesday, March 28, 2006
10:15 AM – 12:00 PM
214 Capitol

Allan G. Bense
Speaker

Faye Culp
Chair

FLORIDA HOUSE OF REPRESENTATIVES

Allan G. Bense, Speaker

Juvenile Justice Committee

Faye B. Culp
Chair

Mitch Needelman
Vice Chair

Meeting Agenda
Tuesday, March 28, 2006
214 Capitol, 10:15 AM – 12:00 PM

I. **Opening remarks by Chair Culp**

II. **Roll call**

III. **Consideration of the following bill: HB 535 CS School Safety by Bogdanoff**

IV. **Consideration of the following bill: HB 1457 Youth Custody Officers by Lopez-Cantera**

V. **Closing remarks by Chair Culp**

VI. **Adjournment**

1302 The Capitol, 402 South Monroe Street, Tallahassee, Florida 32399-1300 (850) 487-0608

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 535 CS School Safety
SPONSOR(S): Bogdanoff and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1384

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	6 Y, 3 N, w/CS	Beagle	Mizereck
2) Juvenile Justice Committee		White	White
3) Education Appropriations Committee			
4) Education Council			
5)			

SUMMARY ANALYSIS

Current Florida law requires school districts to develop student safety and discipline policies. Within the requirements prescribed by law, school districts have considerable discretion as to the contents of these policies. There is no statewide mandate that school districts adopt policies that explicitly prohibit bullying and harassment.

House Bill 535 prohibits bullying and harassment of students in Florida schools, and requires school districts to adopt policies for enforcing this prohibition. The bill defines bullying and harassment, and sets forth specific minimum requirements for school district policies.

The bill has a minimal fiscal impact. See FISCAL COMMENTS.

The bill takes effect on upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-- The bill requires local school districts to adopt policies prohibiting bullying and harassment.

Promote Personal Responsibility-- The bill requires local school districts to establish punishments and interventions for dealing with perpetrators of bullying or harassment.

Safeguard Individual Liberty-- The bill reduces the likelihood that bullying and harassment will interfere with student's learning and social development.

Empower Families-- The bill requires school authorities to report all actions taken to protect a victim of bullying and harassment to the victim's parents.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Student Discipline and School Safety

Florida law requires district school boards to establish student safety and discipline policies governing student conduct on school grounds, at school sponsored activities, and on school buses.[1] Subject to certain requirements, school districts retain considerable flexibility in formulating student discipline policies. Policies must address several issues including:

- A code of student conduct that clearly explains the rights and responsibilities of students regarding respect for persons and property.
- Prohibition against student possession of a firearm or weapon on school grounds or at school sponsored activities and notice to students that violation of this provision may result in expulsion and referral to a criminal or juvenile justice facility.
- Notice that student acts of prohibited behavior at school, on a school bus, at a school bus stop, sexual harassment, and violence against any school district employee are subject to disciplinary action.
- Policies for assigning a violent or disruptive student to an alternative program.
- Consistent policies and procedures for dealing with prohibited acts, including imposition of criminal penalties.

Additionally, Florida law[2] and State Board of Education Rule (SBE)[3] require district school boards to adopt a zero tolerance policy for violent crime, victimization, and substance abuse. District school boards must ensure that students found to have committed certain offenses receive the most severe penalties available under district school board policy.[4] Likewise, district school boards are authorized to attach more severe consequences to disciplinary violations motivated by hostility towards a victim's gender, race, religion, color, sexual orientation, ethnicity, ancestry, national origin, political beliefs, marital status, age, social and family background, linguistic preference, or disability.[5] School officials are required to protect students who are victimized by violent crime, including notifying a victim's

1 Section 1006.07, F.S.

2 Section 1006.13, F.S.

3 State Board of Education Rule 6A-1.0404.

4 Id.

5 Id.

parents that an incident has occurred and of the victim's right to press charges, transferring the perpetrator to another school in the district, and banning the perpetrator from riding the same school bus as the victim.[6]

Florida law assigns specific duties relating to the enforcement of student discipline to certain school district personnel. These duties include:

- District school superintendents are required to recommend student safety and discipline policies to the district school board.[7]
- School principals must collaborate with teachers to establish and enforce classroom rules for student conduct and procedures for disciplinary referrals.[8]
- School principals must comply with certain requirements for reporting incidents of student misconduct.[9] The School Environmental Safety Incident Reporting System (SESIR)[10] requires schools to report serious safety incidents involving students that occur on school grounds, on school transportation, or off-campus at school-sponsored events. School-level data is compiled at the district-level and reported to the Department of Education (DOE).
- School bus drivers are responsible for maintaining order and security on district buses.[11]

Bullying and Harassment

The U.S. Department of Education (U.S. DOE) reports that 7% of students aged 12-18 reported being bullied at school in 2003.[12] State anti-bullying legislation has gained in prevalence since a rash of highly publicized school shootings in the late 1990s.[13] Currently, several states have enacted anti-bullying legislation. These states include Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Indiana, Louisiana, Maine, Minnesota, New Hampshire, New Jersey, New York, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Vermont, Virginia, Washington and West Virginia.[14]

Current Florida law does not require school districts to implement a district-wide anti-bullying and harassment policy. According to the DOE, 33 Florida school districts have implemented bullying prevention programs.[15]

- Aggression Replacement Training (ART) – Hernando;
- Aggressors, Victims, Bystanders - Brevard, Collier, Columbia, DeSoto, Dixie, Escambia, FAU Lab School, Flagler, Glades, Lafayette, Levy, Manatee, Okaloosa, Palm Beach, Pinellas, Santa Rosa, Sarasota, St. Lucie, Union, and Volusia;
- Bullying Prevention (Olweus) - FAU Lab School, Orange, Pasco, Pinellas, Sarasota, Seminole, and Sumter;
- Bully-Proofing Your School – Brevard and Volusia;
- Bullying Safe – Lee;
- Foundations: Creating Safe and Civil Schools – Clay and Duval;
- PATHS – Okaloosa;

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6 Section 1006.13(1)(b), (5), F.S.

7 Section 1006.08, F.S.

8 Section 1006.09, F.S.

9 Section 1001.54(3), F.S. and s. 1006.09(6), F.S.

10 Florida Department of Education, *The School Environmental Safety Incident Reporting System (SESIR) District and Statewide Reports*, *available at* http://www.firn.edu/doe/besss/sesir.htm.

11 Section 1006.10, F.S.

12 The U.S. Department of Education, National Center for Education Statistics, *Indicators of School Crime and Safety: 2005*, NCES 2006-001, November 2005, *available at* http://nces.ed.gov/programs/crimeindicators/Indicators.asp?PubPageNumber=12.

13 Education Commission of the States, *State Anti-Bullying Statutes*, by Jennifer Dounay, April 2005, *available at* http://www.ecs.org/clearinghouse/60/41/6041.htm.

14 Education Commission of the States, *State Anti-Bullying Statutes*, by Jennifer Dounay, April 2005, *available at* http://www.ecs.org/clearinghouse/60/41/6041.htm and Education Commission of the States, *Recent State Policies and Activities Update: Student Discipline: Bullying Statutes*, *available at* http://www.ecs.org/ecs/ecscat.nsf/WebTopicView?OpenView&RestrictToCategory=Safety/Student+Discipline--Bullying/Conflict+Resolution.

15 Florida Department of Education, Bullying Programs in Florida Districts *available at* http://www.firn.edu/doe/besss/bull_fl.html.

- PeaceBuilders – Franklin and Gulf;
- Positive Action – Charlotte and Leon;
- Project ACHIEVE – Charlotte;
- Safe Schools Ambassadors – Seminole;
- Success in Stages: Build Respect, Stop Bullying – Union; and
- TRUST - Miami-Dade.

Safe Schools Funding

Safe schools funding is a component of the Florida Education Finance Program[16] and is allocated by the legislature as proviso language in the General Appropriations Act.[17] The Legislature appropriated $75,350,000 in safe schools funds for the 2005-2006 school year. Safe schools funds are allocated as follows:

- A basic amount of $50,000 is distributed to each Florida school district or lab school.
- Two-thirds of the remaining balance is allocated based on the latest official Florida Crime Index as provided by the Florida Department of Law Enforcement.
- One-third is allocated based on each district's share of the state's total unweighted student enrollment.

School districts may use safe schools funds to implement after school programs, conflict resolution strategies, alternative school programs for adjudicated youth, and other improvements to make the school a safe place to learn. School districts have flexibility to determine how much of its total allocation to use for each authorized Safe Schools activity.

Effect of Proposed Changes:

Prohibition of Bullying and Harassment

House bill 535 prohibits bullying and harassment on school grounds, at school sponsored functions, on school buses, and school district controlled computer equipment and networks. The bill defines "bullying" as systematic or chronic infliction of physical hurt or psychological distress that may involve teasing, social exclusion, threats, intimidation, stalking, physical violence, theft, sexual or racial harassment, public humiliation, or destruction of property. "Harassment" is defined to include threatening, insulting, or dehumanizing gestures, use of a computer, and written, verbal, or physical conduct targeted at a student or school employee that:

- Causes the student or school employee to reasonably fear harm to person or property;
- Substantially interferes with the student's educational performance; or
- Substantially disrupts the orderly operation of the school.

Also falling within the bill's scope are certain acts of retaliation against individuals who report an act of bullying or harassment, acts that incite or coerce others to perpetrate an act of bullying or harassment, accessing or causing others to access another student's computer data or software for bullying and harassment purposes via school operated computers, and other acts having the effect of bullying and harassment.

Bullying and Harassment Policies

The bill requires each school district to adopt a policy prohibiting bullying and harassment. The policies must apply evenly to all students and explicitly prohibits a school district from creating special classifications of protected students based on student characteristics. Each school district must involve a variety of stakeholders in devising its bullying and harassment policy. The bill further requires each school district to integrate its bullying and harassment policy into the district's year round school

16 Section 1011.62(5)(b)3., F.S.

17 Line Item 73 of the Conference Committee Report on SB 2600, Enrolled Chapter 2005-70, Laws of Florida.

curriculum, discipline policies, and violence prevention efforts. Moreover, the bill provides conditions for immunity from suit for specified individuals who report an incident of bullying or harassment. The bill bars perpetrators who access a computer to bully or harass from raising the location or time of access of the computer as a defense.

Additionally, school district bullying and harassment policies must contain the following components:

- A definition of bullying and harassment and statement that such conduct is prohibited;
- Clearly stated consequences for committing or falsely accusing another of bullying or harassment;
- A procedure for reporting a proscribed act;
- A procedure for investigating whether a reported incident of bullying and harassment is within the scope of the school district's policy. Acts determined to be outside the scope of the school district's policy are to be referred to the appropriate authorities;
- A procedure for providing victim's parents a list of all local agencies where criminal charges may be brought against a perpetrator of bullying or harassment;
- A procedure for referring a victim or perpetrator of bullying or harassment to counseling;
- A procedure including incidents of bullying and harassment in its SESIR;
- A procedure for training students, parents, school volunteers and school staff effective tactics for identifying and addressing incidents of bullying and harassment; and
- A procedure for reporting all measures taken to protect a victim of bullying and harassment to a victim's parents.

The bill requires the DOE to adopt model bullying and harassment policies to assist school districts. The bill also requires each school district to publish its policy in the district's code of student conduct and all employee handbooks. The bill further requires the Commissioner to report to the education committees of the Legislature as to the progress made by districts in implementing the bill's provisions.

The bill makes disbursements of safe schools funding to school districts contingent upon the district's adopting a bullying and harassment policy for the 2007-2008 school year. To receive disbursements of safe schools funding in subsequent school years, school districts must comply with all reporting requirements set forth in the bill. A school district's failure to comply with either of these requirements will result in a withholding of safe schools funding.

C. SECTION DIRECTORY:

Section 1: Creates section 1006.147, F.S., prohibiting bullying and harassment in Florida schools; requiring each school district to adopt a policy for preventing and addressing incidents of bullying and harassment.

Section 2: Provides that the bill is effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

School districts that fail to adopt a bullying and harassment policy by the 2007-2008 school year may have their safe schools funding withheld. Subsequent disbursements of safe schools funds may be withheld to school districts that fail to comply with any reporting provisions contained in the bill.

School districts may incur costs in developing bullying and harassment policies, and in providing the required training to students, parents, school volunteers, and school employees.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the PreK-12 Committee adopted a strike-all amendment. The bill analysis reflects the bill as amended.

CHAMBER ACTION

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1 The PreK-12 Committee recommends the following:
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3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to school safety; creating s. 1006.147,
7 F.S.; prohibiting bullying and harassment during education
8 programs and activities, on school buses, or through use
9 of data or computer software accessed through computer
10 systems of certain educational institutions; providing
11 definitions; requiring each school district to adopt a
12 policy prohibiting such bullying and harassment; providing
13 minimum requirements for the contents of the policy;
14 requiring the Department of Education to develop model
15 policies; providing immunity; providing restrictions with
16 respect to defense of an action and application of the
17 section; requiring department approval of a school
18 district's policy and school district compliance with
19 reporting procedures as prerequisites to receipt of safe
20 schools funds; requiring a report on implementation;
21 providing an effective date.
22
23 Be It Enacted by the Legislature of the State of Florida:

24

25 Section 1. Section 1006.147, Florida Statutes, is created
26 to read:
27 1006.147 Bullying and harassment prohibited.--
28 (1) Bullying or harassment of any student or school
29 employee is prohibited:
30 (a) During any education program or activity conducted by
31 a public K-12 educational institution;
32 (b) During any school-related or school-sponsored program
33 or activity or on a school bus of a public K-12 educational
34 institution; or
35 (c) Through the use of data or computer software that is
36 accessed through a computer, computer system, or computer
37 network of a public K-12 educational institution.
38 (2) For purposes of this section:
39 (a) "Bullying" means systematically and chronically
40 inflicting physical hurt or psychological distress on one or
41 more students and may involve:
42 1. Teasing;
43 2. Social exclusion;
44 3. Threat;
45 4. Intimidation;
46 5. Stalking;
47 6. Physical violence;
48 7. Theft;
49 8. Sexual or racial harassment;
50 9. Public humiliation; or
51 10. Destruction of property.

52 (b) "Harassment" means any threatening, insulting, or
53 dehumanizing gesture, use of data or computer software, or
54 written, verbal, or physical conduct directed against a student
55 or school employee that:
56 1. Places a student or school employee in reasonable fear
57 of harm to his or her person or damage to his or her property;
58 2. Has the effect of substantially interfering with a
59 student's educational performance, opportunities, or benefits;
60 or
61 3. Has the effect of substantially disrupting the orderly
62 operation of a school.
63 (c) Definitions in s. 815.03 relating to computer crimes
64 and s. 784.048 relating to stalking are applicable to this
65 section.
66 (d) The terms "bullying" and "harassment" include:
67 1. Retaliation against a student or school employee by
68 another student or school employee for asserting or alleging an
69 act of bullying or harassment. Reporting an act of bullying or
70 harassment that is not made in good faith is considered
71 retaliation.
72 2. Perpetuation of conduct listed in paragraph (a) or
73 paragraph (b) by an individual or group with intent to demean,
74 dehumanize, embarrass, or cause physical harm to a student or
75 school employee by:
76 a. Incitement or coercion;
77 b. Accessing or knowingly causing or providing access to
78 data or computer software through a computer, computer system,

79 or computer network within the scope of the district school
80 system; or
81 c. Acting in a manner that has an effect substantially
82 similar to the effect of bullying or harassment.
83 (3) By September 1, 2006, each school district shall adopt
84 a policy prohibiting bullying and harassment on school property,
85 at a school-related or school-sponsored program or activity, on
86 a school bus, or through the use of data or computer software
87 that is accessed through a computer, computer system, or
88 computer network within the scope of the district school system.
89 The school district policy shall not establish categories of
90 students but shall afford all students the same protection
91 regardless of their status under law. The school district shall
92 involve students, parents, teachers, administrators, school
93 staff, school volunteers, community representatives, and local
94 law enforcement agencies in the process of adopting the policy.
95 The school district policy must be implemented in a manner that
96 is ongoing throughout the school year and integrated with a
97 school's curriculum, a school's discipline policies, and other
98 violence prevention efforts. The school district policy must
99 contain, at a minimum, the following components:
100 (a) A statement prohibiting bullying and harassment.
101 (b) A definition of bullying and a definition of
102 harassment.
103 (c) A description of the type of behavior expected from
104 each student and school employee.
105 (d) The consequences for a person who commits an act of
106 bullying or harassment.

107 (e) The consequences for a person who is found to have
108 wrongfully and intentionally accused another of an act of
109 bullying or harassment.
110 (f) A procedure for reporting an act of bullying or
111 harassment, including provisions that permit a person to
112 anonymously report such an act. However, this paragraph does not
113 permit formal disciplinary action to be based solely on an
114 anonymous report.
115 (g) A procedure for the prompt investigation of a report
116 of bullying or harassment and the persons responsible for the
117 investigation. The investigation of a reported act of bullying
118 or harassment is deemed to be a school-related activity and
119 begins with a report of such an act.
120 (h) A process to investigate whether a reported act of
121 bullying or harassment is within the scope of the district
122 school system and, if not, a process for referral of such an act
123 to the appropriate jurisdiction.
124 (i) A procedure for providing immediate notification to
125 the parents of a victim of bullying or harassment of all local
126 agencies where criminal charges may be pursued against the
127 perpetrator.
128 (j) A procedure to refer victims and perpetrators of
129 bullying or harassment for counseling.
130 (k) A procedure for including incidents of bullying or
131 harassment in the school's report of safety and discipline data
132 required under s. 1006.09(6). The report must include each
133 incident of bullying or harassment and the resulting
134 consequences, including discipline and referrals. The report

135 must include in a separate section each reported incident of
136 bullying or harassment that does not meet the criteria of a
137 prohibited act under this section with recommendations regarding
138 such incidents. The Department of Education shall aggregate
139 information contained in the reports and submit an annual report
140 to the President of the Senate and the Speaker of the House of
141 Representatives by January 1.
142 (l) A procedure for providing instruction to students,
143 parents, teachers, school administrators, counseling staff, and
144 school volunteers on identifying, preventing, and responding to
145 bullying or harassment.
146 (m) A procedure for regularly reporting to a victim's
147 parents the actions taken to protect the victim.
148 (n) A procedure for publicizing the policy, which must
149 include its publication in the code of student conduct required
150 under s. 1006.07(2) and in all employee handbooks.
151 (4) To assist school districts in developing policies for
152 the prevention of bullying and harassment, the Department of
153 Education shall develop model policies, which must be provided
154 to school districts no later than July 1, 2006.
155 (5) A school employee, school volunteer, student, or
156 parent who promptly reports in good faith an act of bullying or
157 harassment to the appropriate school official designated in the
158 school district's policy and who makes this report in compliance
159 with the procedures set forth in the policy is immune from a
160 cause of action for damages arising out of the reporting itself
161 or any failure to remedy the reported incident.

162 (6)(a) The physical location or time of access of a
163 computer-related incident cannot be raised as a defense in any
164 disciplinary action or prosecution initiated under this section.
165 (b) This section does not apply to any person who uses
166 data or computer software that is accessed through a computer,
167 computer system, or computer network when acting within the
168 scope of his or her lawful employment or investigating a
169 violation of this section in accordance with school district
170 policy.
171 (7) Distribution of safe schools funds to a school
172 district provided in the 2007-2008 General Appropriations Act is
173 contingent upon Department of Education approval of the school
174 district's bullying and harassment policy. Distribution of safe
175 schools funds provided to a school district in fiscal year 2008-
176 2009 and thereafter shall be contingent upon the school
177 district's compliance with all reporting procedures contained in
178 this section.
179 (8) On or before January of each year, the Commissioner of
180 Education shall report to the Senate and House of
181 Representatives committees on education on the implementation of
182 this section. The report shall include pertinent data such as
183 incidences of bullying and harassment identified by the school
184 districts.
185 (9) Nothing in this section shall be construed to abridge
186 the rights of students or school employees that are protected by
187 the First Amendment to the Constitution of the United States.
188 Section 2. This act shall take effect upon becoming a law.

HB 1457

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1457 Youth Custody Officers
SPONSOR(S): Lopez-Cantera
TIED BILLS: **IDEN./SIM. BILLS:** SB 1398

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Juvenile Justice Committee		White	White
2) Criminal Justice Appropriations Committee			
3) Justice Council			
4)			
5)			

SUMMARY ANALYSIS

Under current law, a youth custody officer's (YCO's) powers are limited to taking juveniles into custody if the YCO has probable cause to believe that a juvenile has violated conditions of probation, home detention, conditional release, or postcommitment probation, or has failed to appear in court. Thus, if a juvenile commits an offense in the YCO's presence or custody or if a YCO otherwise witnesses any other criminal activity, the YCO must call a law enforcement officer to address the criminal offense.

The bill retains current law's limitations, as discussed above, regarding when a YCO may take a juvenile into custody; however, the bill adds that a YCO, who has taken a juvenile into custody and who has probable cause to believe that the juvenile has committed violations of criminal law, may file charges and gather evidence. Further, the bill provides that YCOs have statewide jurisdiction and are authorized to exercise the same powers as law enforcement officers, including the powers to make arrests, serve court process, and seize contraband and the proceeds of illegal activities. Although the bill is clear regarding when a YCO may take a juvenile into custody, it is not entirely clear as to precisely when or for what purpose a YCO may act as a law enforcement officer. *See* Drafting Issues or other Comments, *infra.*

The bill also provides that YCOs should, rather than shall as required in current law, notify appropriate local law enforcement agencies of their activities.

The Department of Juvenile Justice states that this bill has no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill expands the authority of youth custody officers (YCOs) employed by the Department of Juvenile Justice (DJJ) by: (a) permitting them to file charges and gather evidence for criminal violations committed by juveniles in the YCO's custody; and (b) stating that YCOs have the full authority and powers of law enforcement officers in this state.

B. EFFECT OF PROPOSED CHANGES:

Youth Custody Officers: Section 985.2075, F.S., creates the position of youth custody officer (YCO) within the Department of Juvenile Justice (DJJ). Subsection (1) authorizes a YCO to take a juvenile into custody if he or she has probable cause to believe that the juvenile has:

- Violated conditions of probation, home detention, conditional release, or postcommitment probation; or
- Failed to appear in court after receiving proper notice.

These are the **only** circumstances under which a YCO is statutorily authorized to take a juvenile into custody. Thus, if a juvenile commits a misdemeanor or felony offense in the officer's presence, he or she may not take the juvenile into custody for the offense or investigate the offense; instead, the YCO must call a law enforcement officer from the local jurisdiction to take the juvenile into custody and to conduct the investigation.

Under s. 985.2075(2), F.S., a YCO must:

- Meet minimum qualifications for employment or appointment;
- Be certified under ch. 943, F.S., which provides for correctional, correctional probation, and law enforcement officer certifications; and
- Comply with the continued employment requirements under s. 943.135, F.S., which addresses the continued employment of correctional, correctional probation, and law enforcement officers.

According to data provided by the DJJ, there are 16 YCO positions assigned to nine judicial circuits (the 1st, 4th, 6th, 9th, 11th, 13th, 15th, 17th, and 18th Judicial Circuits). Three of these positions are not presently filled. During Fiscal Year 2004-05, YCOs apprehended 3,801 juveniles, which resulted in the closure of 4,596 cases.

Effect of bill: As discussed above, s. 985.2075, F.S., currently limits a YCO's authority to taking juveniles into custody for probation, home detention, conditional release, or postcommitment probation violations and for failing to appear in court. The bill amends this section to provide that a YCO, who has taken a juvenile into custody for the reasons specified in current law and who has probable cause to believe the juvenile has committed violations of criminal law, may file charges and gather evidence for those criminal law violations.

Additionally, the bill provides that YCOs:

- *Have statewide jurisdiction.*
- *The same arrest and other authority provided for law enforcement officers in ch. 901, F.S., including s. 901.15, F.S. Chapter 901, F.S., sets forth Florida's law relating to arrests, including an officer's power to "stop and frisk" a person,[1] break into a building,[2] and conduct searches of*

[1] *See* Section 901.151, F.S. (specifying when an officer may detain a person and search the person for a weapon).

persons.[3] *Section 901.15, F.S., authorizes an officer to make arrests without a warrant under specified circumstances. .*

- *The same law enforcement powers granted to other peace officers, including the authority to make arrests, serve court process, and seize contraband and the proceeds of illegal activities.*

Finally, the bill provides that YCOs should, rather than shall, notify appropriate local law enforcement agencies of their activities.

The bill takes effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1. Amends s. 985.2075, F.S., to expand YCO authority to that of a law enforcement officer and to provide that YCOs should, rather than shall, notify law enforcement agencies of their activities.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None apparent.

2. Expenditures:

   The DJJ states that this bill will have no fiscal impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill may generate an indeterminate cost savings to local law enforcement agencies to the extent that the bill's expansion of YCO powers results in local law enforcement having to address fewer instances of criminal activity.

2. Expenditures:

   None apparent.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None apparent.

D. FISCAL COMMENTS:

None.

III. COMMENTS

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[2] *See* Section 901.19, F.S. (specifying when an officer may use necessary and reasonable force to enter a building or property to make an arrest).

[3] *See* Section 901.21, F.S. (specifying requirements applicable to the search of an arrested person and surrounding area); and Section 901.211, F.S. (specifying requirements applicable to strip searches of arrested persons).

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

At lines 30-32, the bill authorizes YCOs to file criminal charges and gather evidence where the YCO has probable cause to believe that the juvenile, who the YCO took into custody for supervision violations or failure to appear, has committed violations of criminal law. The bill also provides at lines 33-40 that YCOs have statewide jurisdiction and the same powers as law enforcement and peace officers, including the powers to make arrests, carry firearms, serve court process, and seize contraband and the proceeds of illegal activities. If the Legislature intends to limit a YCO's ability to act as a law enforcement officer to a certain time frame and/or purpose, then it may be desirable to amend the bill to clearly state this time frame and purpose, e.g., the bill could state that the YCO's authority to act as a law enforcement officer is limited to the period of time when a youth is properly in the YCO's custody.

At lines 42-43, the bill contains current law that requires YCOs to be certified under ch. 943, F.S. Certifications under ch. 943, F.S., include not only law enforcement officers, but also correctional and correctional probation officers. If it is the Legislature's intent that YCOs be certified as law enforcement officers under ch. 943, F.S., it may be desirable to amend the bill to state this requirement.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to youth custody officers; amending s.
3 985.2075, F.S.; authorizing a youth custody officer to
4 take a youth into custody if the officer has probable
5 cause to believe that the youth has escaped from a
6 facility operated by or under contract with the Department
7 of Juvenile Justice or has absconded from the supervision
8 of the department; authorizing the youth custody officer
9 to file certain criminal charges and gather evidence for
10 court; revising a provision concerning an officer
11 informing local law enforcement agencies of his or her
12 activities; providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Section 985.2075, Florida Statutes, is amended
17 to read:
18 985.2075 Youth custody officer.--
19 (1) There is created within the department ~~of Juvenile~~
20 ~~Justice~~ the position of youth custody officer. The <u>primary</u>
21 duties of each youth custody officer shall be to take youth into
22 custody if the officer has probable cause to believe that the
23 youth has violated the conditions of probation, home detention,
24 conditional release, or postcommitment probation, or has failed
25 to appear in court after being properly noticed. The authority
26 of the youth custody officer to take youth into custody is
27 specifically limited to this purpose.

28 (2) A youth custody officer who, while in the performance
29 of his or her duties, takes a youth into custody for any reason
30 specified in subsection (1) and has probable cause to believe
31 that the youth has committed violations of criminal law, may
32 file the appropriate criminal charges and gather evidence for
33 prosecution. Each youth custody officer is subject to and shall
34 have the same arrest and other authority provided for law
35 enforcement officers generally in chapter 901, including s.
36 901.15, and shall have statewide jurisdiction. Such officers
37 have full law enforcement powers granted to other peace officers
38 of this state, including the authority to make arrests, carry
39 firearms, serve court process, and seize contraband and the
40 proceeds of illegal activities.
41 (3) ~~(2)~~ A youth custody officer must meet the minimum
42 qualifications for employment or appointment, be certified under
43 chapter 943, and comply with the requirements for continued
44 employment required by s. 943.135. The department ~~of Juvenile~~
45 ~~Justice~~ must comply with the responsibilities provided for an
46 employing agency under s. 943.133 for each youth custody
47 officer.
48 (4) ~~(3)~~ A youth custody officer should ~~shall~~ inform
49 appropriate local law enforcement agencies of his or her
50 activities under this section.
51 Section 2. This act shall take effect July 1, 2006.