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**1997 HOUSE JUVENILE JUSTICE COMMITTEE
SIDE BY SIDE COMPARISON OF
HB 1031 AND STRIKE-ALL AMENDMENT (CS/CS/CS/SB 278)**

HB 1031	STRIKE-ALL AMENDMENT (CS/CS/CS/SB 278)
<p>Section 1. ● court may direct DHSMV to issue a drivers license restricted to business and employment purposes only (as defined in s. 322.271, F.S.)</p>	<p>Section 1. ● requires the court to extend the period of suspension/revocation of a drivers license for a juvenile found in contempt if their drivers license is currently suspended/revocated</p> <p>● court may direct DHSMV to issue a drivers license restricted to business or employment purposes only <u>or</u> for the purpose of completing a court-ordered community service</p>
<p>Section 2. ● DJJ may employ a collection agency to collect delinquent on unpaid fees for detention services</p>	<p>Section 2. ● DJJ may employ a collection agency to receive, collect, and manage the payment of unpaid and delinquent fees for detention services</p>
<p>Section 3. ● DJJ may employ a collection agency to collect delinquent or unpaid fees for treatment services</p>	<p>Section 3. ● DJJ may employ a collection agency to receive, collect, and manage the payment of unpaid and delinquent fees for treatment services</p>
<p>Section 4. ● permits a CINS to be placed in a shelter for longer than the current 35 days</p>	<p>Section 4. ● permits a CINS to be placed in a shelter for longer than the current 35 days</p>

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<p>Section 5. ● requires DJJ as part of the CINS intake procedure to inform parents in writing of services, treatments, rights and responsibilities</p>	<p>Section 5. ● requires DJJ as part of the CINS intake procedure to inform parents in writing of services, treatments, rights and responsibilities</p>
<p>Section 6. ● DJJ may employ a collection agency to collect delinquent or unpaid fees for CINS treatment services</p>	<p>Section 6. ● DJJ may employ a collection agency to receive, collect, and manage the payment of unpaid and delinquent fees for CINS treatment services</p>
<p>Section 7. ● removes the alternative sanctions coordinator from the DJJ case staffing committee and adds a representative of the S.A.</p>	<p>Section 7. ● adds a representative of the S.A., leaves the alternative sanctions coordinator, and adds any other person recommended by the child, family, or DJJ</p> <p>● requires a DJJ case staffing committee meeting within 7 days of a request by the child's parents</p> <p>● within 7 days of the case staffing committee meeting, the parents must be given a written report with the committee's reasons to recommend or not recommend that DJJ file a CINS petition</p>

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<p>Section 8. ● authorizes parents to file a CINS petition in court if the parents do not agree with the service plan from the DJJ case staffing committee; requires DJJ to be a party to the proceedings</p>	<p>Section 8. ● provides additional circumstances under which a parent may file a CINS petition:</p> <ul style="list-style-type: none"> ● if DJJ does not hold a case staffing committee meeting ● if DJJ fails to hold a case staffing committee within 7 days of a parent's request ● if parent does not agree with the service plan of the case staffing committee ● deletes provisions making DJJ a party to a CINS proceeding initiated by parents ● in determining legal sufficiency of the CINS petition filed by the parents, the court must verify the child: <ul style="list-style-type: none"> ● is not the subject of a dependency investigation

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	<ul style="list-style-type: none"> ● is not under DJJ or DCF supervision for delinquency or dependency
Section 9. ● directs the court that an adjudicatory hearing must be set upon the determination that a CINS petition is legally sufficient	Section 9. ● deletes this requirement and directs the court to go directly to a disposition hearing upon the determination that a CINS petition is legally sufficient
Section 10. ● directs the court that an adjudicatory hearing must be set upon the determination that a CINS petition is legally sufficient	Section 10. ● deletes this requirement and directs the court to go directly to a disposition hearing upon the determination that a CINS petition is legally sufficient
Section 11. ● DJJ may employ a collection agency to collect delinquent or unpaid fees	Section 11. ● DJJ may employ a collection agency to receive, collect, and manage the payment of unpaid and delinquent fees

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HB 1031	STRIKE-ALL AMENDMENT (CS/CS/CS/SB 278)
<p>Section 12.</p> <ul style="list-style-type: none"> ● the court may order a CINS into a staff-secure shelter for 90 days with provisions for an additional 30 days ● placement in a staff-secure shelter can occur only after alternative, less-restrictive remedies have been exhausted ● after all reasonable remedies have been exhausted by DJJ, the court may transfer jurisdiction of the CINS case to DCF to be treated as a dependency matter 	<p>Section 12.</p> <ul style="list-style-type: none"> ● the court may order a CINS into a staff-secure shelter for 90 days, subject to specific legislative appropriations ● placement in a staff-secure shelter can occur only after alternative, less-restrictive remedies have been exhausted ● a CINS may be placed on a waiting list for placement in a staff-secure shelter ● after all reasonable remedies have been exhausted by DJJ, the court may transfer jurisdiction of the CINS case to DCF to be treated as a dependency matter

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<p>Section 13. ● authorizes the court to place a CINS into a physically secure facility for contempt of court if the CINS:</p> <ul style="list-style-type: none"> ● has run away from a staff-secure shelter, or ● has committed two or more prior acts of contempt <p>● CINS may be placed for up to 5 days for the first contempt and up to 15 days for second contempt</p> <p>● CINS must be afforded all due process rights</p> <p>● court shall order the parents to cooperate in efforts to reunify the CINS with the family and may order parents to pay for services</p>	<p>Section 13. ● subject to specific legislative appropriation, requires DJJ to establish a pilot program in one judicial circuit to operate one or more physically secure facilities for a CINS found in contempt of court</p> <p>● authorizes the court to place a CINS into a physically secure facility for contempt of court if the CINS:</p> <ul style="list-style-type: none"> ● has run away from a staff-secure shelter, or ● has committed two or more prior sites of contempt <p>● CINS may be placed for up to 5 days for the first contempt and up to 15 days for second contempt</p> <p>● CINS must be afforded all due process rights</p>

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<ul style="list-style-type: none"> ● 	<ul style="list-style-type: none"> ● court shall order the parents to cooperate in efforts to reunify the CINS with the family and may order parents to pay for services ● requires legal counsel for a youth in the pilot program judicial circuit when a CINS petition is filed ● requires the Juvenile Justice Advisory Board to monitor, evaluate, and report to the Legislature on the pilot program
<p>Section 14. ● requires DJJ to establish a pilot program in a single judicial circuit to operate one or more physically secure facilities for CINS found in contempt (see sec. 13 of strike all amendment)</p>	<p>Section 14. ● prohibits a person other than an authorized agent of DJJ or DCF from knowingly sheltering or providing aid to an unmarried minor for more than 24 hours without consent of the minor's parents or notifying a law enforcement officer</p> <ul style="list-style-type: none"> ● makes it a misdemeanor of the first degree to violate this section

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<p>Section 15. ● prohibits a person other than an authorized agent of DJJ or DCF from knowingly sheltering or providing aid to an unmarried minor for more than 24 hours without consent of the minor's parents or notifying a law enforcement officer</p> <p>● makes it a misdemeanor of the first degree to violate this section</p>	<p>Section 15. ● requires DJJ and DCF to develop cooperative working agreements to provide services to youth kept out of their homes by parents</p>
<p>Section 16. ● requires DJJ and DCF to develop cooperative working agreements to provide services to youth kept out of their homes by parents</p>	<p>Section 16. ● requires DJJ and DCF to establish a work group to develop legislative proposals regarding services to youth kept out of their homes by parents</p>
<p>Section 17. ● requires DJJ and DCF to establish a work group to develop legislative proposals regarding services to youth kept out of their homes by parents</p>	<p>Section 17. ● requires DJJ, with DCF and DOE assistance, to develop, publish, and distribute an information packet explaining CINS/FINS services and process</p>

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Section 18.	<ul style="list-style-type: none"> requires DJJ, with DCF and DOE assistance, to develop, publish, and distribute an information packet explaining CINS/FINS services and process 	Section 18.	<ul style="list-style-type: none"> requires DOE to analyze current methods to identify and collect data on habitual truants and provide assistance to school districts
Section 19.	<ul style="list-style-type: none"> requires DOE to analyze current methods to identify and collect data on habitual truants and provide assistance to school districts 	Section 19.	<ul style="list-style-type: none"> requires DOE to report to the Legislature on implementation of habitual truancy programs and recommend any statutory changes
Section 20.	<ul style="list-style-type: none"> requires DOE to report to the Legislature on implementation of habitual truancy programs and recommend any statutory changes 	Section 20.	<ul style="list-style-type: none"> takes effect July 1, 1997

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HB 1031	STRIKE-ALL AMENDMENT (CS/CS/CS/SB 278)
<p>Section 21.</p> <ul style="list-style-type: none"> ● sum of \$6,980,625 is appropriated to DJJ for staff secure shelter for CINS ● sum of \$520,125 is appropriated to DJJ for pilot project in one judicial circuit for a physically secure facility for CINS found in contempt of court ● sum of \$35,000 is appropriated to DJJ for expanding DJJ's toll-free runaway hotline 	
<p>Section 22.</p> <ul style="list-style-type: none"> ● takes effect July 1, 1997 	

CSTORAGE NAME: h1031.jj

DATE: March 10, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUVENILE JUSTICE
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1031

RELATING TO: Juveniles

SPONSOR(S): Representatives Crist, Lynn and others

STATUTE(S) AFFECTED: s. 39.0145, s. 39.044, s. 39.054, s. 39.422, s. 39.423, s. 39.424, s. 39.426, s. 39.436, s. 39.438, s. 39.44, s. 39.442, s. 39.4421, s. 39.4422, F.S.

COMPANION BILL(S): CS/CS/CS/SB 278

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) Juvenile Justice
- (2) Finance and Taxation
- (3) Criminal Justice Appropriations
- (4)
- (5)

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I SUMMARY:

The bill requires that DJJ, schools, and law enforcement agencies provide parents be provided with written information about the CINS/FINS process and their rights and responsibilities. Parents may convene a DJJ case staffing committee and be provided a written report from DJJ regarding services and whether DJJ will file a CINS petition. The bill permits parents to file a CINS petition under certain conditions.

The court may direct the Department of Highway Safety and Motor Vehicles (DHSMV) to withhold or suspend (1 year for a first offense and 2 years for subsequent offenses) the driver's license of a youth found in contempt of court. The court may direct DHSMV to issue a driver's license restricted for business and employment purposes only.

The bill permits the court to place a CINS in a 90-day staff-secure facility if the youth's parents deny care as a result of the youth's chronic runaway or disruptive behavior. Should the parents' denying of care persists, the court may transfer the jurisdiction of the CINS case from DJJ to the Department of Children and Family Services (DCF) to be handled as a dependency matter.

The bill authorizes DJJ to employ a registered collection agency to collect from parents delinquent or unpaid fees ordered by the court for the cost of treatment and services for delinquency and CINS/FINS care.

The bill permits the court to place a CINS youth in direct or indirect contempt of court in a physically-secure facility under certain conditions. DJJ is required to establish a pilot program to establish physically-secure facilities in one judicial circuit.

DJJ estimates that \$2,326,875 is needed for 6 months operation of a staff-secure shelter for CINS, \$520,125 is needed for operation of the contempt of court pilot program, and \$35,000 is needed to expand the current toll-free runaway hotline. DCF estimates that \$1,204,500 is needed for programs and specialized services for transferring jurisdiction of CINS from DJJ to DCF.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Children In Need of Services/Family's In Need of Services

Statutory requirements for the Children in Need of Services/Family's in Need of Services (CINS/FINS) program are found in Part IV, Chapter 39, F.S. Family in need of services is defined as a family with a child who is a truant, runaway, or ungovernable, who is not under supervision for dependency or delinquency, has no pending referral for services, and has not yet been to court. Services as referred to in Part IV are provided by the Department of Juvenile Justice (DJJ) and contracted providers. The purpose of the program is to provide an array of specialized services with emphasis on parental responsibility and the family to serve the needs of truants, runaways and ungovernables separate from dependents and delinquents. Judicial intervention in these cases is supposed to be limited to situations in which a resolution to the child's and family's problems cannot be achieved through voluntary participation in services.

When a child and family are referred for services, a DJJ counselor assesses the child's situation at intake as required by s. 39.423, F.S., and may refer the child and family for intervention services. Over thirteen types of services including counseling and treatment are expressed in this section and parental financial responsibility. According to the Senate Interim Report, parents are "frustrated with the lack of readily available information regarding community resources and available options" and should be given information packets informing them of available resources and services. Participation in these services by the child and family is voluntary unless a child is adjudicated to be a CINS and ordered to participate.

The Florida Network of Youth and Family Services is a non-profit statewide association representing agencies that contract with the Department of Juvenile Justice to serve Children in Need of Services (CINS) and Families in Need of Services (FINS). This network of providers run the shelters that house runaway youths, as well as provide counseling services for youths and their families, intake and assessment, and case management. These shelters are staff secure with 24 hour staff supervision, but are not physically secure with locked doors or windows. In 1995 the CINS/FINS network of providers served 56,068 youth, of which 19,512 were served through direct services.

Case Staffing

Section 39.426, F.S., provides that a case staffing, in which the family and child participate, should be held if the family and child are not in agreement with the voluntary services offered, the family will not participate in the services or the staff needs assistance in developing a case plan. When a case staffing committee is convened, a plan for services is developed, and the family and child must accept or reject the services in writing. The committee is directed to make a recommendation to DJJ that a CINS petition be filed if all other alternatives have been exhausted. The department must then file a petition if the family has in good faith but unsuccessfully used the services or has refused all services after reasonable efforts to involve the CINS/FINS. With one exception for the State Attorney, only DJJ is authorized to file a CINS petition upon request of the case staffing committee or DJJ district manager.

An informal survey of shelter providers conducted by Senate staff as part of a 1996 interim project found that case staffings are routinely held in some districts and are virtually never held in others. Over the past several years there has also been a serious problem with getting CINS petitions filed in certain parts of the state due, in large part, to a shortage of DJJ attorneys, a situation which is now being remedied.

CINS and the Judicial System

Prior to 1996, the law provided that parents could request and that DJJ must then file a CINS petition, but DJJ found that some petitions requested by parents did not meet statutory criteria. The 1996 Legislature deleted the provision requiring the department to file a petition upon request of the family, youth, or an individual member of the case staffing committee, (ch. 96-398, L.O.F.).

According to DJJ this was a necessary revision to reduce the number of petitions filed that do not meet the statutory requirements. According to the Senate interim report, the Juvenile Section of the Florida Conference of Circuit Judges recommended that parents should be given authority to file a CINS petition with the court. In addition, parents expressed in testimony to Senate staff that they concur with the conference recommendations to permit parents to file CINS petition.

According to DJJ, it has a shortage of attorneys to file CINS/FINS petitions. The department reports they lacked funding and had only one attorney on staff from creation in 1994 up to FY 1996. Five attorneys are now on staff and the department expects five more in the near future. Also reported by the department, 130 petitions have been filed in a four month period since the additional attorneys have been on staff. These attorneys also participate in case staffing meetings leading to a reduction in the number of inappropriately filed petitions.

Section 39.44, F.S., provides a description of the hearings required once a petition is filed. After the arraignment and adjudicatory hearing is held, the disposition hearing is held to review the pre-disposition report, evaluate the circumstances and environment, and determine placement of the child. The court may order the least intrusive and least restrictive disposition, allow the child to remain in the home, order participation in treatment or services, or place the child outside the home. Parental participation in counseling may be required by the court with contempt of court sanctions to enforce the order. If the child is placed in residential care of a provider, this placement is statutorily limited to 35 days.

Lockouts and Chronic Runaways

"Lockouts" are youths whose families, although capable of caring for their basic needs of shelter, food and clothing, refuse to do so for a variety of reasons relating to the youths' disruptive behavior. Many fit the definition of CINS youths, but the fact that they have been refused care by their parents means that many also come to the attention of the child protection system. The Departments of Juvenile Justice (DJJ) and Children and Family Services (CFS) both have an interest in these youths, but the absence of clear lines of jurisdiction and the occasional lack of cooperation between the two departments (in addition to insufficient resources) have made serving these youths and their families difficult in some districts. Relationships within families with locked-out youths are often so strained that the current short-term residential placement provided by the network of CINS providers is not long enough to resolve the problems.

Oftentimes, runaways who repeatedly run and will not remain in a facility long enough to be successfully treated may endanger themselves while on the run. Currently, law allows a staff-secure placement which is sufficient for most but not all of these youths. Current law does not permit the court to place a CINS in a physically secure facility.

Truants

Current Florida law defines habitually truant in s. 39.01, F.S., for use in juvenile justice and CINS/FINS procedures, and defines habitually truant in s. 232.17, F.S., for education purposes and school attendance procedures. Both sections define a habitual truant as a student who has 15 unexcused absences within a 90 day period. In s. 39.01(73), F.S., a child is habitually truant after the child has 15 unexcused absences and after the school administration has established the following: a minimum of 3 unexcused absences within 90 days; the attendance assistant or social worker has held one or more meetings with the parent or guardian; educational counseling and evaluations have been provided; or the child has been referred to CINS/FINS or case staffing.

If the parent or legal guardian fails or refuses to participate in the activities to remedy the truant behavior, the parent or legal guardian has committed a first degree misdemeanor prescribed in 232.19, F.S.

Contempt Sanctions

Indirect contempt of court is an act violating a valid court order, such as an order to attend school or not to run away, which occurs outside the presence of the court as opposed to direct contempt of court. Direct contempt of court is a disrespectful act, such as cursing at a judge, which occurs in the presence of the court. Currently, CINS/FINS may be held in a staff-secure shelter for 5 days on the first offense and 15 days on a subsequent offense.

Federal law prohibits placing a child in need of services in physically secure facilities, but does provide an exception in those cases of indirect contempt for violation of a valid court order [Juvenile Justice and Delinquency Prevention Act of 1974, s. 223, 42 U.S.C. s. 5633 (1996)]. The federal rules contain detailed requirements for establishing the validity of a court order and according due process to the youths. Federal law provides an incentive for compliance to this law by linking the requirement to a state's eligibility for federal funding.

To comply with federal law and to be eligible for funding, Florida law does not provide the court the option to place a CINS in a physically secure facility. When a CINS violates a court order and is in indirect contempt of the court, under the Federal law exception they may be placed in a physically secure facility. However, Florida law does not provide this exception. Current practice limits use of secure facilities to housing delinquents and traffic offenders.

Section 39.0145, F.S., provides punishment for contempt of court including placement in a staff secure facility or alternative sanctions including community service. However, there are no current laws allowing the court to sanction a CINS in contempt of court by withholding or suspending the child's driver's license.

Juvenile Alternative Sanctions Coordinator

Section 39.0145, F.S., requires each judicial circuit (20) to have a juvenile alternative sanctions coordinator (JASC). The JASC's are designated to recommend alternative sanctions to detention as punishment for youth found in contempt of court. This position creates a balance between the due process rights of juveniles and the need to maintain public safety by utilizing and coordinating local programs available to the community for alternative sanctions [Juvenile Alternative Sanctions Coordinator Report, 1997]. Some alternatives that may be recommended by the JASC include educational, therapeutic, preventive, or punitive programs.

Fee Collection

Current law allows the court to order parents of delinquent or CINS youths to pay fees to DJJ for costs incurred due to detention and commitment care. Parents are also responsible for contributing to the cost of services and treatment to the extent they are able.

The 1996 legislature authorized the Department of Children and Family Services (CFS) to employ the services of a registered collection agency to collect delinquent or unpaid fees. CFS was given authorization by the 1996 Legislature to employ a collection agency for collection of delinquent fees payable to the agency, however data is not available to assess implementation of this policy. The fee paid to the collection agency is to be paid by the department from the amount collected (s. 402.33, F.S.). CFS anticipates a significant increase in fees collected. According to the Senate interim study, in FY 1995-96, DJJ collected \$78,720 in delinquent fees for the care, maintenance and support of CINS or delinquent children.

Harboring a Runaway

Nothing in current law specifically criminalizes the act of harboring a runaway. Section 827.04, F.S., however, makes it a first degree misdemeanor to commit an act which causes or contributes to a youth becoming a delinquent, dependent or a child in need of services.

Section 787 03, F.S., makes it a third degree felony to knowingly or recklessly take or entice, or aid or abet another to take or entice, without lawful authority, any youth 17 years of age or younger from the custody of his parent, guardian, or public agency having legal charge of the youth.

Suspension of a Driver's License

In s. 322.28, F.S., subsection (1) states unless otherwise provided for by this section a driver's license is not to be suspended for more than 1 year by the Department of Highway Safety and Motor Vehicles. In addition, subsection (4) provides sanctions for failure to surrender a revoked or suspended driver's license.

Current law under s. 322.271, F.S., authorizes the department to revoke, cancel or suspend a driver's license and issue a restricted license to such person for business and employment purposes only. This provision does not include educational purposes.

Section 322.251(1) and (2), F.S., requires certain procedures for noticing an individual of suspension, cancellation, revocation or disqualification of a driver's license. Notice may be given by United States mail, and after the 20th day from the date deposited in the mail, the license privilege may be taken away.

B. EFFECT OF PROPOSED CHANGES:

Children In Need of Services/Family's In Need of Services

The bill requires the DJJ intake staff to provide written information to the parent or legal custodian of a child. This information is to include services and treatment offered by the department and the community, as well as, the rights and responsibilities of the parent or legal guardian.

Case Staffing

The bill allows local school districts to appoint a representative rather than limiting it to a representative of the school, in addition to adding a representative of the state attorney to the case staffing committee. The bill removes the alternative sanctions coordinator from the case staffing committee. Also, the bill will allow a parent, legal guardian, or any other member of the case staffing committee to convene a meeting.

The bill allows a parent, guardian, or legal custodian to file a petition alleging a child is in need of services pursuant to s. 39.436, F.S. The parent must provide a written notice to the department of their intent to file a petition and serve the department's office of general counsel with the notice, making the department a party to the petition. The petition must include: the parent has in good faith made an effort to use the services of the department; state the case staffing committee plan is not sufficient; and the court has the option to dismiss the petition if it does not comply with the requirements for filing a CINS petition. The parent is permitted to withdraw a petition.

Staff-Secure Shelter for CINS

The court is authorized to place a child adjudicated as a CINS in a staff-secure shelter for up to 90 days if the youth's parents refuse to provide care resulting from significant disruptive behavior on the part of the youth or the youth exhibits chronic runaway behavior. The court may not place a CINS in the staff-secure shelter unless the youth has failed to complete an alternative sanction or comply with a previous court order, been previously committed to a residential program, and DJJ verifies to the court that a bed is available. If the family has not been reunited, a youth may remain in the facility for an additional 30 days. If after this time the youth's parents continue to refuse to provide care for the youth, the court may declare the CINS to be a dependent and transfer care for the youth to the Department of Children and Family Services (DCF).

The court, upon review of the case every 45 days (provided for in 39.44, F.S.), may also transfer the case to DCF if the court finds that the parent has failed to provide an adequate level of financial and other support, failed to participate in treatment efforts and the treatment has failed to reunify the youth with his or her family.

Contempt Sanctions

In an effort to provide more restrictive sanctions for CINS contemnors, the bill allows the court to place a child who is in direct or indirect contempt of court in a physically secure facility when the conditions under s. 39.4422 are met. This provision is in compliance with Federal law under the exception to place a juvenile in indirect contempt of court in a secure facility, however Federal law does not provide the exception for direct contempt of court

The bill gives the court the powers of disposition to place a child in a physically secure facility under certain conditions which must be met prior to placement in the facility. The facility for CINS in contempt of court must be designated exclusively for that purpose. Only when the department verifies a bed is available and the following conditions are met may the child be placed in a physically secure facility: the child has ran away from a staff secure shelter; two or more prior contempt of court acts have occurred; and all due process rights must provided the youth. A youth may be placed in a physically secure facility for contempt for up to 5 days for the first act and up to 15 days for a subsequent act of contempt. While in the facility, the child must be assessed, treated, and provided educational services designed for truant, ungovernable or truant behavior, and the child must be provided with counseling services to reunite the family.

The bill gives powers of disposition to the court to require the parent, guardian or legal custodian to participate and cooperate in the services provided and pay all associated costs according to their ability to pay. Care for the child is temporary and does not abrogate the legal responsibility of the parent, guardian, or legal custodian.

The bill directs DJJ to establish a pilot program to operate one or more physically secure facilities in one judicial circuit. The bill directs the Juvenile Justice Advisory Board (JJAB) to monitor the program and issue an evaluation report to the Legislature by December 1, 1998 with a joint and subsequent report on the project to be conducted jointly by DJJ and JJAB and delivered to the Legislature by December 1, 1999.

Delinquent or Unpaid Fee Collection

The court may require the parent, guardian or legal custodian to pay all costs for the care, support, or maintenance of a child receiving services in several instances. The bill allows the DJJ to employ a collection agency, registered pursuant to Chapter 559, for the collection of delinquent or unpaid fees resulting from a court order to place a child in detention; for care, support and maintenance of a child adjudicated delinquent; for services and treatment provided for children or family's in need of services; and for care, support, and maintenance of a CINS.

DJJ has the option to pay the collection fee from the amount collected to the collection agency or authorize the collection agency to deduct the fee from the amount collected prior to turning collections over to the department.

According to the Senate interim study, DJJ reports that employing a collection agency to collect the court ordered fees from those who are able to pay will increase collections and generate additional revenues at no cost to the state.

Harboring A Runaway

The bill provides a criminal penalty for any person other than authorized agents of DJJ or HRS to shelter an unmarried minor for more than 24 hours. The bill makes an exception for persons who have notified a law enforcement officer, and for those who have been given consent by the parent or guardian. If an unmarried minor has runaway from home and seeks aid or shelter by any person, then the bill requires the person notify the parent, guardian, or law enforcement officer. Assisting a minor in finding a shelter such as a hotel room, or other accommodations is also prohibited and is a criminal act. Any person violating either provision in this section has committed a first degree misdemeanor.

According to the Senate interim report, law enforcement officers, prosecutors, providers and parents discussed the need for clearly providing penalties for harboring a runaway and to provide a means for prosecuting persons harboring runaway children and youth. In addition, findings from the Senate interim study found that Texas, Illinois, Oklahoma, and Colorado have implemented laws with criminal penalties for harboring a runaway.

Driver's License Suspension and Contempt of Court

The bill allows the court to direct the Department of Highway Safety and Motor Vehicles to withhold issuance, or suspend the driving privileges of a child in contempt of court for up to 1 year for the first offense and up to 2 years for a subsequent offense. This is a new sanction for juveniles in contempt of court. Provisions are made to allow a CINS with a suspended license to receive a restricted license for business, employment, or educational purposes as defined in s. 322.271, F.S. The child must meet the requirements for eligibility in order to receive the restricted license. The Department of Highway Safety and Motor Vehicles, Bureau of Records and Administrative Review will create records for youth in contempt of court who have had their driver's license withheld or suspended. They will then flag the records and track contemnors to assure compliance with court orders.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, the bill allows the court to place a child adjudicated as a CINS who is in contempt of court into a physically secure facility.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes, the bill establishes a physically secure facility for CINS children in contempt of court and directs that they be separated from delinquents. New facilities will be necessary to house these children, and will be under the jurisdiction of the department either directly or through contract.

- (3) any entitlement to a government service or benefit?

Yes, this bill allows lockouts to be placed under the care of the Department of Children and Family Services (CFS) when a parent, guardian, or legal custodian refuses to care for them and as a result they are 'considered to be threatened with harm' and thus are dependent children.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None.

- (2) what is the cost of such responsibility at the new level/agency?

None.

- (3) how is the new agency accountable to the people governed?

None.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes. The parent, guardian or legal custodian of a CINS or delinquent child who is under care of the department is responsible to pay the costs of care, maintenance, and treatment on according to their ability to pay.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes, the bill allows parents the option to file a CINS petition if they are not satisfied with the case staffing committee recommendations. The bill increases parental responsibility and involvement in resolution of the child's truancy, runaway or ungovernable behavior.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Under the intake and case staffing procedures set forth by the DJJ, the representative assigned to the case, or a case staffing committee will be responsible to assess the needs of a CINS/FINS. The case staffing committee consists of a representative of the school district, DJJ, supervisor (if contracted), social or educational services, state attorney, and a parent or guardian. If the case is filed with the court, then the court will evaluate the family's needs.

(2) Who makes the decisions?

Case staffing makes a recommendation to the department and the department makes the decision to file or not file a petition or recommend services and treatment. Under the powers of disposition the court will adjudicate a child as a CINS and place them under the jurisdiction of the department.

(3) Are private alternatives permitted?

Yes, diversion programs include scouts, boys and girls clubs, and other community programs that are options available to the child when the court orders the child to participate in programs.

(4) Are families required to participate in a program?

Yes, family's are directed to participate in family counseling, treatment, and other services provided to truants, runaways and ungovernables.

(5) Are families penalized for not participating in a program?

Yes, the bill provides a criminal penalty for a parent, guardian or legal custodian ordered to participate in a program who fails to show a reasonable effort to participate.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

The bill changes the programs for CINS who are runaways, truants, and ungovernables and creates a program for children who are lockouts. Parents, guardians, or legal custodians are given more parental responsibility in this bill to participate in the process to declare a child is a CINS. The bills adds the parent or legal custodian to the statutory list of individuals who may file an intake complaint alleging a child is from a family in need of services. The bill allows a parent, guardian or legal custodian to convene a case staffing committee meeting, file a CINS petition, or withdraw a CINS petition.

(2) service providers?

None.

(3) government employees/agencies?

The bill adds a representative of the state attorney to the case staffing committee. The bill allows the court to direct HSMV to suspend or withhold the driver's license of a child in contempt of court. The bill authorizes DJJ to operate a physically secure facility(s), and program for CINS in contempt of court. The bill authorizes DJJ to operate a program for lockouts.

D. SECTION-BY-SECTION ANALYSIS:

SECTION 1. Amends s. 39.0145, F.S.; permits the court to place a child in need of services who is in contempt of court into a physically secure facility if conditions are met; permits the court to direct HSMV to withhold issuance, or suspend the driving privileges of a child in contempt for up to 1 year; permits the court to direct HSMV to issue a restricted license to a child in need of services for business or employment purposes as defined in s. 322.271, F.S.

SECTION 2. Amends s. 39.044 (6), F.S., 1996 Supplement; permits the DJJ to employ a collection agency for collecting delinquent or unpaid fees resulting from a court order to place a child in detention, permits DJJ to pay the collection fee from the amount collected to the collection agency or authorize the collection agency to deduct the fee.

SECTION 3. Amends s. 39.054 (2), F.S.; See Section 2, however this section applies to a child adjudicated delinquent.

SECTION 4. Amends s. 39.422 (5), F.S.; extends the time period an involuntarily placed CINS or child from a family in need of services may be held in a shelter.

SECTION 5. Amends s. 39.423 (1), F.S.; directs DJJ intake staff to provide written information to the parent or legal custodian of a child regarding services and treatment offered by DJJ and the community and the rights and responsibilities of the parent or legal guardian.

SECTION 6. Amends s. 39.424 (3), F.S., 1996 Supplement; See section 2, however this section applies to FINS.

SECTION 7. Amends s. 39.426, F.S.; permits local school districts to appoint a representative to the DJJ staff casing committee; adds a representative of the state attorney to the case staffing committee; removes the alternative sanctions coordinator from the case staffing committee; amends the case staffing committee procedures to allow a parent, legal guardian, or any other member of the case staffing committee to convene a meeting; permits a parent, guardian, or legal custodian to file a petition alleging a child is in need of services; requires a written answer from the DJJ case staffing committee to the request from a parent that DJJ file a petition.

SECTION 8 Amends s. 39.436, F.S., provides for procedures to petition the court for an alleged child in need of services; permits a parent, guardian, or legal custodian to seek adjudication; requires the department to file a petition if the child is in a shelter according to s. 39.44, F.S.; permits a parent, guardian or legal custodian to petition the court for a CINS order.

SECTION 9. Amends s. 39.438 (2) and (3), F.S., 1996 Supplement; clarifies that DJJ is referenced in responding to a CINS petition filed by a parent.

SECTION 10. Amends s. 39.44 (1)(a), F.S., 1996 Supplement; clarifies that DJJ is referenced in the arraignment hearing process for a CINS petition filed by a parent.

SECTION 11. Amends s. 39.442 (3) and (4), F.S., 1996 Supplement; see Section 2, however this section refers to the powers of disposition.

SECTION 12. Amends s. 39.4421, F.S., permits the court to place a CINS in a staff secure facility for up to 90 days if the child is a lockout or runaway after all other less restrictive alternatives are exhausted; permits the court to commit a child only if the child has not complied with a court sanction, has not completed an alternative treatment program, has previously been committed to a residential program, and the department verifies a bed is available; requires parental participation; requires parents to reimburse the costs incurred by care and counseling on an 'ability to pay' basis. The facility must provide education while the child is in custody. permits the court to order the child to remain under care for another 30 days if the family may be reunited; creates procedures for lockouts after shelter care if the family is not reunited and the child is considered to be threatened with harm at that time; permits the court to transfer jurisdiction from DJJ to DCF and treat the child as dependent; directs the court to review the child's case every 45 days.

SECTION 13. Creates s. 39.4422, F.S., permits the court to sanction CINS who are in either direct or indirect contempt of court by placing them to a physically secure facility designed to house only CINS in contempt of court.

SECTION 14. Creates a provision for DJJ to establish a pilot program in one judicial circuit for the operation of one or more physically secure facilities to hold a CINS in contempt of court.

SECTION 15. Creates provisions to prohibit a person other than an authorized agent of DJJ or DCF from knowingly sheltering an unmarried minor for more than 24 hours in the absence of parental consent or notification to law enforcement; prohibits a person from sheltering or assisting in finding shelter for an unmarried minor who has runaway in the absence of contacting the parents or notifying law enforcement; a person in violation of law commits a first degree misdemeanor.

SECTION 16. Creates a provision to direct the Department of Juvenile Justice and the Department of Children and Family Services to encourage cooperation within districts and develop agreements with providers to coordinate services for lockouts and their families.

SECTION 17. Creates a provision to direct DJJ and CFS to establish a work group to study and report to the Legislature on services to lockouts and their families in an effort to reduce duplication of services; members to be appointed by the Secretary of both DJJ and D.F. and to include government employees, representatives of the private-sector, effected children, and family members; directs the work group to make recommendations for improving services in a report to the Legislature due January 15, 1998.

SECTION 18. Creates a provision to direct DJJ, CFS and Department of Education (DOE) to develop and publish an information packet to explain the CINS/FINS process and resources for CINS/FINS; requires DJJ, law enforcement, and school districts to distribute the packet to parents of any runaway, truant, and ungovernable youth.

SECTION 19. Creates a provision to direct DOE to analyze and develop improved methods of tracking attendance to better identify habitually truant children; requires DOE to provide assistance to local school districts to assist them in identifying habitual truants.

SECTION 20. Creates a provision to direct DOE to report findings to the legislature on habitual truancy as enacted under 96-369 Laws of Florida and make statutory amendment recommendations.

SECTION 21. Appropriates \$6,980,625 from the General Revenue Fund to DJJ for 6 month operation of a staff-secure facility for CINS; appropriates \$520,125 from the General Revenue Fund to DJJ for operation of a pilot project in one judicial circuit for one or more physically facilities to serve CINS in contempt of court; appropriates \$35,000 from General Revenue Fund to DJJ for operation of the department's toll-free hotline to provide resources to parents of runaway or troubled children.

SECTION 22. Creates an effective date of July 1, 1997.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

For the chronic runaway and lockout sections of this bill, the Department of Juvenile Justice (DJJ) estimates that \$2,326,875 (6 month funding) is needed to operate staff-secure facilities (150 beds) at \$85 per day for an estimated 200 lockouts and 400 runaways annually.

For the section of the bill which permits the transfer of jurisdiction from DJJ to the Department of Children and Family Services (DCF) for certain CINS cases, DCF estimates that \$1,204,500 (60 youth at \$55 per day for 12 months) is needed to provide of out-of-home care for these children in the protective services system. DCF believes that this additional funding is needed to fund specialized treatment services for these children and youth.

For the contempt provisions of this bill, DJJ estimates that \$520,125 (6 month funding) will be needed to operate one or more physically secure facilities in one judicial circuit.

The Office of the States Court Administrator estimates that there will be indeterminate expenses incurred by the courts for reviewing CINS placements every 45 days

Authorizing DJJ to use the services of a private collection agency to collect unpaid fees from parents should have an indeterminate positive fiscal effect.

The amount of \$35,000 is appropriated to DJJ for expanding the operations of the existing toll-free runaway hotline.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Private collection agencies will benefit from provisions of this bill.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

This bill is consistent with current provisions of Chapter 39, F.S., requiring parents to pay for the costs of care and treatment for their children and youth within their ability to pay. To the extent to which courts order and parents pay for such services, the costs incurred

from certain provisions of this bill may be somewhat offset by the collection of such costs.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not impose a mandate upon local governments.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of local governments.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with local governments.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON Juvenile Justice:
Prepared by:


Sara A. Wright

Legislative Research Director:


Ken Winker

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below)

FILE

Date: February 20, 1997

Revised: _____

Subject: Juveniles

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	Whiddon <i>Burt</i>	Whiddon <i>Burt</i>	CF	_____
2.	_____	_____	CJ	_____
3.	_____	_____	WM	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill strengthens the role of parents in the process for children and families in need of services (CINS/FINS) by requiring that families of troubled youths be provided information by schools and law enforcement, by directing that parents be provided with written information at intake regarding the CINS/FINS process and their rights and responsibilities within that system, by authorizing parents to convene a case staffing committee and providing that they be provided a written report by the committee, and by authorizing them to file a CINS petition under certain conditions.

The bill authorizes the court to commit a CINS youth found to be in direct or indirect contempt of court to a physically-secure facility under certain conditions, establishes one or more physically-secure facilities as a pilot program in one judicial circuit and appropriates \$520,125 for 6 months operation. The Juvenile Justice Advisory Board is charged with monitoring the implementation of the pilot program and, along with the Department of Juvenile Justice (DJJ), reporting to the Legislature.

The court is authorized to direct that the driver's license of a child held in contempt of court be withheld or suspended for up to 1 year for a first offense and up to 2 years for subsequent offenses. The court may authorize that an exception be made allowing CINS contemnors to drive for employment purposes.

The Department of Juvenile Justice is authorized to employ a registered collection agency for the purpose of collecting delinquent or unpaid fees.

The court is authorized to commit a CINS youth to a 90-day (with an option to extend to 120 days) staff-secure shelter if the youth has been refused care by his parent as a direct result of an established pattern of significant disruptive behavior or because the youth repeatedly runs away from home. Under specified conditions, if the parent continues to refuse to care for the child at the end of the placement, the bill provides for the child to be handled as a dependent child and for jurisdiction to be transferred to the Department of Children and Family Services (CFS). The bill appropriates \$6,980,625 to DJJ for 6-months operation of this staff-secure placement.

The Departments of Juvenile Justice and Children and Family Services are directed to develop agreements and to establish a work group to develop a proposal to resolve barriers to their ability to meet the needs of youths locked out of their homes by their parents.

The bill provides that knowingly sheltering an unmarried minor for more than 24 hours or aiding a minor who has run away from home without the consent of his parent or without notifying a law enforcement officer is a misdemeanor of the first degree.

The bill appropriates \$35,000 to fund an expansion of the toll-free runaway hotline so that it will be more accessible to the parents of troubled or runaway youths.

The Department of Education is directed to analyze the current methods of collecting school attendance data, to improve its methods of identifying habitual truants and to provide technical assistance to school districts regarding accurate identification of habitual truants. The department is also directed to report to the Legislature on the implementation of chapter 96-369, L.O.F., regarding habitual truancy.

This bill substantially amends ss. 39.0145, 39.044, 39.054, 39.422, 39.423, 39.426, 39.436, 39.438, 39.44, and 39.442, and creates ss. 39.4421 and 39.4422, of the Florida Statutes.

II. Present Situation:

1. THE CINS/FINS PROCESS

The statutory requirements for the Children in Need of Services/Families in Need of Services (CINS/FINS) program are found in Part IV, Chapter 39, F.S. Services under this statute are provided by the Department of Juvenile Justice (DJJ) through a network of contract providers. The purpose of the program is to provide an array of services, emphasize parental responsibility and separate the needs of truants, runaways and ungovernable youths from the needs of dependent and delinquent youths. Judicial intervention in these cases is supposed to be limited to situations in which a resolution to the child's and family's problems cannot be achieved through voluntary services.

When a child and family have been referred for services, DJJ assesses the child's situation at intake (s. 39 423, F.S.) and may refer the child and family for intervention services. At this

initial point in the process, parents are not routinely given information about available services or about their rights and responsibilities in the CINS/FINS system.

The services provided to a child and his family through the network of contract providers include an array of nonresidential and residential services designed to resolve the problems of truants, runaways and ungovernable youths. Participation in these services by the child and family is voluntary unless a child is adjudicated to be a child in need of services and ordered to participate.

Section 39.426, F.S., provides that a case staffing, in which the family and child participate, should be held if the family and child are not in agreement with the voluntary services offered, or the family will not participate in the services, or the staff needs assistance in developing a case plan. When a case staffing committee is convened, a plan for services is developed, and the family and child must acknowledge their acceptance or rejection of the services in writing. The committee is directed to recommend to DJJ that a CINS petition be filed if it concludes that all other alternatives have been exhausted; and the department must then file a petition if the family has in good faith but unsuccessfully used the services or has refused all services after reasonable efforts of the department to involve the family and child in services (s. 39.436, F.S.). With one exception for the State Attorney, only DJJ is authorized to file a CINS petition upon request of the case staffing committee or DJJ district manager.

An informal survey conducted by Senate staff as part of an interim project found that case staffings are held routinely in some districts and are virtually never held in others. Over the past several years there has also been a serious problem with getting CINS petitions filed in certain parts of the state due, in large part, to a shortage of DJJ attorneys, a situation which is now being remedied.

Prior to 1996, the law provided that parents could request and that DJJ must then file a CINS petition, but DJJ found that some petitions requested by parents did not meet statutory criteria. The 1996 Legislature deleted the provision (ch. 96-398, L.O.F.). Parents are no longer able to see that a CINS petition is filed nor can they initiate a case staffing if they believe one is necessary.

Section 39.44, F.S., provides a description of the hearings required once a petition is filed. At the disposition hearing, the court may order the least intrusive and least restrictive disposition, including ordering the family and child to participate in treatment, services or any other alternative identified as necessary, ordering the parent to pay fees or placing the child under the supervision of the CINS/FINS provider. If the child is placed in the residential care of a provider, placement is statutorily limited to 35 days.

2. LOCKOUTS AND CHRONIC RUNAWAYS

“Lockouts” are youths whose families, although capable of caring for their basic needs of shelter, food and clothing, refuse to do so for a variety of reasons relating to the youths’ disruptive behavior. Many fit the definition of CINS youths, but the fact that they have been refused care by their parents means that many also come to the attention of the child protection system. The departments of Juvenile Justice and Children and Family Services both have an interest in these youths, but the absence of clear lines of jurisdiction and the occasional lack of cooperation between the two departments (in addition to insufficient resource options) have made serving these youths and their families difficult in some districts. Relationships within families with locked-out youths are often so strained that the current short-term residential placement provided by the network of CINS providers is not long enough to resolve the problems.

Runaways who repeatedly run and will not stay in a placement long enough to be successfully treated often endanger themselves while they are on the run. Current law allows a staff-secure placement, which is sufficient for most but not all of these youths, but does not allow a physically-secure placement.

3. CONTEMPT SANCTIONS

Florida law does not provide the court the option to place CINS youths, including chronic runaways and youths who are in direct or indirect contempt of court, in a physically-secure (locked) facility. Direct contempt of court occurs when a disrespectful act, such as cursing at a judge, occurs in the presence of the court. Indirect contempt of court occurs when the act of violating a valid court order, such as an order to attend school or not to run away, occurs outside the presence of the court.

Federal law also prohibits placing CINS youths into physically secure facilities but provides an exception in those cases of indirect contempt for violation of a valid court order [Juvenile Justice and Delinquency Prevention Act of 1974, s. 223, 42 U.S.C. s. 5633 (1996)]. The federal rules contain detailed requirements for establishing the validity of a court order and according due process to the youths.

Section 39.0145, F.S., provides sanctions for contempt of court which include placement in a secure facility (staff secure for CINS youths) and being ordered to perform community service. The sanctions authorized for CINS contemnors are considered by many in the field to be insufficient.

4. FEE COLLECTION

Currently, the court can order parents of delinquent or CINS youths to pay fees to DJJ for costs associated with detention and commitment care. Parents are also responsible for contributing to the cost of services and treatment to the extent they are able. According to DJJ, the department collected only \$78,720 in FY 1995-96.

The 1996 legislature authorized the Department of Health and Rehabilitative Services to employ the services of a registered collection agency to collect delinquent or unpaid fees. The fee paid to the collection agency is to be paid by the department from the amount collected (s. 402.33, F.S.). The department anticipates a significant increase in fees collected.

5. HARBORING A RUNAWAY

Nothing in current law specifically criminalizes the act of harboring a runaway. Section 827.04, F.S., however, makes it a first degree misdemeanor to commit an act which causes or contributes to a youth becoming a delinquent, dependent or CINS youth; and s. 787.03, F.S., makes it a third degree felony to knowingly or recklessly take or entice, or aid or abet another to take or entice, without lawful authority, any youth 17 years of age or younger from the custody of his parent, guardian, or public agency having legal charge of the youth.

III. Effect of Proposed Changes:

1. THE CINS/FINS PROCESS

Several sections of Chapter 39, Part IV, F.S., are amended to strengthen the role of parents in the process designed to respond to the needs of youths who are chronic truants, runaways or ungovernables.

Section 39.423, F.S., relating to CINS/FINS intake, is amended directing the DJJ representative to inform parents in writing of the services and treatment available to the child and family and of the rights and responsibilities of the parent.

Section 39.426, F.S., is amended:

- adding a representative of the state attorney to the case staffing committee and deleting the alternative sanctions coordinator;
- authorizing the parent, guardian or legal custodian to convene a meeting of the case staffing committee, and authorizing any other member of the committee to do so if it is thought to be in the best interest of the family or child;
- authorizing the parent to file a CINS petition if the plan developed by the case staffing committee is not accepted; and
- directing the committee to provide a written report to the parents detailing the reasons for its decision regarding the filing of a CINS petition.

Section 39.436, F.S., is amended to provide the conditions which must be met when a parent files a petition, including requiring that the petition be served on the DJJ Office of General Counsel which is a party to the proceeding, specifying that the petition set forth specific facts

alleging that the child is a CINS child, and that it demonstrate either that services have been tried unsuccessfully or that they are inadequate to address the needs of the child. The court is directed to determine the legal sufficiency of the petition and may dismiss any petition that lacks sufficient grounds.

The Department of Juvenile Justice, in collaboration with the Department of Children and Family Services and the Department of Education, is directed to develop an information packet that explains the CINS/FINS process and resources available to parents of troubled youths to be distributed to schools and law enforcement agencies and made available to parents in an effort to provide parents with children showing early signs of trouble with the information they need to seek help.

2. LOCKOUTS AND CHRONIC RUNAWAYS

Section 39.4421, F.S., is created authorizing the court to order an adjudicated CINS youth to a staff-secure shelter for up to 90 days (with the option to extend to 120 days) if the youth has been refused care by his parent as a direct result of an established pattern of significant disruptive behavior of the youth or the youth repeatedly runs away from home.

- This option may be exercised only after less restrictive remedies have been exhausted and upon verification by DJJ that a bed is available. The court is directed to order parents to cooperate with efforts to reunite the child with the family, to participate in counseling and to pay all costs in accordance with their ability to pay.
- Appropriate education is to be provided during placement. Court review every 45 days is required.
- If, at the end of the placement, the parents continue to refuse to provide care for the child, the child is considered to be threatened with harm and the court is to direct that the child be handled as a dependent child with jurisdiction transferred to the Department of Children and Family Services. A child who requires a residential mental health or developmental services placement is to be referred to the Department of Children and Family Services.

In addition to more clearly defining the jurisdiction of DJJ and CFS in meeting the service needs of lockout youths, the bill directs the Department of Juvenile Justice and the Department of Children and Family Services to develop district agreements to coordinate the services to children locked out of their homes. The two departments are also directed to establish a joint work group to develop a legislative proposal which would eliminate or minimize duplication of services and jurisdictional conflicts that affect services to lockouts and their families. The proposal is to be submitted to the Legislature by January 15, 1998.

3. CONTEMPT SANCTIONS

Physically Secure Facility

In an effort to respond to observations that current sanctions for CINS contemnors are ineffective, Section 39.0145, F.S., is amended specifying that an adjudicated CINS youth who is held in direct or indirect contempt of court may be placed in a physically secure facility that is designated exclusively for such youths. The bill does not allow CINS youths to be placed in a secure detention facility with delinquent youths.

Section 39.4422, F.S., is created providing a number of conditions for such facility and placement:

- A child may be committed to the facility only if DJJ authorizes that a bed is available and if the child has either run away from a staff-secure shelter or has committed at least two prior acts of direct or indirect contempt.
- Placement cannot exceed 5 days for the first commitment and 15 days for subsequent commitments.
- Prior to being committed, a child must be afforded all rights of due process and, while in placement, must receive appropriate assessment, treatment, and educational services, although the length of placement is so short that meeting some of these conditions may not be feasible. The family is also to be provided counseling and other necessary support services.
- The court is directed to order parents to cooperate with efforts to reunite the child and family, to participate in counseling and to pay all costs in accordance with their ability to pay.

The Department of Juvenile Justice is directed to establish a pilot program within a single judicial circuit for the purpose of operating one or more physically secure facilities exclusively for the placement of CINS youths within the circuit who are in direct or indirect contempt of court. The Juvenile Justice Advisory Board is directed to monitor the operation of the pilot program and issue a preliminary evaluation report to the Legislature by December 1, 1998, and, jointly with DJJ, a final report by December 1, 1999.

Drivers License

Section 39.0145, F.S., relating to contempt of court, is also amended to authorize the court to direct the Department of Highway Safety and Motor Vehicles to withhold or suspend a child's driver's license or privilege for up to 1 year when that child is held in contempt of court the first time and up to 2 years for subsequent times. For CINS youths, exceptions may be made for business or employment purposes, a provision which includes driving for educational, church and medical purposes.

4. FEE COLLECTION

Several sections of Part IV of Chapter 39, F.S., are amended authorizing DJJ to employ a registered collection agency for the purpose of collecting delinquent or unpaid fees. The department may pay a fee from the amount collected or authorize a deduction from fees collected.

5. HARBORING A RUNAWAY

The bill provides that knowingly sheltering an unmarried minor for more than 24 hours without the consent of his parent or without notifying a law enforcement officer and knowingly providing aid to an unmarried minor who has run away from home without first contacting the parent or law enforcement is a misdemeanor of the first degree.

6. ADDITIONAL PROVISIONS

The Department of Education is directed to analyze the current methods for collecting data, to improve its methods for identifying habitually truant youths and to provide technical assistance to school districts regarding the accurate identification of habitually truant youths. The department is also directed to report to the Legislature on the implementation of programs designed to eliminate habitual truancy

The bill appropriates \$6,980,625 from the General Revenue Fund to DJJ to provide 6 months funding for staff-secure shelters, \$520,125 for operating a physically-secure pilot project, and \$35,000 to expand the runaway toll-free hotline.

The existing hotline is available to parents of runaways as well as runaways themselves but is marketed to and predominantly used by runaways. The funding for expansion would double the current state appropriation for the hotline and allow expansion of that service specifically for parents.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Consistent with other provisions of chapter 39, part IV, F.S., parents are obligated to pay costs of care and counseling of their children within their ability to do so.

Anyone found to have harbored or aided a runaway in violation of the provisions of this bill would be subject to costs associated with a first degree misdemeanor (discretionary fine not to exceed \$1,000).

C. Government Sector Impact:**1. THE CINS/FINS PROCESS**

Although no data is available upon which to predict the number of petitions that will be filed as a result of the provision allowing parents to file CINS/FINS petitions, the Office of the State Courts Administrator and DJJ did not report an anticipated fiscal impact.

The requirement to develop and distribute information packets will have an impact on DJJ, but the department did not indicate a need for additional revenue to implement this provision.

2. LOCKOUTS AND CHRONIC RUNAWAYS

Based on preliminary information provided to the Legislature, the bill appropriates \$6,980,625 (6 months funding) from the General Revenue Fund to DJJ to operate the staff-secure placements established in the bill. More recent information received from DJJ indicates that \$2,326,875 (6 months funding) would be sufficient and would fund 150 beds at \$85/day and serve an estimated 200 lockouts and 400 runaways annually.

Based on the estimated 600 youths to be served, the Office of the State Courts Administrator estimates that the bill's requirement to review a placement every 45 days would result in an estimated 450 hours in additional workload (3 hearings per case/15 minutes per hearing = 56 8-hour work days or 450 hours). The estimated costs associated with this workload increase have not been determined.

The Department of Children and Family Services (CFS) estimates that the provision in the bill providing for jurisdiction to be transferred from DJJ to CFS will have an

estimated impact of \$1,204,500 (60 youths at \$55/day for 12 months). Although CFS is currently appropriated funds to provide out-of-home care to children in the protective services system, the department believes this additional funding is necessary to provide contracted wrap-around services to meet the specialized behavioral needs of these youths who have previously been adjudicated a child in need of services.

3. CONTEMPT PROVISIONS

The bill appropriates \$520,125 (6 months funding) from the General Revenue Fund to DJJ for the purpose of operating one or more physically-secure facilities in one judicial circuit. This amount would support 30 beds at \$95/day. The Department of Juvenile Justice concurs with this estimated fiscal impact.

Providing youths due process protection prior to being committed to a physically-secure facility will have an undetermined impact on the courts.

4. FEE COLLECTION

The ability to employ the services of a private collection agency to collect fees should have a positive fiscal impact on DJJ.

5. ADDITIONAL PROVISIONS

\$35,000 is appropriated to DJJ from the General Revenue Fund to expand the existing toll-free runaway hotline.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The provision in this bill authorizing commitment of a CINS youth to a physically secure facility as a result of direct contempt may violate federal law and could subject the state to penalties. The federal law provides an exception to its prohibition against the use of a physically-secure placement for CINS youths only in cases of indirect contempt when the youth is in violation of a valid court order and due process rights are protected.

Most of the provisions in this bill are consistent with the recommendations of an interim project conducted by the staffs of the Committees on Criminal Justice; Children, Families and Seniors; Education; and Ways and Means.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.



DEPARTMENT OF JUVENILE JUSTICE BILL ANALYSIS

FILE

DATE: February 11, 1997

HOUSE BILL NUMBER:

ANALYST: Katrina M. Saggio, Asst. General Counsel

SENATE BILL NUMBER: 278

Katrina M. Saggio

SPONSOR: Burt

REVIEWER: Janet Ferris, General Counsel

COORDINATED WITH:

Janet Ferris

REVIEWER: George Hinchliffe, Asst. Secretary for Programming and Planning

REVIEWER: Lee Ann Thomas
Director, Office of Legislative Affairs/921-5900

REVIEWER: Susan G. Bisbee
Executive Staff Director

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STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

SUBJECT: Displaced Youth, Runaways, CINS/FINS

1. CURRENT SITUATION:

The statutory requirements for the Children in Need of Services/Families in Need of Services (CINS/FINS) program are found in Part IV, Chapter 39, F.S. Services under this statute are provided by the Department of Juvenile Justice. The purpose of the program is to provide an array of services, emphasize parental responsibility, and separate the needs of truant, runaway and ungovernable children from the needs of dependent and delinquent children. Judicial intervention in these cases is supposed to be limited to situations in which a resolution to the problem has not been achieved through service, treatment, and family intervention after all least restrictive resources have been exhausted.

Section 39.01, (12), F.S., defines a child in need of services as a child who has no pending referral for dependency or delinquency and is not under supervision for delinquency or dependency, and has been adjudicated by a court to be truant, runaway or have disobeyed the reasonable and lawful demands of their parents. In order to be adjudicated a child in need of services, the behavior must have continued despite the reasonable efforts of the child, parents or legal custodians, and appropriate agencies to remedy the situation. Reasonable efforts include voluntary participation by the parents and child in family mediation, services, and treatment offered by DJJ and the Department of Children and Family Services. Family in need of services is defined as a family that has a child who has no pending referral for dependency and is not under supervision for dependency or delinquency and has been truant, runaway and ungovernable. A family in need of services has not been yet been to court. These children and their families are referred to the providers for services either by the schools, law enforcement, DJJ, or the families or children themselves.

Once a child and family have been referred for services, the Department provides intervention services pursuant to s. 39.424, F.S. Section 39.426, F.S., provides that a case staffing, in which the family and child participate, should be held if the family and child are not in agreement with the services offered, the family will not participate in the services, or the representative of the Department needs assistance in developing a case plan. The case staffing committee will develop a plan for services and the family and child must acknowledge their acceptance or rejection of the services in writing. A child in need of services petition will be recommended if all other alternatives have been exhausted.

Pursuant to s. 39.436, the Department must file a petition if the case staffing committee recommends the filing of a petition and the family has in good faith, but unsuccessfully, used the services or have refused all services after reasonable efforts of the Department to involve the family and child in services. The petition must be in writing, shall state the specific grounds for which the child is a child in need of services, and shall certify that the family has participated in services or refused to participate. Once a petition is filed, the court has jurisdiction of the child and the family.

Section 39.44, F.S., provides a description of the hearings once a petition is filed. The case is first set for an arraignment hearing. If the child and parent admit to the petition, a predisposition report is prepared by the provider and the case is set for a disposition hearing. If the child or parents deny the allegations in the petition, the court shall hold an adjudicatory hearing, which is a non-jury trial. If the child is found to be a child in need of services, the case proceeds to a disposition hearing. Review hearings may be held at which the court may either close the case if the child has substantially complied or the child may continue to be a child in need of services if the child has failed to comply.

Pursuant to s. 39.442, F.S., at the disposition hearing, the court may order the least intrusive and least restrictive disposition, including, but not limited to, ordering the family and child to participate in treatment, services, or any other alternative identified as necessary, ordering the parent, guardian, or custodian to pay a fine or fee, placing the child under the supervision of the CINS/FINS provider, placing the child in temporary legal custody of an adult willing to care for the child, committing the child to a licensed child-caring agency willing to receive the child without compensation from the Department, or ordering the parent, guardian, custodian or the child to complete community service.

In the past, there has been some difficulty in filing petitions due to the Department's lack of funding for attorneys. For one year, there was only one attorney who filed 125 petitions. Currently, the Department has 5 CINS/FINS attorneys and will soon have five more. These attorneys have increased the number of petitions filed and worked together with the providers and the courts. These attorneys also participate in the case staffing committees which increases the likelihood that the services will solve the problems of the family and child and has resulted in an increase in the number of petitions filed in cases where the problem has not been eliminated. In the four months, that these attorneys have been employed with the Department, they have filed approximately 130 petitions. Additionally, the attorneys are working with and training those providers in areas that have historically not filed petitions so that these providers may more actively pursue judicial intervention when necessary.

The current system does not provide meaningful sanctions for children that do not comply with the court orders. Pursuant to s. 39.0145(2)(b), F.S., if a child is held in direct or indirect contempt, the child may be placed in a staff-secure shelter, which is not a hardware secure facility, for 5 days for the first offense and 15 days for the second offense. Under state law, a child may not be placed in a secure detention center or any other commitment program for delinquent children. Federal law prohibits the placement of these children in hardware secure facilities unless the child is in violation of a valid court order.

In several cases, there are children in need of some type of residential care, other than short-term shelter care, because their parents will not allow them back into the home due to their significant disruptive behavior. Currently, there is no provision in the statute or funding that would provide a longer-term residence for these children.

There is also no funding available for those children who need residential care and have not been held in contempt or whose parents will not permit them to return home. There have been a number of situations where the providers felt the need to recommend residential care, however, this is not possible unless the parents can afford it.

2. EFFECT OF PROPOSED CHANGES:

SECTION 1

This amends s. 39.0145(2)(b), F S , and would permit a CINS child held in indirect contempt to be placed in a physically secure facility if certain conditions are met.

Subsection (d) of this section would also permit the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend a child's' driving license or privilege for up to one year for a first offense of contempt and two years for a subsequent offense. A CINS child whose license is suspended may have their license restricted to business or employment purposes only.

SECTION 2

This amends s. 39.044(6), F S , and would permit the Department to employ a collection agency for the purpose of collecting unpaid fees that have been court-ordered in order to pay for the care, support and maintenance of a child in detention. The Department may pay the collection agency from the fees that are collected.

SECTION 3

This amendment would also permit the Department to employ a collection agency for the purpose of collecting unpaid fees that have been court-ordered in order to pay for the care, support and maintenance of a child who has been adjudicated to have committed a delinquent act and has been placed in the temporary legal custody of a licensed child-caring agency or the Department. The Department may pay the collection agency from the fees that are collected.

SECTION 5

This amends s. 39.423(1), F S., by clarifying that a parent or legal custodian may make a referral alleging that a child is from a family in need of services. Subsection (3) would be amended to require the departmental representative to inform the parent or custodian, in writing, of the services and treatment available to the child and family and the rights and responsibilities of the parent or legal guardian.

SECTION 6

This amends s. 39.424(3), F S , and would permit the Department to employ a collection agency for the purpose of collecting unpaid fees for the services and treatment provided to children in need of services and families in need of services. The Department may pay may the collection agency from the fees that are collected.

SECTION 7

Section 7 amends s. 39.426(2), F S , by adding a representative of the state attorney as a possible member of the case staffing committee and eliminates the alternative sanctions coordinator as a member.

The section would also permit a parent, guardian or legal custodian or any other member to convene a meeting of the case staffing committee if the member finds that to do so would be in the best interest of the child. If the case plan not accepted, the parent or guardian or legal custodian may file a CINS petition. The case staffing committee must provide the parent, guardian or legal custodian with a written report detailing the reasons for the committee's decision to recommend or decline to recommend the filing of a CINS petition.

SECTION 8

This section amends s. 39.436, F S., by permitting a parent, guardian, or legal custodian to file a CINS petition if they do not agree with the case staffing committee's service plan. The parent, guardian or custodian would have to give the

Department prior written notice of intent to file and must serve the Department's office of general counsel and the Department would become a party to the proceeding

This statute would also be amended to include the requirements for the filing of a petition by a parent, guardian, or legal custodian to file a petition. The petition must be in writing, set forth specific facts for the allegation that a child is a child in need of services, and be signed by the petitioner under oath. The petition must also demonstrate that the parent, guardian or custodian has attempted but unsuccessfully used the services and processes described in ss 39.424 and 39.426, and that the case staffing committee's plan does not adequately address the needs of the child.

The court on its own motion or motion of the other party may determine the legal sufficiency of a petition and dismiss any petition that lacks sufficient grounds. If the court finds the petition to be legally sufficient, the case would be set for an adjudicatory hearing

Subsection (6) would be renumbered as (5) and would be amended to permit a parent, guardian, or custodian to withdraw a petition at any time

SECTION 10

- This section amends s 39.44(1), F.S., by stating that an arraignment hearing will be held only upon the filing of a petition by the Department. Section 39.44(2), F.S., would be amended to require the holding of an adjudicatory hearing if a petition is filed by the Department or parent, guardian or custodian.

SECTION 11

This section would permit the Department to employ a collection agency for the purpose of collecting unpaid fees that have been court ordered to pay for the support of a child adjudicated to be a child in need of services that has been placed in the temporary legal custody of an adult relative willing to care for the child, a licensed child-caring agency, DJJ, or the Department of Children and Families. The Department may pay the collection agency from the fees that are collected.

SECTION 12

Section 12 creates s. 39.4421, F.S., which would allow a child to be committed to a staff secure shelter if the parents, guardian or custodian have refused to provide food, clothing, shelter and necessary parental support due to the child's significant disruptive behavior; or the child has repeatedly run away. Other less-restrictive remedies must have been exhausted and the child must have failed to successfully complete an alternative treatment program or to comply with a court ordered sanction, must have been committed to a residential program on at least one prior occasion, and the Department, or authorized representative, verifies that a bed is available

Pursuant to this section, the court shall order the parent, guardian or custodian to cooperate with efforts to reunite the child with the family, participate in counseling and pay all costs associated with the care and counseling provided to the family based on ability to pay. Such a commitment would be temporary and does not abrogate the legal responsibilities of the parent, guardian or custodian. Education must be provided to the child while in the staff-secure shelter. The commitment would be for 90 days and could be extended 30 days, if the court finds that reunification could be achieved within that period.

If at the end of the commitment period, the parent, guardian or custodian continues to refuse or creates unreasonable conditions for the child's return, the Department is deemed to have exhausted all remedies. The child is considered to be threatened with harm and the child would then be handled as a dependent child, and jurisdiction would then be transferred to the Department of Children and Family Services.

This commitment would be reviewed every 45 days, and the court shall determine if the parent, guardian, or custodian has reasonably participated in and financially contributed to the child's counseling and treatment program and whether

the Department's efforts to reunite the family have been reasonable. If the court finds an inadequate level of support or participation, the child would then be considered to be dependent.

If the child is in need of residential mental health treatment or residential care for a developmental disability, the court would refer the child to the Department of Children and Family Services

SECTION 13

Section 13 creates s. 39.4422, F.S., which provides dispositional alternatives, in addition to those contained in s. 39.0145, F.S., for contempt of court. Subsection (1) permits the court to place a child held in indirect contempt of a valid court order in a physically secure facility that is designated exclusively for CINS children for 5 days for a first commitment and up to 15 days for a second or subsequent offense if a representative of the Department verifies to the court that a bed is available. Additionally, the child would have to have runaway from a staff secure shelter, or committed at least two prior acts of indirect contempt. The child must be afforded all rights of due process and the child must receive appropriate assessment, treatment, and educational services. The court must order the parent, guardian or custodian to cooperate with efforts to reunite the family, participate in counseling, and pay all costs in accordance with the family's ability to pay.

SECTION 14

DJJ would be required to establish a pilot program within a single judicial circuit for the purpose of operating a physically secure facility exclusively for the placement of CINS children held in indirect contempt of a valid court order. The Juvenile Justice Advisory Board shall monitor the operation of the pilot program and issue a preliminary evaluation report to the

Legislature by December 1, 1998 and a joint final report with DJJ to the Legislature by December 1, 1999.

SECTION 15

Section 15 would make it a first degree misdemeanor for any person who is not an authorized agent of DJJ or the Department of Children and Family Services to knowingly shelter an unmarried minor for more than 72 hours without the consent of the child's parent or guardian or without notifying a law enforcement officer of the minor's name and the fact that the minor is being provided shelter

SECTION 16

Pursuant to section 16, DJJ and Department of Children and Family Services must encourage interagency cooperation within each district and must develop comprehensive agreements to coordinate services for children who are locked out of the home.

SECTION 17

Section 17 requires DJJ and the Department of Children and Family Services to establish a joint work group to develop a legislative proposal to be submitted to the Legislature by January 15, 1998 that would eliminate or minimize duplication of services and jurisdictional conflicts that occur in cases where the child is locked out of their home. The Secretary of DJJ and the Secretary of Children and Family Services shall appoint the members of the work group. This proposal must be based on an analysis of service needs and must address strategies by which the Legislature can improve the ability of the Departments to work with locked out children

SECTION 18

DJJ, in collaboration with the Department of Children and Family Services and the Department of Juvenile Justice, must develop and publish an information packet that explains the current CINS/FINS process for obtaining assistance and the community services available. The information packet must be done in conjunction with school district superintendents, juvenile court judges, county sheriffs and other law enforcement officials. This package must be updated annually and be available by January 1, 1998. The information packet must be distributed by the school district to parents of truant children and DJJ shall distribute the packet to law enforcement agencies

SECTION 19 and 20

The Department of Education shall analyze the current methods of collecting data on student attendance, develop improved methods of identifying children who are habitually truant, and report to the legislature on the implementation of programs designed to eliminate habitual truancy.

SECTION 21

Pursuant to section 21, \$6,980,625 would be appropriated from the General Revenue Fund to DJJ to provide 6 months funding for operating a program under which CINS children could be committed to a staff-secure shelter due to failure by the parent or guardian to provide support or the child's refusal to remain under the care of the parent or guardian. The sum of \$520,125 would be appropriated to DJJ to provide 6 months funding to operate a pilot project to provide one or more physically secure facilities, and \$35,000 to DJJ for the purpose of expanding the toll-free hotline to include resource and referral information for parents of troubled or runaway children.

3. ECONOMIC IMPACT STATEMENT AND FISCAL NOTE:

4. WERE THE DISTRICT CONTACTS NECESSARY:

YES: NO:

5. AMENDMENTS:

6. GENERAL COMMENTS:

SECTION 1

The amendment also provides that a child's driver's license may be restricted to employment or business purposes. This amendment should provide that a child's license may be restricted to educational purposes. Additionally, because children may be ordered to complete community services for contempt or as a disposition alternative under s 39 422, F.S., this language should also provide that a child's license may also be restricted to community control purposes. Thus, the language should state "restricted to employment, business, or educational purposes, and for the purpose of completing community service hours that have been court-ordered

Section 39.0145(4)(b), F.S , requires the court to review a placement of a child held in contempt every 72 hours. If a child has been placed in a shelter as a sanction for contempt there should be no reason to review the case every 72 hours to determine whether the placement is appropriate. Thus, it is suggested that this requirement be eliminated

SECTION 2, 3, 6, and 11

These sections permit the department to employ collection agencies to collect delinquent or unpaid fees. However, there is currently no means for the department to receive fees and monitor the payment of fees. Thus, this collection agency should not only be for the purpose of collecting delinquent or unpaid fees, but for receiving, collecting, and managing the payment of all fees

SECTION 7

This amendment substitutes the state attorney for the alternative sanctions coordinator as a member of the case staffing committee. The alternative sanctions coordinator may have valuable information for additional alternatives for children in need of services and families in need of services. Additionally, it is often very helpful to have an attorney for the Department to be present at these case staffings. Thus, it is suggested that the state attorney and an attorney for the Department be a possible member in addition to the alternative sanctions coordinator.

This section provides that a family member or other member of the case staffing committee may request a meeting of the case staffing committee (Page 14, Lines 15 through 18). It is suggested that this provision be moved to s. 39.426(2) in order to clarify when a case staffing meeting shall be convened and that the other subsections be renumbered.

This section also provides that the parent, guardian or custodian may file a petition alleging the child is a child in need of services. This represents a policy shift from utilizing the least restrictive means approach to rehabilitate the family and child and a change in the legislative intent which limits judicial intervention to situations in which a resolution to the problem or conflict has not been achieved through service, treatment and family intervention and after all available less restrictive resources have been exhausted.

Currently, the case staffing committee recommends the filing of a petition if they have exhausted all remedies. If a petition is not recommended, it is because another alternative may solve the problem, the child may not meet the definition of a child in need of services, or it is necessary to further evaluate the situation. The case staffing committee members, not the parents, have an objective view and are qualified to decide who would benefit from a petition and to know what services would most benefit the family and child. The parents are present at the case staffing in which they have input into whether a petition should be filed and what services should be provided. A petition will be filed by the Department if the case staffing determines that is necessary.

In the past, parents were understandably frustrated by the lack of petitions being filed by the Department, however, this was due to a lack of attorneys to file the petitions. This is no longer a problem since the department will now have ten attorneys handling CINS/FINS cases and a case may even be filed in certain cases as quickly as four days after a petition is recommended by the case staffing committee.

Additionally, when a petition is filed by the department, an attorney for the Department is in the position of prosecuting the case. Allowing parents to file their own petitions would be similar to allowing victims of crimes to prosecute criminal cases when the state attorney determines that it is not a proper case for prosecution.

Currently, there have been cases in which parents have attempted to file petitions. The cases were not proper CINS cases because the children did not meet the definition of a child in need of services, due to the fact the child may be dependent or delinquent, or the case may have never been referred to the provider. The parents are often not completely satisfied with services either because they want the child's behavior improved immediately or because the provider's recommendation imposed certain requirements on the parents themselves. The courts could be inundated with parents filing pro se petitions in these cases. The only reason the courts do not have a great number of these cases now is because chapter 39, part IV, F.S., requires that the parents first attempt to receive services through the provider and participate in a case staffing. Giving parents greater access to the case staffing committee is likely to be more effective solution than giving parents direct access to the courts.

Furthermore, assuming that a private petition is entertained by the court, when the Court holds its disposition hearing, it will probably order the Department to take over the case, make recommendations, and provide services. The provider would not have time to properly address the issues and prepare a predisposition report. The recommendations in the predisposition report would, in all likelihood, be the same recommendations that have already been recommended by the case staffing committee. It may be very difficult to provide services after the disposition to a family that bypasses the Department to file its own petition, because they were not satisfied with the services offered. Thus, these private petitions may undermine the work of the provider in attempting to resolve any problems and may exacerbate the situation.

The current system and process will help most children and families in need of services with proper utilization. These difficult children cannot be "fixed" overnight, however, the solution to any problems in the system is to make sure that

it is accessible to the family and children in need of services and that there are sufficient resources to provide necessary services, not in allowing parents to circumvent the established system

At this time, there is no way to determine what the fiscal impact of allowing parents direct access to the courts will be on the department and the judicial system

SECTION 8

Section 39 436(1), F S , provides that when a child in need of services is placed in a shelter pursuant to a court order, the department shall file a petition immediately. However, this placement in a shelter may be the Department's first contact with the child and their family and the department may not have enough information to file a petition. In several cases, the problems of the family and child have been solved with placement in a shelter and there is no need for a petition, in others, the Department has discovered that the child is dependent or delinquent or does not meet the definition of a child in need of services. At the time of the shelter placement, there may be insufficient information to verify the petition. Thus, it is suggested that the language "the department shall file the petition immediately, which must contain notice of arraignment pursuant to s. 39 44" be amended to state "the department shall immediately convene a case staffing committee pursuant to s. 39 426." This will enable the provider to more adequately assess the situation and to request a petition if necessary.

This section also provides procedures to be followed in those cases in which a petition is filed by a parent Subsection (3)(a) would require the parent to notice the department and the department would be a party. The parent would become the petitioner and the child the respondent and there is no indication of how the department would become a party or what kind they would be The only reason the Department would be an interested party would be if the provider or Department would have to provide services As previously stated above, it would be very difficult to address the needs of such a family when all available services have been offered or provided, and the family has refused or rejected them and filed their own petition.

Sub-subsection (3)(d) provides that when a petition is found by the court to be legally sufficient, the case should be immediately set for an adjudicatory hearing. An adjudicatory hearing is a non-jury trial and is not necessary if the child admits or consents to the petition at an arraignment hearing If the child admits or consents to a petition at an arraignment hearing, the case would then be set for a disposition hearing, not an adjudicatory hearing. If a case is set for an adjudicatory hearing, courts will have to reserve time on the trial calendar Setting the case for an arraignment hearing, which takes less time, will be easier for the courts At this arraignment hearing the court could determine the legal sufficiency of a petition Additionally, the child is entitled to an arraignment hearing in which they admit, deny or consent to a petition. Thus, it is suggested that the term "adjudicatory hearing" be changed to "arraignment hearing".

Subsection (4) deletes the language that provides that the contents of a petition should be governed by the rules of procedure. The rules of procedure, in addition to the statute, should provide for the contents of a petition. Thus, it is suggested that this language not be deleted

SECTION 9

Section 9 amends s. 39 438, F.S., by providing that no answer to a petition "filed by the Department" is required If a parent filed a petition they would not have to file an answer, however, this provision does imply that a child would have to file an answer if a petition is filed by their parent Thus, it is suggested that this amendment be eliminated.

SECTION 10

The proposed amendment to s 39 44(1)(b), F.S., provides that an arraignment shall be held if a petition is filed by the department As previously stated above, a child should have the opportunity for an arraignment hearing in which they may admit, deny or consent to a petition and having an arraignment hearing would be easier on the courts Thus, it is suggested that "by the department" be eliminated so that an arraignment hearing would be held in all cases regardless of whether a petition is filed by a parent or the department It is also suggested that page 18, lines 24 and 25 be amended by eliminating the term "department's" and changing the term "adjudicatory" on line 25 to "arraignment".

SECTION 12

This section would limit a child's placement in a longer-term residential placements because their parents may not allow them to return home to only those situations where a child has failed to successfully complete an alternative treatment program or to comply with a court-ordered sanction and the child has previously been committed to a

residential program on at least one prior occasion. There is no indication in the bill of what is intended by use of the terms "alternative treatment program" or "committed to a residential program". These conditions will not eliminate the problem for those children that may not return home. Many parents refuse to allow their child back into the home before the child may ever be placed in a residential facility, the child may not qualify for or need to be placed in a residential program, or the child may never have refused to comply with a court ordered sanction. These children would have no other place to go besides the 35 day shelter. Additionally, these requirements confuse the issues related to the "lockout" problem with the contempt problem. The solutions to these two problems need to be different and separate.

Subsection (5) permits the court to extend the 90 commitment for 30 days. As the child may also be placed into a CINS/FINS shelter for 35 days, pursuant to s. 39.422(5)(b), F.S. This would permit a parent to refuse to allow the child into the home for 155 days.

It is suggested that the term "commitment" in section 12 be changed to "placement". The term "commitment" is a term primarily used in delinquency cases.

It is also suggested that the phrase "food, clothing, shelter, and parental support" on page 22, line 9 be amended to "food, clothing, shelter, medical treatment or parental support." Otherwise, it implies that if a parent is only refusing to provide one thing, the child would not be dependent. This would also more accurately reflect the language in the definition of neglect in s. 39.01(47), F.S.

SECTION 13

Children often run from the 35 day CINS/FINS shelter, thus, it is suggested that the terms "department approved families in need of services or children in need of services shelter" be inserted on page 23, line 18.

This section is primarily providing a sanction for contempt and does not involve the issue of reunification of the family. Thus, it is suggested that the terms "necessary for reunification" on page 24, lines 1 and 2, be eliminated, and the phrase "efforts to reunite the child with the family" on lines 4 and 5 be amended to "all efforts of the Department".

It should be clarified that this section only applies in those areas that have a pilot program for physically secure facilities. Otherwise, all the courts will consider this to be a general right to order any child into a secure facility. Thus, it is suggested that this section be placed under section 14.

SECTION 14

The secure confinement of status offenders (CINS/FINS) creates some specific problems for the department as it relates to compliance with the federal Juvenile Justice Delinquency Prevention Act of 1974, as amended. While the proposed revisions to this part provide for due process and the operation of the juvenile rules as they relate to due process, the state would be risking its responsibility to maintain actual compliance with the federal requirements at the trial court level. Failure to maintain acceptable compliance levels as it relates to due process could cause suspension or termination of the state's discretion in spending federal dollars. These due process requirements would appear to have a fiscal impact on the judicial system due to an increase in the number of necessary public defenders and other judicial personnel, as well as increasing the demand on the court's time.

Additionally, there is already an unsatiated demand for placement of delinquent children in either commitment programs or in the already overcrowded detention centers. Public policy considerations should require the examination of the fiscal priorities associated with the secure housing of status offenders.

SECTION 16, 17, and 18

It is suggested that the terms "locked out of the home" be amended to "not permitted back into the home" on page 25, lines 12, 20, and 26 and page 27, line 4; that the term "lockout" in line 28 be amended to "these"; and the term "locked-out children" be amended to "children who are not permitted back into the home" on page 26, line 2.

In several cases, the providers have recommended residential placement as an initial disposition for children in the CINS/FINS program, however, the children may not be locked out of their home and they are not in contempt of court. These recommendations are made as a result of an analysis by a psychiatrist or psychologist. However, currently there

is no available funding for such placements unless the parents can afford the placement or Medicaid funding is available. This bill does not address that issue

Spoke

COMMITTEE APPEARANCE RECORD
(Submit to Committee Chairman or Secretary)

3-4-97
(date)

SB 278
(Bill No.)

Name Jim + Debbie McNerney

Address 820 W. Church St. Deland FL 32720

Representing Parent Support Group

Lobbyist (Registered with Senate) Yes _____ No X

Speaking: For ✓ Against _____ Information 18 2249

Subject Runaway Laws

If state employee-- Time: from _____ .m. to _____ .m.

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3/4/97
(date)

278
(Bill No.)

Name PATTI Blocker

Address 141 Grace St Deland FL

Representing Parents Support Group

Lobbyist (Registered with Senate) Yes _____ No ✓

Speaking: For ✓ Against _____ Information _____

Subject _____

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3.4.97
(date)

278
(Bill No.)

Name Mona Watercutter
Address 51 Melodie Ln
Representing parent support group
Lobbyist (Registered with Senate) Yes _____ No X
Speaking: For ✓ Against _____ Information _____
Subject _____
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3/4/97
(date)

278
(Bill No.)

Name LINDA MORRELL
Address 599
Representing HHSB-DISTRICT 12 / ~~CHILD ABUSE~~
Lobbyist (Registered with Senate) Yes ✓ No _____
Speaking: For ✓ Against _____ Information _____
Subject TRUANCY / REWARDS - PARENTAL SUPPORT
If state employee-- Time: from _____ .m. to _____ .m.

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FILE

2/19/97
(date)

278
(Bill No.)

Name GEORGE Hinehiff

Address 2737

Representing Dept of Juu Justice

Lobbyist (Registered with Senate) Yes No

Speaking: For Against Information

Subject CINS FINS

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FILE

2-19-97
(date)

SB 278
(Bill No.)

Name Mary Mines

Address P.O. Box 1792 DeLand, Florida 32721-1792

Representing Toughlove parents

Lobbyist (Registered with Senate) Yes No

Speaking: For Against Information

Subject _____

If state employee-- Time: from _____ .m. to _____ .m.

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