

STATE OF FLORIDA
DEPARTMENT OF JUVENILE JUSTICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN RE: SUPPLEMENTAL PROPOSED RULEMAKING HEARING
ON AMENDMENTS TO RULE CHAPTER 63G-1 GOVERNING
COST SHARING.

_____ /

RULE WORKSHOP

DATE: Tuesday, August 5th, 2014
TIME: 10:00 a.m. - 11:10 a.m.
LOCATION: Department of Juvenile Justice
Headquarters Office
Tallahassee, Florida

Reported by:

Schedule Woods, Court Reporter
For the Record Reporting, Inc.
1500 Mahan Drive - Suite 140
Tallahassee, Florida, 32308

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

DEPARTMENT OF JUVENILE JUSTICE STAFF

1
2

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JOHN MILLA, ASSISTANT GENERAL COUNSEL
FRED SCHUKNECHT, CHIEF OF STAFF
SHERRY JACKSON, RESEARCH STAFF SUPERVISOR
MARK GREENWALD, DIRECTOR OF RESEARCH
ROSELLYN HUTCHINS, DETENTION COST SHARE
HEATHER DIGIACOMO, COMMUNICATIONS DIRECTOR

* * *

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1
2
3
4
5
6

RULE WORKSHOP

3

MR. MILLA: Okay. We'll get started. I'm
John Milla. It's 10:00 a.m., on August 5, 2014,
and we're at DJJ's headquarters office in
Tallahassee.

Good morning and welcome to the Florida

7 Department of Juvenile Justice's supplemental
8 proposed rulemaking hearing on amendments to
9 Rule Chapter 63G-1 governing detention cost
10 sharing.

11 I'll be facilitating and recording today's
12 public hearing, which was properly noticed for
13 public participation in the July 17th, 2014, issue
14 of the Florida Administrative Register.

15 A sign-in sheet is available. Its main
16 purpose is to provide us with contact information
17 so that we can send you a link to our website
18 where you'll find current information on this and
19 other DJJ rulemaking efforts. Copies of the
20 proposed rule are also available.

21 This hearing is being conducted pursuant to
22 Section 120.54(3)(c), Florida Statutes, and is
23 intended to provide affected persons with an
24 opportunity to present evidence and argument on
25 all issues pertinent to the proposed rule.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 Any change to the proposed rule, other than
2 one that is merely technical in nature, must be
3 supported by the record of this hearing, must be
4 in response to written material previously
5 received, or must be in response to an objection
6 by the Joint Administrative Procedures Committee.

7 With that said, we can get started. I
8 just -- I have, I guess, one or two housekeeping
9 things. First, I want to make sure I got written
10 submissions into the record, so I'm going to read

4

11 off who I got written submissions for this
12 particular hearing on -- rule hearing on, not the
13 earlier one. We already have that in the
14 rulemaking record.

15 But I'll read the counties' names. If you
16 submitted something in writing and I don't call
17 your county's name, let me know. I have Bay. I
18 have an e-mail and a letter concerning the SERC.
19 I have Broward. Hillsborough, I have an e-mail
20 and a letter from Hillsborough. I have Orange. I
21 have Sarasota, and then I, of course, have
22 Carly Schrader, and I won't read the 23 counties
23 she represents because that would take too long.

24 Anyone else that I missed?

25 Okay. Second housekeeping item: We're going

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 to do a court reporter again today, so we will
2 have a transcript. And that transcript of the
3 earlier hearing is available on our website now,
4 and this one will be the same thing.

5 So if you do speak, just let the court
6 reporter know your name. It's a little awkward,
7 and I know that it's especially awkward for you
8 folks on the phone, but if you don't identify
9 yourself before you speak, we just won't catch
10 your name. And I think we have a lot of folks on
11 the phone.

12 So that's it. I guess we can get started,
13 and we can go rule section by rule section, which
14 is, I guess, maybe not the best way to do it, but

5

15 it seems to work.

16 MR. SCHUKNECHT: Before we start, what I'd
17 like to do is actually -- my name's
18 Fred Schuknecht. I'm the Department of Juvenile
19 Justice chief of staff. I just wanted to make a
20 few brief remarks before we start.

21 Jason Welty, he used to be in this position.
22 He actually handled detention cost share for the
23 agency for about a year. And I got appointed to
24 this job yesterday, but I'm not new to detention
25 cost share. I'm not new to the agency.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

†

1 Just a little background because I always
2 think it's helpful if you know who's talking to
3 you: I've been with state government over
4 35 years, and I've been with DJJ for six years.
5 And I've been fairly well involved in detention
6 cost share for six years, the six years I've been
7 here, and so I'm not new to this process.

8 I did want to mention that we're very
9 committed to having an open and positive
10 communication. I think the communication was very
11 good with Jason, and I think it'll be good with
12 myself -- guaranteed it'll be good with myself,
13 because I think over the years, we've always, you
14 know, had a good relationship with the Florida
15 Association of Counties.

16 And we've actually had, you know, a year
17 back a couple of years ago, I think we had a
18 number of work sessions where we tried to get

19 through this, and I think the communication was
20 very good. The results weren't necessarily what
21 we wanted, but I think it certainly got us on
22 the -- I think we're on the same page, which is
23 very important.

24 But, again, my job, actually, as chief of
25 staff, is to carry out the policy of the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 legislature; that's my job, whether it's
2 legislative intent that's reflected in both the
3 statute and the General Appropriations Act.

4 And, like, the number one job of DJJ is
5 actually to take care of the youth. In other
6 words, this is -- the billing system is very
7 important, because, obviously, it's a critical
8 component of the detention process; but our number
9 one job, quite frankly, as an agency, is
10 operational. And my job is, obviously, where we
11 get the resources to carry that out.

12 And, briefly, as far as -- and most of you
13 probably know this, but for you who don't, is how
14 we got here today. In other words, like, the
15 1st DCA made a ruling actually fifteen months ago,
16 fourteen months ago, last June, to where basically
17 it changed how we actually implemented the
18 statute.

19 And when that happened -- that was June of
20 2013 -- we actually had to get the bills out
21 within days of that ruling. And a fairly quick
22 decision was made to, in effect -- which generated

7

23 a bill based on the counties paying 32 percent;
24 the state, 68 percent. That was really an
25 incorrect interpretation on our part. Quite

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 frankly, it was a mistake. We did it very
2 quickly.

8

3 Subsequent to that, the policy, basically
4 which was, in effect, adopted by the legislature
5 through the appropriations bill, which is closer
6 to where the counties pay 57 percent and the state
7 pays 43 percent. And this rule, in effect,
8 you know, obviously, it mimics the statute, but it
9 also has to, in effect, mimic the policy of the
10 legislature.

11 And, again, I don't want -- I may sound
12 repetitive, but, basically, my code of operation
13 is basically following legislative intent. I have
14 no choice in that.

15 And, anyway, so subsequent to that -- the
16 5743, basically, the one change was probationers
17 with new offenses, in effect, are the
18 responsibility of the counties. So that's what
19 this proposed rule represents. That's the basic
20 change.

21 And we want to hear all concerns, as John had
22 mentioned, and we've gotten numerous comments
23 already, and if there's a change that can be made
24 that's consistent with our obligations to the
25 legislative intent, we'll try to do so.

♀

9

1 And, lastly, what I did want to mention, I
2 guess, for the record, and this isn't directly
3 related to the rule, but as far as detention
4 cost share overall, like in the last five years,
5 actually, the five-year change and the amount that
6 the counties have paid has actually gone down
7 \$46 million. And whereas in '09-'10, the counties
8 paid \$99 million, this year the bill is
9 approximately like \$53 million. So that's a
10 46 percent decrease in five years.

11 And I think it's important to have an
12 understanding of that because the focus lately has
13 been on the 32 percent that was paid last year;
14 but, basically, over the last five years,
15 actually, the counties' obligations have gone down
16 like 46 percent. And overall -- and that's for
17 two reasons.

18 One thing is the rule change, obviously, but
19 the other thing is basically the number of
20 children in detention centers has dropped. And
21 that's, quite frankly, to the benefit of the
22 counties -- and not just the benefit of the
23 counties, it's basically everybody's doing
24 actually, quite frankly, a good job keeping the
25 kids out of detention centers, both DJJ and the

♀

10

1 counties.

2 So as a total, the detention budget has
3 actually decreased \$30 million over the last five
4 years and that's good for all of us. It's good
5 for the State of Florida. It's good for the kids.
6 So, anyway, that's where we're at.

7 MR. MILLA: I guess we're going to go rule
8 section by rule section.

9 63G-1.011 is definitions.

10 MS. SCHRADER: This -- if I may? This is
11 Carly Schrader, and I'm from Nabors, Giblin,
12 Nickerson, and, of course, we filed a petition on
13 behalf of the Florida Association of Counties and
14 the 23 counties on which -- on whose behalf we
15 submitted the written comments. And the petition
16 challenges the proposed rules, as you're aware,
17 and I'm here today representing those entities.

18 And we just -- the agenda that came out
19 before this kind of talked about the basic changes
20 to the proposed rules, the major changes being the
21 actual cost definition, and then the revision to
22 the estimate. And what I would propose just
23 procedurally, we could kind of talk about the
24 actual cost definition and then kind of go into
25 the estimate -- the estimated -- the process for

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 estimating the costs.

11

2 And just to acknowledge that I'm making
3 comments on behalf of the group at large, but
4 certain of the counties have made their own
5 individual comments, either in addition or

6 supplementing my comments. They may have some
7 additional comments to make today too.

8 And I appreciate the department's continued
9 efforts to make revisions to the rules.

10 I appreciate the larger room today. This is
11 better than the cozy situation last time. But
12 just in going forward, we don't believe that the
13 modifications addressed a lot of the past comments
14 that we've made. And, of course, we submitted
15 many written and verbal comments with regard to
16 the workshop that was held on March 28th, and
17 again, with the hearing that was done on June 6th.

18 And so as to the issues that were raised
19 there, we kind of stand on those comments.
20 I don't want to belabor or get into those comments
21 a lot today, but just kind of address -- mainly,
22 my purpose here is to address the modifications
23 that the department's come out with today.

24 And that being said, the modifications that
25 were made were very limited, and like I said, kind

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 of addressed two major issues: The actual cost
2 issue and kind of the calculation of the estimate
3 going forward.

4 And, first, I guess I'll go ahead and address
5 the actual cost definition in order with the
6 agenda item. And, basically, at the June 6th
7 hearing, the counties had submitted the suggestion
8 on we need an actual cost definition too in the
9 rule. And the revisions do provide that

12

10 definition now, but we've got some issues with how
11 the definition is worded and think that it could
12 be done better.

13 One of the major things is at the June 6th
14 hearing, there was a lot of discussion on
15 Section 985.686, Subsection 3, which has some
16 language excluding certain costs from the
17 counties' responsibilities. And those are
18 pre-adjudicatory, non-medical, educational, or
19 therapeutic services, and \$2.5 million provided
20 for additional medical and mental health care at
21 detention centers.

22 And there was a lot of discussion at the last
23 hearing that the department was going to be making
24 some modifications to the rule to address that
25 issue. These modifications do not address that

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 issue, and we wondered if the department is
2 planning on additional modifications to address
3 this issue or what the department's position on
4 that is currently?

5 MR. SCHUKNECHT: We looked at that, and as
6 far as, you know, the section that has to do with
7 pre -- pre-adjudicatory, non-medical, education,
8 or therapeutic services. As far as education
9 goes, the school districts provide education, so
10 actually neither the counties nor the state's
11 paying for that. The school districts provide
12 that; so, therefore, we felt it didn't need to be
13 in the rule because basically by statute the

13

14 school districts have to provide education in
15 detention.

16 As far as therapeutic services, we actually
17 don't provide that, per se, in detention centers.
18 That's actually more in residential services. And
19 as far as the two-and-a-half million dollars for
20 education -- additional medical and mental health,
21 that was actually put in about six years ago.

22 That two-and-a-half million dollars was added
23 to the detention budget about six years ago in
24 general revenue. It was 100 percent state funded.
25 And, in effect, we don't -- that, basically, that

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 two-and-a-half-million-dollar boost was a onetime
2 boost.

14

3 It's recurring money, but basically we don't
4 provide any additional after that first year.
5 Basically, it became part of the base, and we
6 don't provide any additional medical or mental
7 health. So for those reasons, we felt that it
8 didn't need to be in there.

9 Does that make sense?

10 MS. SCHRADER: Not really, because, I mean,
11 the statute talks about those costs and
12 specifically excludes them.

13 MR. SCHUKNECHT: Uh-huh, right.

14 MS. SCHRADER: And aren't you saying it's
15 based on the appropriations you're giving that
16 you're not excluding those or --

17 MR. SCHUKNECHT: Well, basically, what they

18 did is they -- like G&A contracted services is a
19 state funding category. It's where we pay
20 contractual services. And right now, there's like
21 about \$5.3 million in general revenue in that
22 category. We, in effect, spend pretty much a
23 hundred percent of that category every year out of
24 general revenue. That \$2.5 million was put in
25 that category six years ago.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 So in other words, we spend actually
2 5.3 million on those type of services, not
3 2.5 million, so guaranteed we've already provided
4 the -- we spend the two-and-a-half, and the
5 counties are not being billed for that because the
6 state actually spends twice that out of
7 general revenue.

15

8 MS. SCHRADER: Okay. But that -- I mean, I
9 guess our issue is that's not specifically spelled
10 out in the actual cost definition, and is there a
11 way we can incorporate -- we can incorporate
12 something going to those excluded costs that are
13 provided by the statute in the definition for
14 actual costs?

15 MR. SCHUKNECHT: We can. I mean, I'll talk
16 to, you know, my attorney, I guess, or our
17 attorneys, if you will, as far as -- because the
18 statute actually already addresses education
19 somewhere else, doesn't need to be in a rule here
20 because it's already in the statute. I don't
21 know. That's sort of a legal issue.

22 MR. MILLA: Uh-huh.
23 MR. SCHUKNECHT: We can look at it, right?
24 MR. MILLA: We can look at it.
25 MR. SCHUKNECHT: We'll look at it.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 MS. SCHRADER: Yeah. I mean, because it's
2 actually in 985.686 that addresses (inaudible due
3 to crosstalk) costs.

16

4 MR. SCHUKNECHT: Well, I understand that. I
5 understand that, but the actual statute that
6 provides education services for detention
7 centers -- actually, for all of DJJ, is actually
8 under the education statute or the department
9 statute.

10 MS. SCHRADER: Okay. Well, we'd ask just
11 that that be addressed --

12 MR. SCHUKNECHT: Okay.

13 MS. SCHRADER: -- since -- in the current
14 rules. That's never been addressed prior by the
15 department, and the counties would really like to
16 see something in there on that.

17 MR. SCHUKNECHT: Okay.

18 MS. HURLEY: And if I may on that point,
19 going back to the statute that speaks to education
20 services and these therapeutic services that are
21 no longer provided by the department, would it be
22 your opinion that there needs to be a change in
23 statute?

24 MR. SCHUKNECHT: Or a clarification possibly.
25 That's not up to me, of course, but it could

♀

17

1 possibly -- possibly on clarification because,
2 again, education is actually provided by the
3 school districts.

4 MS. SCHRADER: Okay. And just kind of
5 jumping ahead to some of the other issues that we
6 saw in looking through the rules, and this is, of
7 course, 63G-1.011, Subsection 16, it talks about
8 costs include expenditures and all fund types and
9 appropriation categories. This seems very broad.

10 After this, there's a comma and there is a
11 list of additional -- of kind of more specific
12 categories, but this first language here about all
13 fund types and appropriation categories is just
14 very broad. And it looks like maybe there needs
15 to be a change in the way this is set forth in
16 here to say maybe the cost, including expenditures
17 in the following category -- it just seems very
18 broad.

19 MR. SCHUKNECHT: The reason it was written
20 that way is because these are all the categories
21 that are actually in the detention -- secure
22 detention center budgeting right now. It's every
23 category that's in there, and it's basically
24 detention cost shares based on all the categories.

25 But the reason we put that in is because the

♀

18

1 legislature, obviously, could next year add a

2 category and then all of a sudden, we wouldn't be
3 covered by it. And that's why we put the preface
4 to that.

5 So what we were trying to do is -- in other
6 words, quite frankly, the simpler way would be to
7 leave out all the specific categories and just say
8 "all fund types of appropriation categories within
9 the detention center's budget." That would
10 actually be the easier way to do it. But we --
11 the reason we spelled all these out, quite
12 frankly, I think, is in response to some of the
13 concerns the counties have as to "what exactly are
14 we paying for?" We spelled -- so we spelled all
15 the categories out.

16 But we've got to have the caveat to where if
17 the legislature adds a category, which they have
18 over the years, to where we have to cover it;
19 otherwise, we couldn't bill for it.

20 MS. SCHRADER: So how are the counties
21 supposed to evaluate the appropriateness of the
22 cost categories if we don't know what those are?

23 MR. SCHUKNECHT: Well, actually, they're
24 going to be in the appropriations bill.

25 Basically, the General Appropriations Act began, I

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 guess -- I keep repeating myself, but that's my
2 gospel, so to speak, and these are all the
3 categories under the detention center's budgeting.

4 MS. SCHRADER: Well, there's certain
5 categories that -- I've been reading through

6 this -- like legislative initiatives, is that
7 really a joint cost item between -- that doesn't
8 seem to be --

9 MR. SCHUKNECHT: It's actually --

10 MS. SCHRADER: -- a joint cost of running
11 detention centers.

12 MR. SCHUKNECHT It's actually funded a
13 hundred -- it's only \$29,000. And what it is,
14 it's a small mental health contract is what it is.
15 And it was put in years ago, and it's actually
16 gotten smaller over the years. That's all that's
17 left in there. And it's a hundred percent general
18 revenue, but it is part of county cost share
19 because it's part of the cost of operating
20 detention centers. That's why it's in there. And
21 it's logical to me.

22 MS. SCHRADER: It just seems that that's not
23 a joint kind of cost --

24 MR. SCHUKNECHT: It's basically --

25 MS. SCHRADER: -- that should be shared

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

‡

1 between the state and the counties.

20

2 MR. SCHUKNECHT: Well, it's actually -- quite
3 frankly, it's -- probably it's -- it's a category
4 that the legislature's developed over the years.
5 The legislative initiatives is to -- quite
6 frankly, it's to where they can provide money for
7 specific issues, if you will.

8 And it -- quite frankly, that \$29,000 is
9 very, very similar to what we have in contracted

10 services. That's what it is; it's a contracted
11 service based -- it's just an operational cost of
12 a detention center. Quite frankly, the labeling
13 is what the legislature gave us.

14 But as far as from an operational standpoint,
15 it's no different than any other contracted cost
16 we have. It's not at all.

17 MS. SCHRADER: Is there a way that we can
18 kind of get a breakdown of some of those costs for
19 more information on those?

20 MR. SCHUKNECHT: It's \$29,000 for one
21 contract is what it is.

22 MS. SCHRADER: Well --

23 MR. SCHUKNECHT: We can give you that --

24 MS. SCHRADER: -- yeah, and as to some of
25 these other categories too, is there a way we can

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 get a breakdown or further description of some of
2 those costs?

21

3 MR. SCHUKNECHT: Yeah. Yes. We actually
4 have -- I mean, there's actually -- like these are
5 the same kind of categories all state agencies
6 have, and there are standard definitions for
7 those. Yes, we will get you that.

8 MS. SCHRADER: Okay. And the other issue --
9 and this was kind of discussed a little bit at the
10 June 6th hearing also, is the funding for fiscally
11 constrained counties. There was some discussion
12 at the hearing that this is double budgeted, and
13 there may be something that needs to be backed out

14 for purposes of coming up with the actual cost
15 that's jointly split between the counties and the
16 state.

17 Was that at all addressed in this definition?
18 I mean, how is the department dealing with that
19 issue?

20 MR. SCHUKNECHT: How that's handled, fiscally
21 constrained counties, basically, in other words,
22 the -- typically, it's -- I don't know the exact
23 amount. It's like three-and-a-half, \$4 million
24 for fiscally constrained counties.

25 What we do is actually that -- it is doubled

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 budgeted, but we don't bill the non-fiscally
2 constrained counties. They're not part of that.
3 What we do is, basically, the cost for those
4 counties is general revenue, and we move it over
5 to the trust fund, in effect, to pay for it. But
6 the counties are not billed for it.

22

7 In others -- for instance, like the counties
8 this year are billed \$53 million, the counties
9 that are paying. There is an additional
10 three-and-a-half million dollars to take care of
11 the fiscally constrained counties that is also
12 going to come out of that trust fund. And what we
13 do is we just move the general revenue over to the
14 trust fund to pay for it.

15 MS. SCHRADER: Well, how is that kind -- how
16 is that calculated as far as the costs that are
17 split between the county and the state for

18 purposes of the rules and how they work?
19 MR. SCHUKNECHT: It would be part of the
20 overall per diem and as the per diem of --
21 whatever the exact per diem was, \$328, it would be
22 part of that. Because it would be -- because when
23 they do the per diem, they have the general
24 revenue and the trust fund combined. The entire
25 detention budget develops the per diem, so that

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

‡

1 cost would be in there. 23
2 MS. SCHRADER: The double-budgeted cost?
3 MR. SCHUKNECHT: No. It's only in there one
4 time unless we back it out the general revenue
5 side because we -- the expenditures are actually
6 in the trust fund.
7 MS. HURLEY: So do you --
8 MR. SCHUKNECHT: So, yes, it's only counted
9 once, to answer your question.
10 MS. HURLEY: And Lisa Hurley with the
11 association. Do you know why that was brought up
12 as a concern, then, in the first hearing? Because
13 if I remember correctly, that was actually brought
14 up by the department and not us.
15 MR. SCHUKNECHT: I don't know why because
16 basically that's the way we handle it. It is a
17 double-budgeted item, and it's really the only way
18 you can do it. See, because fiscally constrained
19 counties is a category. We can't pay for anything
20 out of that category, so we have to move the
21 general revenue to the trust fund so then we can

22 pay for it out of all these expenditure
23 categories.

24 Fiscally constrained counties is not an
25 expenditure category. It's a funded category by

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 the legislature. So they said, "we'll give you
2 this amount of money because we don't know exactly
3 what the needs are." And then you move it to the
4 trust fund and then it's in those specific
5 appropriation categories and that's how we spend
6 it.

24

7 MS. HURLEY: And, again, Lisa Hurley with the
8 association.

9 I understand why the days for the fiscally
10 constrained are calculated in the per diem. Quite
11 frankly, if they weren't, we would expect the
12 per diem to be higher because we'd have lower
13 days.

14 So in that regard, it helps us, but there was
15 a concern if -- again, if any part of the shared
16 detention trust fund that's paid solely by the
17 non-fiscally constrained was in any way paying for
18 the fiscally constrained counties.

19 MR. SCHUKNECHT: No. No. As a matter of
20 fact, there's a follow-up. Like if -- actually,
21 if we have a funding deficit for fiscally
22 constrained counties, the department actually has
23 to pick it up under general revenue by statute.
24 That actually hasn't happened in years. So,
25 actually, quite frankly, we've been funded

♀

25

1 adequately for the fiscally constrained counties.

2 MS. SCHRADER: All right. The one other
3 thing I wanted to mention as far as the actual
4 cost definition goes -- and this goes for kind of
5 the rules as a whole, is there's kind of a mixing
6 of terminology in the rules.

7 And I'm assuming it's unintentional, but
8 there's a secure detention definition included in
9 63G-1.011, but there's different references
10 throughout the rules to "detention" and "detention
11 care." And those could mean different things, and
12 we just want to make sure that there's a
13 consistent use of the term that's defined in the
14 rules, so we'd ask the department to look at that
15 issue again.

16 MS. HURLEY: And Lisa Hurley for the
17 association.

18 Is there a difference between "secure
19 detention costs" and "detention costs"?

20 MR. SCHUKNECHT: No.

21 MS. HURLEY: Okay. So it's more of the
22 drafting --

23 MR. SCHUKNECHT: "Secure detention" is spoken
24 to in the statute, and in the appropriations act,
25 it says "detention centers." I mean, it's -- to

♀

26

1 us, it means the same thing.

2 MS. HURLEY: Okay. It --

3 MR. SCHUKNECHT: In the detention centers'
4 budget, that \$106 million that's in the
5 appropriations bill, that covers the entire cost
6 of detention, secure detention, as well as the --
7 anything associated with detention.

8 MS. HURLEY: Lisa Hurley with the
9 association.

10 We would ask the department, then, to please
11 consider just for clarification purposes in your
12 rules where it refers to just "detention
13 expenditures" or "detention care," if we can
14 insert "secure" in front of it for consistency.

15 MR. SCHUKNECHT: Okay.

16 MS. HURLEY: We'd appreciate that. Thank
17 you.

18 MS. SCHRADER: Yeah. And this is
19 Carly Schrader again.

20 That's the comments I had on the actual cost
21 definition. I just wanted to make sure that any
22 other counties that are represented here
23 individually, if they had anything that they
24 wanted to add on that, that they got the
25 opportunity to do so. So I'll just kind of turn

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 it over to see if anyone else has some additional
2 comments on that.

3 MS. BREHMER-LANOSA: Thank you, Carly.

4 This is Linda Brehmer-Lanosa from Orange

27

5 County. We raised a number of questions at the
6 last hearing, and at the last hearing, Mr. Welty
7 said that he would get back to us on those
8 questions involving the definition of final court
9 disposition, as well as pre- and post-disposition.

10 Have you had an opportunity to look at those
11 questions which were reiterated in Orange County's
12 letter and provide answers to various scenarios of
13 how the department would treat various days as
14 pre or post?

15 MR. SCHUKNECHT: Yes, we have that.
16 Basically, I had our people in research and
17 planning, in fact, look into that and they can
18 speak to it.

19 MR. GREENWALD: Yeah. We can go over that
20 now. This is Mark Greenwald with the department.
21 We can go over that and we can also -- we have
22 drafted business rules, if you will, that very
23 specifically describe how that would be counted,
24 and we can share that with everyone immediately
25 after this meeting.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 MS. BREHMER-LANOSA: So you're not going to
2 address the scenarios now?

28

3 MR. GREENWALD: We can. Which scenarios
4 would you like us to cover? Sherry, I'm going to
5 have you --

6 MR. SCHUKNECHT: We did address your specific
7 scenarios, so I think it is helpful to go over
8 that.

9 MS. SCHRADER: It might be better, since
10 Linda's on the phone, if you could tell who your
11 staff members are --

12 MR. SCHUKNECHT: Yes.

13 MS. SCHRADER: -- that are present in the
14 room.

15 MR. GREENWALD: This is Mark Greenwald. I'm
16 the director of research for the Department of
17 Juvenile Justice.

18 MS. JACKSON: And this is Sherry Jackson with
19 the Office of Research and Planning.

20 At its simplest, post-disposition, a scenario
21 that would be very typical would be a youth would
22 be on probation; a youth would commit a felony or
23 misdemeanor within two days of the referral for
24 that, between zero and two days; would enter a
25 secure detention center; may be in there for five

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 days, ten days, fifteen days, whatever, and then
2 there would be a disposition.

3 Now, once that disposition for the offense
4 that resulted in the youth going into the
5 detention center, once that is entered into JJIS,
6 at that point, the billing would shift because
7 that youth would be post-disposition. And that
8 may be a disposition to a commitment program. It
9 may be a nolle prose. It could be a lot of
10 different dispositions.

11 Now, there are a handful of dispositions and
12 we'll -- I'll need to get you the lists -- we'll

29

13 need to get you that afterwards -- but there are a
14 handful of dispositions that are treated a little
15 bit differently, like, for instance, if the youth
16 is determined incompetent to proceed. But I'd
17 really rather give you those details in writing,
18 but those are the exceptions rather than the
19 rules.

20 Mark or Rosie, do you want to expand on that?

21 MS. BREHMER-LANOSA: Well, what would happen
22 if there are two cases pending at the same time?
23 Would the disposition stay be matched with the
24 case?

25 MS. JACKSON: So if the youth is being

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

‡

1 detained for two separate offenses, we would --

30

2 MS. BREHMER-LANOSA: Two separate cases, like
3 you have it -- one of the hypotheticals involved
4 an old case that had a disposition and an ongoing,
5 let's say, status conferences with the court --

6 MS. JACKSON: So a case -- oh, sorry.

7 MS. BREHMER-LANOSA: -- and then you had a
8 new charge that started a new case and so you had
9 two different cases pending at the same time, both
10 requiring possibly certain detention stays.

11 So how would the department treat a juvenile
12 with more than one case?

13 MS. JACKSON: Okay. If the youth is being
14 detained for both of those cases, then the billing
15 would shift when the last case is disposed.

16 MS. BREHMER-LANOSA: But if you had two

17 separate cases, one that was disposed and one -- a
18 separate case that had not been disposed, would
19 you match the detention from the earlier case and
20 treat it as a post-disposition detention stay?

21 MS. JACKSON: Have you seen any cases like
22 that? Do you remember, Rose?

23 MS. HUTCHINS: I'm not following her --

24 MS. JACKSON: I'm not sure I'm under- --

25 MR. SCHUKNECHT: The days are only counted

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850. 222. 5491

♀

1 one time.

31

2 MS. JACKSON: I'm not sure I'm understanding
3 your question.

4 MR. SCHUKNECHT: In other words, even if he
5 has -- even if he or she has two offenses, it's
6 only one --

7 MS. BREHMER-LANOSA: I'm not talking about
8 offenses, I'm talking about not -- when I -- when
9 you talk about offenses, I think of, you know,
10 counts and a new complaint or something like that
11 or -- and information. So I'm talking about two
12 separate events.

13 Now, let's say first he steals and then he's
14 convicted of petit theft and then has a detention
15 stay in, let's say, 2010 or whatever year, 2014.
16 Six months later, he commits another offense like
17 armed robbery and then he has another petition
18 filed against him.

19 So it's two separate cases. One is
20 "post-di spo," one is "pre-di spo," and now he has a

21 detention stay for the "post-dispo," earlier case.
22 How would you handle that? Would you treat that
23 as pre-disposition or post-disposition?

24 MS. JACKSON: The first case you described,
25 it sounded like that had already been disposed and

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 the youth had been sanctioned?

32

2 MS. BREHMER-LANOSA: Yes.

3 MS. JACKSON: That would not --

4 MS. BREHMER-LANOSA: But he has --

5 MS. JACKSON: Okay. That --

6 MS. BREHMER-LANOSA: -- ongoing --

7 MS. JACKSON: Go ahead, ma'am.

8 MS. BREHMER-LANOSA: -- pickup orders or
9 things like that where -- which would -- could
10 lead to a detention stay.

11 MS. JACKSON: That older case would not play
12 into our determination at all. We're only looking
13 at the case that is directly linked to the current
14 detention stay. So --

15 MS. BREHMER-LANOSA: Assume that this
16 detention stay related to that older case, not the
17 newer one because there's ongoing complaints,
18 issues like an ongoing status. So he fails to
19 appear for his monthly status check with the
20 court, and there's a pickup order from the earlier
21 case.

22 MS. JACKSON: Okay. That would not count
23 because that is not a new felony or misdemeanor.
24 Something like a court order or VOP, a failure to

25 appear, that would be state responsibility.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

33

1 MS. BREHMER-LANOSA: So you would match it?
2 You would, in fact, match it to the older case?
3 The case --

4 MR. GREENWALD: This is Mark Greenwald. Yes,
5 we are matching the detention stay to the charge
6 and case for which it is associated.

7 MS. BREHMER-LANOSA: Okay. Thank you.

8 MR. RADIN: Linda, I want to add -- this is
9 Richard Radin with Orange County. Some of the
10 other things that we see -- actually, I'm looking
11 at one right now -- there was an old court order
12 where a youth was detained and jurisdiction is
13 expired so they rejected my contest on this
14 because they said the youth was not on probation
15 or committed. So there was no current supervision
16 at the time. There was an old proba- -- an old
17 custody order based on a probation case for the
18 detention stay, so that was rejected.

19 And so then what you're saying now is if
20 there's an old -- current court order that gets
21 served and they're detained, then that would be
22 the state responsibility?

23 MS. JACKSON: Correct.

24 MR. GREENWALD: Yes.

25 MR. SCHUKNECHT: Yes.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 MR. RADIN: Okay.

2 MS. BREHMER-LANOSA: And also would that
3 apply to things like age-out? If a juvenile is 19
4 but detained, and the case is post-disposition,
5 previously, the state's been pushing that on to
6 the counties, but that's really a state day.

7 MR. GREENWALD: This is Mark Greenwald. The
8 age does not come into it. It's associated with
9 whatever the case is. So whether the youth was 15
10 or 19, it's what the status of the case is.

11 MR. RADIN: Okay.

12 MR. GREENWALD: Looking at age is not part of
13 the analysis at all.

14 MS. BREHMER-LANOSA: Okay. Thank you.

15 And also I had a question on the \$2.5 million
16 exclusion and the exclusion for pre-adjudicatory,
17 non-medical, educational, or therapeutic services.
18 And at the last hearing, Mr. Welty said that that
19 would be addressed, that the state's statutory
20 responsibility for a pre-adjudicatory,
21 non-medical, educational, or therapeutic services
22 and 2.5 million of the additional medical and
23 mental health care.

24 For what reason has the department changed
25 its position?

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 MR. SCHUKNECHT: Were you on the line when I
2 gave my previous explanation?

3 MS. BREHMER-LANOSA: Yeah, I was, but it
4 didn't seem like it was -- basically, you just

5 said that you wouldn't incur those costs, but then
6 it sounded like you were incurring those costs and
7 those costs were being placed --

8 MR. SCHUKNECHT: It's two different things.

9 MS. BREHMER-LANOSA: -- taken from the
10 general revenue fund.

11 MR. SCHUKNECHT: Okay. Yeah. It's two
12 different things actually. The pre-adjudicatory,
13 non-medical, education, therapeutic services,
14 that's one item to address. And what we said
15 there is on education, basically, the school
16 districts provide education to all youth in
17 juvenile justice. So, therefore, basically, there
18 is no money involved because the school boards
19 provide that, the school districts. Therapeutic
20 service, we actually don't provide that in
21 detention centers.

22 The second part of it, the two-and-a-half
23 million, which is actually a separate issue from
24 that, basically, that was put in our budget about
25 six years ago. And it was a hundred percent

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 general revenue, and they put it in what we call
2 grants and aids contracted services. It's where
3 we pay for all our medical contracts.

4 In other words, that was put in six years ago
5 as a onetime boost. It's recurring money, but it
6 was a onetime boost. It's in the base of that
7 category and that category is now \$5.3 million in
8 general revenue. And we pretty much spent a

36

9 hundred percent of that general revenue so
10 guaranteed the \$2.5 million is spent because we
11 spent actually almost twice that.

12 And also we don't have any additional --
13 actually, subsequent to that six years that first
14 time they put it in, we don't provide any
15 additional medical or mental health care beyond
16 that, which addresses, in effect, the way it's
17 written to where it provided additional medical
18 and mental health. We actually don't do that
19 beyond that two-and-a-half million dollars.

20 But we did say we'd look at it to where we'd
21 potentially possibly add it back in, but we need
22 to look at it again because of the comments today.
23 But, again, the rationale we have for not
24 including it is because we feel it's basically
25 already addressed by the statute or by the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 appropriations bill the way the appropriations
2 bill actually (inaudible due to background noise.)

37

3 MS. WILES: This is Kim Wiles with Sarasota
4 County. But what you're saying is you're spending
5 five million --

6 MR. SCHUKNECHT: Yes.

7 MS. WILES: -- but isn't that included in
8 your costs that we are paying for? So even though
9 you're only -- you're spending five, you're saying
10 we're not paying for the two-and-a-half that's
11 excluded, but you're not excluding those
12 two-and-a-half from our actual costs?

13 I'm saying we're paying five, so you're
14 saying -- so really we're paying -- you're paying
15 five, and we're paying half of the two and --
16 two-and-a-half million.

17 THE COURT REPORTER: Excuse me, ma'am, could
18 you please identify yourself?

19 MS. WILES: Pardon me?

20 THE COURT REPORTER: Could you please
21 identify yourself for the record?

22 MS. WILES: Kim Wiles from Sarasota County.

23 THE COURT REPORTER: Thank you.

24 MS. WILES: Do you know what I'm saying?

25 MR. SCHUKNECHT: Yes. Yes.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 MS. WILES: You're saying you're spending it,
2 you're spending more than two-and-a-half million,
3 but we're sharing in the entire amount that you
4 have spent.

5 MR. SCHUKNECHT: And there's two issues
6 involved. In other words, again, the way the
7 language reads, it says, "additional medical and
8 mental health care." We're actually not providing
9 any additional medical or mental health care
10 beyond what they gave us six years ago. That
11 category has never changed.

12 And then the second part is the
13 two-and-a-half million dollars, yes, it is in the
14 \$5.3 million. In effect, irrespective of what the
15 counties spend, we spend a hundred percent of that
16 category.

38

17 MS. WILES: But we're sharing in that cost
18 regardless?

19 MR. SCHUKNECHT: When we --

20 MS. WILES: You're not excluding that amount
21 from --

22 MR. SCHUKNECHT: I'm not -- I'm not backing
23 the two-and-a-half million dollars out.

24 MS. WILES: Correct.

25 MS. BREHMER-LANOSA: My question -- this is

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 Linda Brehmer-Lanosa from Orange County. My
2 question has to do with what Mr. Welty said at the
3 last hearing. He said that it would be addressed,
4 and it sounded like he would -- or he said the
5 department was considering excluding 2.5 million
6 from the counties' liability. So my question was,
7 what changed?

39

8 MR. SCHUKNECHT: Basically, we went back and
9 had some discussions as far as, you know,
10 examining it. And, quite frankly, the rationale I
11 gave you, in effect, is the rationale we felt was
12 appropriate. But we can look at it again.

13 MS. SCHRADER: This is Carly Schrader again.
14 It sounds like so it is included in the actual
15 costs as it's currently defined in the revisions
16 to the rules, is that correct, the 2.5 million for
17 medical?

18 MR. SCHUKNECHT: Yes. Yes. Because that
19 category is included, yes.

20 MS. SCHRADER: Yeah. We would just assert

21 that that's in conflict with 985.686 and that
22 really needs to be addressed in the rules.

23 MR. SCHUKNECHT: I mean, again, it's -- yeah,
24 it's how you, I guess, view it. But, again, the
25 rationale was because we spent -- because they

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

†

1 said, you know, at least two-and-a-half million
2 dollars should be excluded for this, but since we
3 spent twice that on the state's side on the
4 general revenue side, we're saying that basically
5 guaranteed there's at least two-and-a-half million
6 dollars the counties aren't paying for because
7 we're spending 5.3 million.

40

8 MS. SCHRADER: But the --

9 MR. SCHUKNECHT: That's guaranteed.

10 MS. SCHRADER: But the actual cost as it's
11 defined in the rule, that's broad. That's the
12 whole detention --

13 MR. SCHUKNECHT: Correct.

14 MS. SCHRADER: -- to operate the whole
15 detention center.

16 MR. SCHUKNECHT: Right. But even if the
17 counties were paying 57 percent, we're, in effect,
18 paying \$2.8 million of it. I mean, we're
19 paying -- if we spend \$5.3 million, we're actually
20 spending -- if we're paying for like 43 percent,
21 we're paying for close to that. But we can look
22 at it. We can look at it.

23 MS. SCHRADER: I mean, I under -- I
24 understand what you're --

25

MR. SCHUKNECHT: Again, there's two -- again,

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

41

1 there's two parts -- I'm sorry.

2 But there's two parts to it. Again, there's
3 a definition part: The additional medical and
4 mental health care. We don't provide that beyond
5 what they gave us six years ago.

6 So does that make that issue moot? That's
7 subject to interpretation, I guess.

8 MS. SCHRADER: Well --

9 MR. SCHUKNECHT: And then the two-and-a-half
10 was the other part.

11 MR. LABRADOR: What you're saying right
12 now -- this is Eddy Labrador with Broward County.

13 What you're saying right now is confusing me
14 because you're saying you're not spending more
15 than what you did in that category, which is
16 \$2.5 million --

17 MR. SCHUKNECHT: 5.3 is what's in the
18 category.

19 MR. LABRADOR: -- but you're actually
20 spending 5.3.

21 MR. SCHUKNECHT: We're spending the whole
22 category.

23 MR. LABRADOR: Okay. What we're suggesting
24 is that you need to back out 2.5 -- out of that
25 5.3 figure, you need to back out the 2.5, because,

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 otherwise, you're in conflict with the statute and
2 that needs to be reflected in the rule that you're
3 backing out those costs.

4 Because, you see, that's the problem right
5 there. Those costs aren't being -- we're not
6 responsible for them. We're not responsible for
7 sharing them. And you're not backing them out, so
8 they're actually included, and the per diem is
9 reflecting that \$2.5 million that you're not
10 backing out. That's what we're suggesting to you.

11 MS. SCHRADER: This is Carly Schrader again.
12 It's -- basically, it's an additional exclusion.
13 There's the statutory split that's based on the
14 final court disposition; and in addition to that,
15 there's an additional exclusion, and this is what
16 we're talking about. So that needs to be backed
17 out.

18 MR. SCHUKNECHT: I understand.

19 MS. SCHRADER: Okay.

20 MR. SCHUKNECHT: I mean, I understand what
21 you're saying. Yes.

22 MS. BREHMER-LANOSA: This is Linda
23 Brehmer-Lanosa from Orange County again. I just
24 want to confirm -- I know you said this, but I
25 want to confirm that the department is not

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 provi di ng any non-medi cal , educati onal , or
2 therapeuti c servi ces to juveni les prior to
3 adj udi cati on?

4 MR. SCHUKNECHT: Right.
5 MS. BREHMER-LANOSA: Is that correct?
6 MR. SCHUKNECHT: Yes. But the -- when they
7 say non-medical, educational, basically I'm
8 interpreting that as to be education, correct. In
9 other words, the school boards provide the
10 education; the department does not.
11 MS. BREHMER-LANOSA: But I think it would be
12 broader than just going to school. It could be
13 any educational or therapeutic services, like
14 parent counseling or drug counseling or
15 mental health counseling, victim abuse. It could
16 be anything, not just going to school.
17 MR. SCHUKNECHT: Again --
18 MS. BREHMER-LANOSA: So would it be a fair
19 statement to say that the department doesn't
20 provide any type of services like those?
21 MR. SCHUKNECHT: No. We provide medical and
22 mental health care, but that's -- we're
23 interpreting that --
24 MS. BREHMER-LANOSA: But what about --
25 MR. SCHUKNECHT: -- different than

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850. 222. 5491

♀

1 therapeutic services.
2 MS. BREHMER-LANOSA: Right. So are -- does
3 the department provide any therapeutic or
4 educational type services to juveniles?
5 MR. SCHUKNECHT: No. Again, it's -- some of
6 this is, you know, it's like interpretation.
7 We're saying, yes, we provide medical and mental

44

8 health care to children. But most kids in
9 detention aren't there that long-care. But, yes,
10 we do provide medical and mental health care to a
11 certain extent.

12 But as far as therapeutic services,
13 educational services -- now, educational services
14 are provided, but not by us. They're provided by
15 the school boards.

16 As far as therapeutic services, no. That is
17 our interpretation of what we're providing is not
18 therapeutic services.

19 MS. HURLEY: This is Lisa with the
20 Association of Counties.

21 What would be a therapeutic service?

22 MR. MILLA: I guess it all depends on what
23 your modifiers are. I mean, it's quite a phrase
24 there, a non-medical -- "pre-adjudicatory,
25 non-medical, educational, or therapeutic

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 services."

45

2 I guess it depends on your -- how you apply
3 the rule of the last antecedent, I suppose. And
4 "pre-adjudicatory" probably modifies it all.
5 "Non-medical" probably does as well. And
6 "educational" -- "therapeutic" is probably
7 modified by "educational." So your educational
8 therapy might be under speech therapy or whatever
9 the legal name is.

10 What I think Fred's saying is we don't
11 provide -- you wouldn't start your educational

12 therapy in a detention center when you're there
13 for 10 days. So that's -- it's really an
14 exclusion of nothing. The big exclusion in this
15 whole phrase is the 2.5 million, which we've
16 already discussed. And I think we're going to
17 consider that. But as far as that first part, I
18 don't know that there's any error there.

19 And you mentioned maybe that should be a
20 statutory fix. It might need to be. I mean,
21 because I think that we've gone through a couple
22 of folks here who looked at that phrase --

23 (Unreportable crosstalk.)

24 MR. SCHUKNECHT: For clarification purposes,
25 yes. Exactly. Exactly.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 MS. HURLEY: Thank you.

46

2 MR. MILLA: We were with hypotheticals with
3 Linda from Orange. Are we done with those? Are
4 we moving on to estimates? I'm sorry, Sarasota.

5 MS. WILES: Kim Wiles from Sarasota County.
6 I do have one more question because it's not
7 educational therapy; it's educational, which you
8 say is addressed by the school, or therapeutic
9 services. So you say that you don't provide any
10 other programming that is not educational -- okay,
11 anything that is educationally related, the school
12 provides.

13 MR. SCHUKNECHT: That's right.

14 MS. WILES: You only do, is what you said,
15 health or mental health -- or medical or mental

16 heal th.

17 MR. SCHUKNECHT: Medi cal or mental heal th,
18 yes.

19 MS. WILES: Can you descri be, l i ke, what di d
20 you mean, mental -heal th relat ed? Li ke, what do
21 you defi ne that as?

22 MR. SCHUKNECHT: I f a chi ld comes i n there on
23 psychotropi c drugs, we woul d obvi ousl y provi de
24 that.

25 MS. WILES: So those -- so what other

FOR THE RECORD REPORTING TALLAHASSEE FLORI DA 850. 222. 5491

♀

1 programmi ng besi des educati on? Is that what
2 you' re sayi ng?

3 MR. SCHUKNECHT: I may have arts and
4 crafts there. I --

5 MS. WILES: Counsel i ng?

6 MR. SCHUKNECHT: But,agai n, that' s part
7 of -- counsel i ng, not per se.

8 MR. MILLA: And,agai n, they' re j ust not
9 there that long.

10 MR. SCHUKNECHT: Yeah. I mean, the average
11 stay is l i ke two, three days. So they' re not
12 going to start up a counsel i ng program. That' s
13 not the i ntent. But, I mean, mental heal th,
14 obvi ousl y, whatever the chi ld comes i n wi th, we' re
15 going to address that from a mental heal th
16 standpoi nt, guaranteed.

17 And,agai n, that comes out of the i nfamous
18 G&A contract ed servi ces category.

19 MR. MILLA: Are we movi ng to the esti mate or

47

20 are we done with --

21 MS. BREHMER-LANOSA: You know, I was -- this
22 is Linda Brehmer-Lanosa from Orange County. I was
23 just looking at the letter that I sent, and I
24 think there was one more question. And it had to
25 do with a juvenile who was detained without a

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 charge or his detention wasn't associated with a
2 charge.

48

3 Will this stay be classified as a
4 post-disposition detention stay? For example, a
5 failure to appear or a restitution interview.

6 MS. JACKSON: I'm sorry. Would you repeat
7 that, ma'am?

8 MS. BREHMER-LANOSA: Okay. There was another
9 question raised in the letter, and it had to do
10 with how will a detention stay be classified if it
11 is not associated with a charge.

12 MS. JACKSON: If there's -- okay, so if
13 there's not a new felony or misdemeanor? So I'm
14 thinking in terms of an FTA or a violation of
15 probation?

16 MS. BREHMER-LANOSA: Right.

17 MS. JACKSON: For a youth who's already on
18 probation, that will clearly be the state's
19 responsibility.

20 MS. BREHMER-LANOSA: Okay. And so if it's an
21 FTA, which means failure to appear, that will be
22 the state's responsibility as well?

23 MR. GREENWALD: Well, there's qualifiers. In

24 the example that you provided, yes, it would,
25 because there were no other misdemeanors or

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 felonies available. It's not considered in every 49
2 single FTA it would be -- or would every FTA be
3 excluded?

4 MS. JACKSON: If there's not a new offense
5 within zero to two days of the detention
6 admission, then that would be state
7 responsibility, the two-day rule, if the youth is
8 already on probation, correct.

9 MS. BREHMER-LANOSA: Thank you.

10 (Sotto voce discussion among staff and
11 clarification from reporter.)

12 MS. JACKSON: So does that answer your
13 question?

14 MS. BREHMER-LANOSA: Yes. Thank you very
15 much.

16 MR. RADIN: Linda, this is Richard Radin
17 again. I'm just going to add the reason we asked
18 that question in Orange County is we have a number
19 of times of out-of-state custody orders; there's
20 no Orange County charge or Florida charge or
21 there's something called a non-delinquency custody
22 order and those things. We see those with
23 regularity, so we were asking that question.

24 MR. SCHUKNECHT: But the state always pays
25 out-of-state.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 MS. SCHRADER: All right. If there's no
2 other comments on the actual cost definition, are
3 we ready to move on to the estimate?

4 Okay. Hearing none, one of the major
5 modifications that the rule revisions makes deals
6 with calculating the estimate. And this is both
7 63G-1.011, 12, which talks -- gives a definition
8 for estimated per diem and also, 63G-1.013, which
9 addresses the process for calculating the
10 estimate.

11 At the June 6th, 2014, hearing, the counties
12 asserted that the estimate should be based on the
13 actual cost from the prior year and not the
14 appropriation or budget number. And the
15 department's gone back and has done some revisions
16 to the rule and has inserted some language dealing
17 with actual cost, but the issue that we see is
18 that there's still some vague and ambiguous
19 language contained in the proposed rules, and
20 there's continued reference to appropriations and
21 budget.

22 And to start with, the definition provided
23 for estimated per diem, it bases the estimate on
24 estimated actual cost for the detention budgeting
25 for the current fiscal year.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850. 222. 5491

♀

1 We're not sure what "estimated actual costs"
2 are. That term is vague. We think that this
3 should be actual costs, not an estimation or

4 extrapolation on that.

5 MR. SCHUKNECHT: The reason it's written that
6 way is because basically we have to send the bills
7 out in June, but we obviously don't have a full
8 year's actual cost by then. So, basically, we
9 take the actual cost through May, then we
10 extrapolate it to what that cost would be on a
11 12-year basis -- on a 12-month basis.

12 So, in effect, it's like -- it's the best
13 estimate of what the actual cost is going to be
14 because we don't have the actual full cost.
15 Because, basically, the fiscal year from our
16 standpoint, when you have certified forward, the
17 actual costs are not completed until
18 September 30th, and we have to send the bill out
19 in June.

20 So, in effect, we have to use the actual --
21 as much actual costs as we have and then we
22 extrapolate to what the full year costs would be.
23 That's what we're doing.

24 MS. SCHRADER: And maybe some of this could
25 be addressed in the terminology change. Just, the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 phrase, it just seems inconsistent to see it say
2 "estimated actual cost."

3 MR. SCHUKNECHT: It could be like "projected
4 actual costs."

5 MS. SCHRADER: But the -- I mean, I think
6 this goes further than this though. If you look
7 at how this is implemented in 63G-1.013, there's

8 continued reference to appropriations and budget.
9 And what we were wanting is to get away from that.

10 And, for example, in 1.013, it talks about
11 actual costs using the current year expenditures
12 projected through the end of the fiscal year,
13 adjusted for any new legislative appropriations.

14 And as we pointed out in our written
15 correspondence, the appropriations are not costs,
16 and we just think that this phrase should just be
17 struck through and not included in the rules.

18 MR. SCHUKNECHT: And the reason we have to
19 have that in there, in effect, is we're trying
20 to -- basically, if you have an actual cost for,
21 like, last fiscal year, well, this fiscal year, we
22 had to annualize the pay raises or the -- like the
23 year we would have -- yeah, we got pay raises this
24 past year, so you'd have to annualize the pay
25 raises. I noticed we've got another three months

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 of pay raises to pay for next -- next year, so we
2 actually have to include that cost.

3 If the health insurance cost goes up or if
4 the risk management insurance cost goes up, that's
5 a cost we're going to have to have. And the
6 legislature puts dollars in budgeting their pay
7 for that on the general revenue side and on the
8 county cost share side, so we have to include it.

9 I mean, any budget person would agree that,
10 in effect, if you have a -- if you have a cost
11 that you, in effect, phased in the year before,

53

12 the full cost has to be in the following year. So
13 we have to do it. There's no way around it.
14 Otherwise, basically, how would we pay for the
15 other three months of the pay raises?

16 MS. SCHRADER: The concern that we --

17 MR. SCHUKNECHT: That's why we have -- and
18 I'm sorry, let me --

19 MS. SCHRADER: Okay.

20 MR. SCHUKNECHT: -- explain. So what we're
21 picking up is exactly what the legislature puts
22 into those issues. So if the legislature says,
23 "we're basically annualizing the pay raises and
24 this is the dollar amount," that's the actual
25 amount we use for that issue.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 MS. SCHRADER: This just seems to take us --

54

2 MR. SCHUKNECHT: We're not making it up.

3 MS. SCHRADER: Yeah, but this just seems to
4 take us back to relying on budgetary numbers and
5 the appropriations numbers. And the issue that
6 the counties had with that is this kind of
7 inflates the costs that are billed, and the
8 counties actually have to pay for month on
9 month -- month by month.

10 And then we get to the end of the fiscal year
11 and there's all these overpayments. And we've had
12 issues with being provided credits for these
13 overpayments. And so the counties have the
14 concern that if we're paying for expenditures that
15 are -- or if we're paying for kind of budgetary

16 numbers that aren't actually going to be expended
17 by the end of the year then --

18 MR. SCHUKNECHT: It's not really -- like the
19 only thing we're picking up, again, is the items
20 I'm talking about: Annualization, pay raises, in
21 effect, if the cost of health insurance goes up.
22 Those are, in effect, from purposes -- those are
23 actual -- they're not actual costs because they
24 actually haven't happened yet, but they're almost
25 guaranteed costs.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 In other words, what we're doing is we're
2 taking, in effect, the best -- the actual costs
3 that we have at the time we do the billing; we
4 extrapolate to get a full 12 months. All we're
5 doing is basically adding the months to it and
6 then we're picking up the known additional cost
7 that the legislature has identified in the
8 appropriations bill.

55

9 In other words, if we don't include that in
10 the bill, I'm going to have three months of pay
11 raises I can't pay for, or I would have health
12 insurance increases I can't pay for. It would
13 make no sense not to have it in there.

14 MS. SCHRADER: Well, this is very broad
15 language. It says: "Adjusted for any new
16 legislative appropriations."

17 MR. SCHUKNECHT: And, again, the reason --
18 well, it's like if the legislature had -- it's
19 mainly -- quite frankly, historically, it's been

20 pay raises, health insurance, risk management.
21 That's what changes. But like -- I'm not sure,
22 like if they were to say, "we're going to give you
23 an increase in food costs," which they haven't
24 done in years, but if they did, we'd have that in
25 there.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 MS. SCHRADER: This just doesn't seem to move 56
2 us away from the concerns that we had initially
3 where we wanted to go to using actual numbers
4 versus these budgetary numbers, and it seems to
5 kind of be more of the same. And that's kind of
6 our concern with this.

7 And just, you know, going through some of the
8 other provisions in the rule, there's other
9 references to the budget like 63G-1.013,
10 Subsection 2 still references the estimated share
11 of the total budget.

12 There's still a provision in 63G-1.011 that
13 defines funding of detention services as the
14 funding required to provide detention services as
15 determined by the General Appropriations Act,
16 implementing bill and/or the general bill.

17 And we just don't -- it's not consistent with
18 trying to move to using actual costs. I think
19 this -- some of these provisions, they just need
20 to be cleaned up, and we need to eliminate all
21 these references to appropriations and budgeting.

22 MR. SCHUKNECHT: I've offered suggestions
23 that you can get to where we can get to pay for

24 our additional costs next year. And the bottom
25 line is our annualized costs. In other words, how

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 do I pay for the pay raises? How do I pay for the ⁵⁷
2 health insurance? How do I get there without
3 doing this? I don't know how else to get there.

4 And you see that -- I'm sorry -- because you
5 don't want to get so specific and say, okay, just
6 annualize pay raises, and then all of a sudden,
7 I'm locked into that. Every time you put
8 something in rule, then there's no wiggle room at
9 all. Well, if all of a sudden the legislature
10 decides to fund whatever, some contract, or an
11 additional service in detention, and if it's not
12 spoken to in the rule, I -- we'd have no way to
13 bill them for it.

14 They have to have the latitude to at least
15 cover the additional costs kind of -- primarily
16 for services that are, basically, partially phased
17 in. We have to have a way of doing that.

18 MS. SCHRADER: With all due respect, the
19 counties also have to be able to budget for the
20 fiscal year and when --

21 MR. SCHUKNECHT: And that's why we're doing
22 this, so they can actually include it in their
23 budget.

24 MS. SCHRADER: Right. But when we're asked
25 to be -- to pay more than what's actually going to

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 be the actual cost at the end of the year, then
2 basically you're balancing your budget on the
3 backs of the counties and that's the issue that we
4 have.

5 MR. SCHUKNECHT: And when we did the billing
6 this year, we did not use the appropriation. In
7 other words, the appropriation was \$106 million.
8 We did not base it on the appropriation. We based
9 it on the actual costs. So, in effect, we have,
10 in effect, addressed the actual cost issue as best
11 we could.

12 In other words, if I went back two years,
13 it'd be different, but I -- well, it wouldn't make
14 any sense to go back two years because basically
15 what you want is the most recent actual cost.
16 And, again, all we're doing is extrapolating one
17 month and -- I mean, I'll look at it.

18 Quite frankly, I've talked to my budget
19 director. I've been doing this a long time. I've
20 been in budgets for 25 years, and we've got to
21 have a way of covering those additional costs next
22 year. And I'll see if there's -- I don't know how
23 else I can phrase it to where -- get the
24 "appropriation" word out of there and still cover
25 those additional costs.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 And, see, like if I came back and took
2 "appropriation" out and said, "actual costs, plus

3 any anticipated additional costs," I mean, I would
4 think that would be worse because at least I have
5 a basis for it. I'm saying an appropriation -- an
6 appropriated cost -- well, appropriation --
7 appropriated issues is what I'm talking about.

8 In other words, anybody in here could say,
9 "How do you come up with that, Fred?" And I could
10 tell you exactly where I came up with it; whereas,
11 if I just say "any anticipated additional costs,"
12 that's a lot looser. I think this is tighter.

13 MS. HURLEY: This is Lisa with the
14 association, and I do understand your concern.
15 It's, you know, how is it, from the department's
16 standpoint, fair to base our estimated projected
17 cost on costs that are lower than what you
18 anticipate for the next year.

19 So where you've gotten us so far, though, is
20 backing down from just basing it on the big
21 appropriation number, and we appreciate that. And
22 so, you know, we would appreciate the opportunity
23 to discuss amongst ourselves, not here --

24 MR. SCHUKNECHT: Okay.

25 MS. HURLEY: -- today, but to see if there is

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 some other language that we can insert in there
2 because I do -- what if your costs go up? You
3 would be in a position to have a shortfall through
4 the fiscal year because you didn't bill us enough,
5 and I get that. And so --

6 MR. SCHUKNECHT: Right.

7 MS. HURLEY: -- we'll talk to see if there's
8 some other language we can put in there --

9 MR. SCHUKNECHT: That's fine.

10 MS. HURLEY: -- that you would consider that
11 would give us some more comfort level.

12 MR. SCHUKNECHT: If you can get us to where
13 we need to get --

14 MS. HURLEY: Yeah.

15 MR. SCHUKNECHT: -- to cover the budget --

16 MS. HURLEY: Yep.

17 MR. SCHUKNECHT: -- I'm okay.

18 MS. HURLEY: Thank you.

19 MR. MILLA: Anything else on the estimate?

20 MS. SCHRADER: Okay. It sounds like we don't
21 have any other comments on the estimate.

22 This is Carly Schrader again. One of the
23 other issues that we just wanted to bring up for
24 discussion purposes today -- and this was also
25 addressed in our written correspondence -- is with

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 regard to the statement of estimated regulatory
2 costs.

3 At the June 6th hearing, Bay County had
4 submitted a lower cost regulatory alternative and
5 asked for the preparation of the statement of the
6 estimated regulatory costs by the department.

7 And, basically, what was submitted was after
8 the rule challenge decision came down last year,
9 the department and the counties, of course,
10 stipulated to certain facts. That was discussed

61

11 at the last rule hearing, and that's how to
12 interpret this final court disposition based on
13 the rule challenge. And at that point, everybody
14 agreed that anything after final court
15 disposition, that would go to the state.

16 And so, basically, this joint stipulation was
17 submitted as a lower cost regulatory alternative,
18 just asking for the department to go back to its
19 prior interpretation that came down after the rule
20 challenge.

21 In addition to the lower cost regulatory
22 alternative submittal, there was also submitted a
23 cost analysis that was done by the Board of
24 Association of Counties setting forth the negative
25 impact by county and then cumulatively. And this

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 was in a total amount of around \$24 million.

62

2 And as a result of that, the department did
3 prepare the SERC. And that was received by our
4 firm July 28th, so we've had it for about a week,
5 And I think Terrell Arline of Bay County had
6 provided some written comments on this, and I just
7 wanted to make sure we adopted those comments that
8 he'd made through letter.

9 But also I just kind of wanted to address in
10 general some of the issues we saw with the
11 analysis that was done in the SERC. It looks like
12 the department didn't really address the cost
13 analysis by the Board of Association of Counties
14 showing the negative impact to the counties on

15 this change and interpretation of the rule.

16 And we think that this should -- that the
17 analysis should include any costs that are
18 necessary to comply with the rule and so that this
19 should have been considered as part of the SERC
20 analysis.

21 And that also goes for the analysis as to the
22 small counties where we looked at the effects on
23 Nassau, Walton, and Monroe, I think it was. And
24 there were some fiscal impacts to those counties
25 that were included in the cost analysis that

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 weren't addressed by the SERC.

63

2 We believe that the department should not
3 have rejected the lower cost regulatory
4 alternative; that it is an alternative that
5 accomplishes the statutory objectives. It's
6 aligned with the prior decisions interpreting
7 985.686.

8 One of the reasons that the department gave
9 for rejecting the lower cost regulatory
10 alternative was based on the appropriation that
11 was made for fiscal year '14-'15. And, again, I
12 think this logic, it continues to inappropriately
13 rely on the appropriations as the basis for the
14 split in costs; that the appropriations does not
15 establish the split in costs, the substantive
16 loss; 985.686 does that. And so we just feel that
17 the analysis that was done, there's a failure to
18 address these issues.

19 And just I wanted to open it up to anybody
20 else that might have comments on the SERC.
21 Okay. And just to kind of -- looking forward
22 to the process from here, we just kind of wanted
23 to get some input from the department on if there
24 will be further revisions to the rule. It sounds
25 like you're open to making some that we've

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

‡

1 discussed today, but let me know if I'm wrong on
2 that.

64

3 MR. SCHUKNECHT: No. We're open to it,
4 yes.

5 MS. SCHRADER: Okay. What do we anticipate
6 going forward?

7 MR. MILLA: Our plan was to take the changes
8 we arrived at today or the ones that you're still
9 considering and put those in a notice of change so
10 that we could get this to DOAH, rather than do
11 another hearing.

12 And I don't know that we'd really be served
13 by another hearing at this point. I think we kind
14 of know what all the issues are. You have taken
15 the simple ones off the table, and so you can give
16 a clean kind of record to DOAH for the DOAH
17 judge to look at.

18 MS. SCHRADER: Do we have a timeline for the
19 notice of change?

20 MR. MILLA: Oh, well --

21 MS. SCHRADER: Or, I mean, obviously, it'll
22 be kind of an estimate of that.

23 MR. MILLA: I would think sooner rather than
24 later. I don't know that these changes are going
25 to take a whole lot of time.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 We're going to consider that 2.5 million; we
2 said we were going to consider that.

65

3 MR. SCHUKNECHT: And the pre-adjudicatory
4 language.

5 MR. MILLA: The pre-adjudicatory language.

6 MR. SCHUKNECHT: And the secure detention
7 definition or not the -- or use the secure
8 detention consistently --

9 MR. MILLA: Do we have -- just to clean it
10 up, do we have anything on the hypotheticals that
11 need to be put in a rule or any changes that need
12 to be addressed based on our responses to the
13 hypotheticals?

14 MS. BREHMER-LANOSA: This may be a good time
15 for me to jump in. This is Linda Brehmer-Lanosa
16 from Orange County. On the definition, it doesn't
17 mention anything about how you're going to treat a
18 situation where you have two cases pending, two
19 separate events where you have one that's pre and
20 one that's post.

21 MR. MILLA: Yeah. I think that -- excuse me,
22 Linda. I think there's been talk here about the
23 two-day rule, and maybe that needs to be brought
24 up a little bit. Maybe our friends in research
25 and data can explain that. How they answered your

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 hypothetical is based on their application of the
2 two-day rule, and they can explain what that is,
3 and I'll let them do that now.

4 MS. BREHMER-LANOSA: Okay. If you have a
5 handout, it might be nice to receive it, or I
6 don't know if you could send it to us so that we
7 could take a look at it while the hearing is still
8 going on in case we have any questions?

9 MS. JACKSON: We don't have a handout on
10 this, but we can produce one after the meeting.

11 It's actually a very straightforward rule.
12 If a youth has -- if a youth commits a felony or
13 misdemeanor -- and, again, this is a youth who is
14 already on probation. That's all I'm talking
15 about -- a youth commits a felony or misdemeanor
16 and has a detention admission within zero to two
17 days, then we consider that to be linked.

18 We looked at a lot of other alternatives for
19 how to link it and did a lot of hand reviews and
20 face sheet checks. And that appeared to be by far
21 the most accurate way to determine that that
22 detention admission is directly linked to that
23 felony or misdemeanor. And the vast majority are
24 within zero to one days, but there are a handful
25 that are within two.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 MR. GREENWALD: And this is Mark Greenwald
2 with research, and I know that we've discussed

3 adding language like that, that specifies that
4 into the rule, which we can provide.

5 MS. BREHMER-LANOSA: Oh, so you are -- this
6 is Linda Brehmer-Lanosa from Orange County.

7 You are considering adding language that
8 would say that you will link the detention stay to
9 the case? For instance, if there is a failure to
10 appear for drug testing based on a court -- a case
11 that's been already disposed of, are you going to
12 link that to that case even though that didn't
13 occur in zero to two days from the actual
14 disposition?

15 MS. JACKSON: Because that's not a new felony
16 or misdemeanor, no.

17 MS. HURLEY: This is Lisa with the
18 association.

19 My question would be, okay, what happens if a
20 youth shows on probation, commits a new felony or
21 misdemeanor, but then shows up in detention on day
22 eight; what do you do then?

23 MS. JACKSON: We base it strictly on the
24 referral date, not on the offense date. So if the
25 referral date for that offense is within two days,

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 then that will be shifted to the counties. If it
2 is, that'll be considered county responsibility.

3 MS. HURLEY: Uh-huh.

4 MS. JACKSON: If the youth shows up eight
5 days after on this -- for that offense, we're not
6 going to link it because we -- because it's very

7 rare for a youth to go to detention for an offense
8 that is detainable that many days after the
9 referral date.

10 MS. HURLEY: Okay.

11 MS. BREHMER-LANOSA: Have you -- this is
12 Linda from Orange County.

13 Have you done any analysis about -- regarding
14 how many days that would result in shifting to the
15 county? In other words, if you're taking
16 detention stays that are post-disposition and
17 because they don't occur within two days after the
18 disposition you're moving them over to the
19 counties, approximately how many days are you
20 shifting to the counties that would be
21 post-disposition?

22 MR. SCHUKNECHT: This is Fred. Actually,
23 we're not shifting -- basically, the 57/43 percent
24 that's being referred to, that is the basis of
25 this -- the two-day rule was incorporated in

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 there.

69

2 MS. HURLEY: But -- Lisa, again, with the
3 association.

4 I'm sorry, I'm still not clear, okay, on what
5 the process is. I understand if a youth is
6 referred within zero to two days of committing the
7 new offense, county responsibility.

8 MS. JACKSON: Uh-huh.

9 MS. HURLEY: What happens if it happens after
10 two days? What does the department do to

11 determine why that youth is in detention again?

12 MS. JACKSON: If there is no -- so there's no
13 other offense, there's no misdemeanor, no VOP, no
14 FTA, et cetera, the way we've coded the system --
15 and Rosie -- the way we've coded the system, that
16 would be considered state responsibility because
17 it doesn't fit that two-day rule.

18 Now, that might be not exactly right, but
19 that's where that case would fall. It would be
20 state responsibility.

21 MS. HURLEY: So there's no extra step by the
22 department to try to link the reason behind the
23 detention stay? I mean, you know the scenario:
24 You can have a youth on probation that picks up a
25 new offense, doesn't go to secure detention, but

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 later does a technical violation on the probation
2 case.

70

3 And so you're not necessarily -- you're not
4 doing a bright line test just because a youth on
5 probation is in secure detention is the county
6 responsibility?

7 MS. JACKSON: Right, because it's really the
8 proba- -- the violation of probation that resulted
9 in the detention stay --

10 MS. HURLEY: Right.

11 MS. JACKSON: -- so that is state
12 responsibility.

13 MR. GREENWALD: So to -- and this is Mark
14 Greenwald.

15 To speak to Linda's point, those days would
16 not be shifted to the county. They're actually
17 being shifted to the state. That burden's being
18 put on the state and not the county.

19 MS. BREHMER-LANOSA: Okay. Maybe I didn't
20 understand the two-day rule. So if it doesn't
21 happen in two days -- this is Linda from Orange --
22 then what's going to happen? What is this two-day
23 rule? If there isn't a detention stay within two
24 days, what is the rule?

25 MR. GREENWALD: Are you asking how they would

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

‡

1 be counted? I mean, they would be going -- they
2 would be the state's responsibility after that
3 point.

71

4 MS. BREHMER-LANOSA: For anything? Whether
5 it's an FTA, whether it's a non -- a new law VOP,
6 everything after two days would be the state's
7 responsibility?

8 MS. JACKSON: Do you want to take that one?

9 MR. GREENWALD: No. Go ahead. I'm thinking.

10 MS. JACKSON: Okay. And forgive me if I'm
11 being repetitive, I just want to make sure it's
12 clear. There will not be a circumstance when it
13 is the county responsibility for a probation youth
14 if the only offense is a court order, an FTA, or a
15 VOP.

16 So if a youth is detained for that, if a
17 youth -- for instance, if a youth commits an
18 offense that is non-detainable, such as a petit

19 theft, they're not detained for it, they're placed
20 on probation, they violate that probation or they
21 fail to appear and then they go to detention for
22 that offense, the VOP or the failure to appear,
23 that is state responsibility.

24 Now, if a youth commits a new felony or
25 misdemeanor -- and, again, this is a probation

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 youth -- and within zero to two days has a secure
2 detention admission, then that would be county
3 responsibility.

4 MR. MILLA: Of the referral date?

5 MS. JACKSON: Of the referral date. Thank
6 you.

7 MR. MILLA: Not of the offense --

8 MS. JACKSON: Not the offense date, the
9 referral date.

10 MR. SCHUKNECHT: And we could possibly modify
11 the rules and incorporate that.

12 MR. MILLA: And that's sort of, I think we're
13 talking about whether another modification has to
14 be done to incorporate the two-day rule, so maybe
15 you'll have it in rule and you'll see it.

16 Anything else?

17 MS. SCHRADER: I just want to note for the
18 record our continued objection to the proposed
19 rules, even as modified, and we continue to
20 believe that they're invalid and just wanted to go
21 ahead and note that for the record.

22 MR. LABRADOR: And Broward County will do the

72

23 same. Eddy Labrador with Broward County.

24 MS. BREHMER-LANOSA: And this is Linda from
25 Orange. We'd like you to consider adding in a

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

♀

1 clarification to the rule addressing the situation
2 where you have two cases going on at the same
3 time, matching it to the actual case in which the
4 detention stay is occurring.

5 MR. MILLA: Okay.

6 MR. SCHUKNECHT: Okay.

7 MR. MILLA: Anything else here or our friends
8 on the phone?

9 Okay. Then this concludes our hearing. The
10 secretary and relevant members of the department's
11 ELT will review the submissions made here today,
12 and if necessary, a notice of change will be filed
13 with the Joint Administrative Procedures
14 Committee.

15 Notices of change and all other rule
16 activities are posted on the department's website.
17 A copy of the notice of change will be provided
18 upon written request.

19 Have a good day. Thank you for
20 participating. The time is 11:10 a.m., as I now
21 stop the recording.

22 Thanks everyone.

23 (The proceedings were concluded at 11:10
24 a.m.)

25

73

♀

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, SCHEDULE WOODS, do hereby certify that I was authorized to and did report the foregoing proceedings, and that the transcript, pages 1 through 73, is a true and correct record of my stenographic notes.

Dated this 5th day of August, 2014, at Tallahassee, Leon County, Florida.

SCHEDULE WOODS
Court Reporter

♀