

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5401 PCB JUAS 12-01 Juvenile Detention

**SPONSOR(S):** Justice Appropriations Subcommittee, Glorioso

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

| REFERENCE   | ACTION    | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---|-----------|---------|--|
| Orig. Comm.: Justice Appropriations<br>Subcommittee | 12 Y, 0 N | Toms    | Jones Darity                             |
| 1) Appropriations Committee                         | 23 Y, 0 N | Toms    | Leznoff                                  |

### SUMMARY ANALYSIS

The bill conforms to the House of Representatives proposed Fiscal Year 2012-13 General Appropriations Act.

The term "respite" is defined in chapter 985.03(46) as "a placement that is available for the care, custody, and placement of a youth charged with domestic violence as an alternative to secure detention or for placement of a youth when a shelter bed for a child in need of services or a family in need of services is unavailable."

Currently, respite care is lawfully authorized as an alternative to secure detention for preadjudicated youth who have been charged with domestic violence who do not otherwise meet detention criteria. Counties are statutorily required to pay for the costs of secure detention but not the costs of respite care.

This bill would modify the definition of the term "detention care" to include alternatives to secure detention, including but not limited to respite beds for youth charged with domestic violence. The counties would be required to pay the costs of respite care.

Respite beds have a lower per diem cost than secure detention beds. If respite beds are used instead of secure detention beds, counties will realize a cost savings as a result of this bill. The Shared County/Juvenile Detention Trust Fund will realize a savings of \$3.2 million and 77 FTE from using respite beds. \$1.2 million of the savings will be reinvested into the Shared County/Juvenile Detention Trust Fund to provide funding for 43 respite beds across the state. The trust fund will have a net savings of \$2 million in the House proposed FY 2012-13 GAA.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

Currently, respite care is lawfully authorized as an alternative to secure detention for preadjudicated youth who have been charged with domestic violence. The term “respite” is defined in chapter 985.03(46) as “a placement that is available for the care, custody, and placement of a youth charged with domestic violence as an alternative to secure detention or for placement of a youth when a shelter bed for a child in need of services or a family in need of services is unavailable.” Section 985.255(2), Florida Statutes, states the court may hold youth in secure detention if a youth charged with domestic violence does not meet detention criteria and the court makes specific written findings that respite care for the child is not available or it is necessary to place the child in secure detention in order to protect the victim from injury.<sup>1</sup> The youth may not be held in secure detention pursuant to this provision for more than 48 hours unless ordered by the court. After 48 hours, the court is required to hold a hearing if the state attorney or victim requests that secure detention be continued. The child may continue to be held in detention care if the court makes a specific, written finding that detention care is necessary to protect the victim from injury. The department does not currently contract for any respite beds for the purposes described in this section.

Pursuant to section 985.686, counties are responsible for paying the costs of preadjudatory secure detention pursuant but are not required to pay the costs of respite care. In Fiscal Year 2010-11, 2,614 low-risk youth who did not meet secure detention criteria were placed in secure detention for domestic violence charges because there were no respite beds available<sup>2</sup>. Because these youth were preadjudicated, the counties were responsible for paying their detention costs. According to the Department of Juvenile Justice, the average length of stay for the 2,614 youth was 6 days.<sup>3</sup> From July 1, 2011 through December 31, 2011, there were 1,043 youth placed in secure detention for domestic violence charges because there were no respite beds available<sup>4</sup>.

##### Effect of Proposed Bill

HB 5401 proposes to expand the definition of “detention care” to include “alternatives to secure detention, including but not limited to respite beds for youth charged with domestic violence charges.” This would require the counties to pay the costs of respite beds.. If respite beds are used in lieu of secure detention, the counties will realize a savings<sup>5</sup>.

#### B. SECTION DIRECTORY:

Section 1: Amends section 985.686, F.S., relating to shared county and state responsibility for juvenile detention.

Section 2: Provides an effective date of July 1, 2012.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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<sup>1</sup> Section 985.255(2), F.S.

<sup>2</sup> Department of Juvenile Justice, “Alternatives to Detention (Respite Beds)”

<sup>3</sup> The department defines the average length of stay as the total number of detained days for the domestic violence-related stays. Domestic violence-related stays is defined as detention stays that appear to have only been necessary due to the domestic violence criteria being met, according to the department. The department did not include youth who met other detention immediate qualifier criteria.

<sup>4</sup> *Id.*

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

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See "fiscal comments" section.

2. Expenditures:

See "fiscal comments" section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Department of Juvenile Justice may contract with private providers for respite care beds to provide care for youth charged with domestic violence.

D. FISCAL COMMENTS:

The estimated daily cost of a respite bed is \$100<sup>6</sup> compared to the estimated daily cost of secure detention, \$275<sup>7</sup>. It is estimated that 43 respite beds<sup>8</sup> will be needed for the youth in Florida who are charged with domestic violence but do not meet secure detention criteria. The Shared County/Juvenile Detention Trust Fund will realize a savings of \$3.2 million and 77 FTE from using respite beds. \$1.2 million of the savings will be reinvested into the Shared County/Juvenile Detention Trust Fund to provide funding for 43 respite beds across the state. The trust fund will have a net savings of \$2 million.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

HB 5401 will provide the counties with a less expensive alternative to detention for youth charged with domestic violence and do not meet the criteria for secure detention. The bill does not require the county detention centers to use respite beds, it allows them to use respite beds if they are available. Counties will realize a savings in detention costs from the changes this bill proposes.

This bill does not appear to require counties or municipalities to reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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<sup>6</sup> Governor's FY 2012-13 Budget Recommendations, Department of Juvenile Justice, Governor's Office of Policy and Budget Analyst Workpapers, Prepared by Jason Welty, December 2011

<sup>7</sup> 2010-11 Detention Cost Sharing Final Expenditures Reversions, Department of Juvenile Justice

<sup>8</sup> Governor's FY 2012-13 Budget Recommendations, Department of Juvenile Justice, Governor's Office of Policy and Budget Analyst Workpapers, Prepared by Jason Welty, December 2011

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**