

Florida Department of Juvenile Justice

*Office of
Legislative Affairs*



2008 Legislative Report

Final Update

Frank Peterman, Jr.
Secretary

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Summary of Substantive Legislation

Operations

SB 2820 - Juvenile Offenders/Residential Facilities ***Sponsor: Senator Victor Crist***

This bill places limitations on residential facilities that house juvenile offenders by redefining the “restrictiveness level” so that low-risk, moderate-risk, high-risk, and maximum-risk residential facilities must have no more than 165 beds each.

This restriction does not apply if the residential facility has a specified campus-style program that includes more than one level of restrictiveness, provides multilevel education and treatment programs using different treatment protocols, and has facilities that co-exist separately in distinct locations on the same property.

This bill was signed into law on May 28, 2008, by the Governor, Ch. 08-65 L.O.F. The effective date of this bill is July 1, 2008.

CS/CS/SB 2760 - Dentistry ***Sponsor: Senator Durell Peaden, Jr.***

SB 2760 is a bill relating to the practice of dentistry, which provides for additional oversight, rules, and requirements for the out-of-state dentists. As it relates to the Department of Juvenile Justice, the bill creates a health access dental license to allow an out-of-state dentist to practice dentistry in a health access setting without taking the state exam.

The bill defines “Health access settings” to mean programs and institutions of the Department of Children and Family Services, the Department of Health, the Department of Juvenile Justice, nonprofit community health centers, Head Start centers, and federally qualified health centers.

This bill was signed into law on May 28, 2008, by the Governor, Ch. 08-64 L.O.F. The effective date of this bill is January 1, 2009.

Education

HB 7067 - Virtual Education ***Sponsor: Representative Joe Pickens***

Beginning with the 2009-2010 school year, the bill requires school districts to implement virtual instruction programs. Under the bill, each district must offer:

- Full-time virtual courses to students in kindergarten through grade eight.
- Full-time or part-time virtual courses to students in grades nine through 12, who are in Department of Juvenile Justice, dropout prevention, or career education programs.

A school district may operate its own program or may contract with providers approved by the Department of Education. The funding for the virtual instruction program is provided through the Florida Education Finance Program.

Finally, the bill authorizes districts to begin offering virtual instruction programs in the 2008-2009 school year, but limits the providers authorized to contract with a district to specified entities with prior experience offering virtual courses in Florida.

This bill was signed into law on June 10, 2008, by the Governor, Ch. 08-147 L.O.F. The effective date of this bill is July 1, 2008.

Task Forces

CS/CS/HB 1395 (Ch. 08-130, L.O.F.) - Council on the Social Status of Black Men and Boys Sponsor: Representative Marcelo Llorente

CS/CS/HB 1395 makes several changes regarding the Council on the Social Status of Black Men and Boys.

Specifically the bill gives the Council additional tools to study both the causes and possible solutions for conditions that negatively affect black men and boys, and allows the Council to accept both public and private funding to defray clerical and administrative costs.

The bill also authorizes the Department of Legal Affairs to establish a direct-support organization, which will form strategic partnerships to foster the development of community and private sector resources. To that end, and in conjunction with the Council, the bill requires the direct-support organization to develop a strategic program and funding initiative to do the following:

- Implement the 5000 Role Models of Excellence program in specified counties;
- Implement the Reading 4 Success program in specified counties;
- Implement the One Church, One Child program statewide;
- Implement the Mapping the Future for Black Males program within specified community colleges;
- Develop a marketing and public awareness campaign showcasing programs; and
- Fund the clerical and administrative costs of the Council.

The bill requires the direct-support organization to operate under written contract with the Department of Legal Affairs, and provides for staggered appointment of a 13-member Board of Directors. The bill also requires the direct-support organization to consider the participation of other Florida counties that demonstrate a willingness to participate and an ability to be successful in any programs funded by the direct-support organization.

This bill was signed into law on June 10, 2008, by the Governor, Ch. 08-130 L.O.F. The effective date of this bill is July 1, 2008.

Gangs

CS/HB 29 (Ch. 08-27, L.O.F.) - DNA Testing Sponsor: Representative William Snyder

This bill provides that incarcerated persons and persons under community supervision are required to submit blood or other biological specimens for inclusion in the statewide DNA data bank if they have been convicted of any felony offense and misdemeanor violations of stalking, voyeurism, certain acts in connection with obscene materials, exposing minors to harmful motion pictures, exhibitions, shows, presentations, or representations, computer pornography, direct observation, videotaping, or visual surveillance of customers in merchant's dressing room.

Additionally, this bill requires biological specimens for any offense that was found, pursuant to s. 874.04, F.S., to have been committed for the purposes of benefiting, promoting, or furthering the interests of a criminal gang.

This bill was signed into law on April 29, 2008, by the Governor, Ch. 08-27, L.O.F. The effective date of this bill is July 1, 2008.

CS/CS/HB 43 - Criminal Activity
Sponsor: Representative William Snyder

The bill renames chapter 874, F.S., the “Criminal Gang Prevention Act” and replaces the term “criminal street gang” with “criminal gang” throughout the chapter and other referencing statutes. The bill makes it a crime for a person to:

- Knowingly initiate, organize, plan, finance, direct, manage, or supervise criminal gang-related activity;
- Use electronic communication to further any criminal purpose, to intimidate or harass other persons, or to advertise his or her presence in the community for a gang-related purpose;
- Possess or manufacture any unlawfully issued identification document for a gang-related purpose.

In addition the bill:

- Provides additional registration requirements for felons convicted of gang-related offenses and a penalty for failing to comply with such requirements.
- Provides enhanced penalties if it is found that a defendant committed an offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.
- Prohibits a person from possessing a bulletproof vest while committing or attempting to commit certain offenses, including criminal gang-related offenses.
- Increases the penalty for felons who have been found to have committed a gang-related offense to possess a firearm.
- Adds criminal gang-related duties to the Florida Violent Crime and Drug Control Council and creates the Drug Control Strategy and Criminal Gangs Committee within the Council.
- Creates the Coordinating Council on Criminal Gang Reduction Strategies within the Department of Legal Affairs.
- Creates community supervision conditions prohibiting certain offenders from communicating with criminal gang members, except as authorized for the purpose of aiding in the investigation of criminal activity.
- Adds items to the list of things a court must consider when determining whether to release a defendant on bail or other conditions.
- Amends the penalties for tampering and harassing witnesses.

This bill was signed into law on June 30, 2008, by the Governor, Ch. 08-238 L.O.F. The effective date of this bill is October 1, 2008.

Schools

HB 669 - School Safety ***Sponsor: Representative Nick Thompson***

The bill creates the “Jeffrey Johnston Stand Up for All Students Act” which prohibits the bullying or harassment of any public K-12 student or employee during a public K-12 education program or activity; during a school-related or school-sponsored program or activity; on a public K-12 school bus; or through a public K-12 computer, computer system, or computer network.

The Department of Education (DOE), by October 1, 2008, must adopt a model policy prohibiting bullying and harassment. By December 1, 2008, each school district is required to adopt a bullying and harassment policy in substantial conformity with DOE’s model policy.

For the 2009-2010 school year, the bill directs that a school district’s Safe Schools funding is contingent upon DOE’s approval of the district’s bullying and harassment policy. The bill specifies that DOE shall approve a district’s policy if it is in substantial conformity with DOE’s model policy.

Beginning with the 2010-2011 school year, a school district’s annual allocation of Safe Schools funding is contingent upon the district’s compliance with requirements for submitting reports of bullying and harassment to DOE as part of the district’s reports of safety and discipline data. The bill requires the Commissioner of Education to submit an annual report to the Governor and Legislature that includes data on the district reports of bullying and harassment.

The bill provides limited civil immunity for a school employee, volunteer, student, or parent who reports bullying or harassment in good faith.

This bill was signed into law on June 10, 2008, by the Governor, Ch. 08-23 L.O.F. The effective date of this bill was upon the signature of the Governor.

Health

CS/CS/SB 2534 (Ch. 08-32, L.O.F.) - Health Insurance
Sponsor: Senator Durell Peadar

- Governor Crist's Cover Florida plan is a market-based approach to creating greater opportunities for Floridians to access affordable health insurance coverage.
- The plan does not require tax dollars and is voluntary, with no mandates on individuals or on employers to participate.
- Cover Florida leverages competition in the existing market by partnering with private insurance companies to create and bid on robust, innovative health insurance products. These products will be designed to be \$150 per month or less.
- All approved insurance carriers must offer consumers at least two benefit options, one with catastrophic and hospital coverage and one without. All approved Cover Florida plans must include a robust set of benefits, including - at the very least:
 - Coverage for preventive services, screenings, office visits, outpatient and inpatient surgery, urgent care, prescription drugs, durable medical equipment, and diabetic supplies.
- Cover Florida plans are guaranteed issue, available to all Floridians age 16-64 who have been without insurance for at least 6 months.
- The plan is designed to focus on primary and preventive care to discourage unnecessary and costly visits to the emergency room.

This bill was signed into law on May 21, 2008, by the Governor, Ch. 08-32, L.O.F. The effective date of this bill was upon the signature of the Governor.

Summary of Administrative Legislation

SB 2100 (Ch. 08-08, L.O.F.) – Shared County/State Juvenile Detention TF/DJJ
Sponsor: Senator Victor Crist

This bill re-creates the Shared County/State Juvenile Detention Trust Fund within the Department of Juvenile Justice without modification, and repeals the provision that would have terminated the trust fund. Additionally, the bill amends an incorrect reference to this trust fund.

This bill was signed into law on April 22, 2008, by the Governor, Ch. 08-08, L.O.F. The effective date of this bill is July 1, 2008.

CS/CS/HB 887 - Career Service System
Sponsor: Representative Marti Coley

The Career Service System is the name given to the civil service personnel management system for many public employees occupying non-managerial positions in State of Florida agencies. Its provisions were last amended by the 2001 Legislature as part of a reallocation of position titles and job protections.

The bill requires the Department of Management Services (DMS) to develop rules that implement layoff procedures requiring retention of an agency's employees based upon objective measures such as an employee's length of service in addition to comparative merit, demonstrated skills, and employee experience.

The bill provides that a permanent career service employee who is promoted is subject to the one year probationary period and may be removed from that position without cause, but is entitled to return to his or her former position, or the equivalent level, if such position is available. However, if a position is not available, that does not authorize "bumping" an existing employee out of such a position.

The bill expands notice requirements to include employees subject to a 50-mile away transfer in addition to notice for other circumstances. It revises timeframes for filing certain grievances and for filing certain notices and orders.

This bill was signed into law on June 10, 2008, by the Governor, Ch. 08-126 L.O.F. The effective date of this bill is January 1, 2009.

CS/HB 165 - Agency Inspectors General
Sponsor: Representative Aaron Bean

This bill requires that agency inspectors general comply with standards published by the Association of Inspectors General, and requires that a final audit or investigation report contain the response of a contracting entity that is the subject of the audit or investigation.

Inspectors general are required to submit to their agency heads all complaints relating to their duties or alleged misconduct of their employees, and agencies under the direction of the Governor must submit such complaints to the Chief Inspector General.

This bill was signed into law on June 17, 2008, by the Governor, Ch. 08-183 L.O.F. The effective date of this bill is July 1, 2008.

CS/CS/SB 704 - Open Government Act/Administrative Procedures
Sponsor: Senator Michael Bennett

CS/CS/SB 704 has two major purposes. The first is to create incentives for agencies to promulgate rules rather than rely on unadopted rules to implement their statutory responsibilities. Second, the bill provides enhancements to the online electronic publication of the Florida Administrative Code (FAC) to make it more user-friendly.

An “unadopted rule” is an agency statement that meets the definition of “rule” as defined in the Administrative Procedures Act (APA), but which has not been adopted through the rulemaking process.

The bill amends provisions of Chapter 120 (The APA) as follows:

- Provides that upon notification to the administrative law judge in a rule challenge proceeding that an agency, before the final hearing, has published a notice of rulemaking, the notice will operate as an automatic stay of the proceedings pending adoption of the statement as a rule.
- Narrows the circumstances in which an agency may continue to base its action against an individual on unadopted rules.
- Requires a petitioner seeking to challenge an unadopted rule to give notice to the agency that the agency statement at issue may constitute an unadopted rule at least 30 days before the petition is filed.
- Provides that if the agency, within the 30-day time period, publishes notice of rulemaking to address the statement, no attorneys fees will be assessed against the agency.
- Provides that in circumstances where the rule challenge is proceeding, but before the final hearing, the administrative law judge is notified that the agency has published notice of rulemaking, the notice shall operate as a stay of the proceedings pending rulemaking. In such instances, the administrative law judge shall award attorney’s fees accrued by the petitioner prior to the date the notice was published, unless the agency proves that it did not know and should not have known that the statement was an unadopted rule.
- Increases the existing attorney fee cap from \$15,000 to \$50,000. Requires that effective July 1, 2010, the Department of State will electronically publish the Florida Administrative Code on its website to allow for a full text search of the code.

This bill was signed into law on June 10, 2008, by the Governor, Ch. 08-104 L.O.F. The effective date of this bill is July 1, 2008.

CS/HB 1509 - Community Service for Infractions of Noncriminal Traffic Offenses
Sponsor: Representative Oscar Braynon II

CS/HB 1509 amends s. 318.18(8), Florida Statutes, relating to payment of non-criminal traffic penalties by performing community service. The bill provides that a person desiring to perform community service in lieu of payment must prove a demonstrable financial hardship.

As it relates to the Department of Juvenile Justice, \$1 from every non-criminal traffic infraction under s. 318.18, F.S., goes into the Juvenile Justice Training Trust Fund. The Department is likely to see slightly reduced collections as a result.

This bill was signed into law on June 17, 2008, by the Governor, Ch. 08-205 L.O.F. The effective date of this bill is July 1, 2008.

***BUDGET
HIGHLIGHTS***

Detention Services:

Detention Centers	\$133,723,343	2026.5 FTE
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Budget Enhancements

- Provides **\$250,000 (GR)** for critical safety, security, maintenance, and repair issues at state-owned buildings (Detention, Probation and Residential Facilities).

Detention Cost Share

- Provides **\$6.4M (GR)** for fiscally constrained counties for detention center costs.

Budget Reductions

- **(\$3.7 M)** (**\$600,000 GR & \$3.1 TF**) and **(72.0)** position reductions to be applied to all detention centers in lieu of closing Monroe and St. Johns Regional Detention Centers.

Probation and Community Corrections:

Juvenile Probation	\$ 103,698,605	1,522.5 FTE
Aftercare /Conditional Release	\$ 32,938,051	25.0 FTE
Non-Residential Delinquent Rehab	\$ 19,647,619	0 FTE

Budget Reductions

- **(\$2.2 M) (GR)** reduction made to contracted day treatment services.
- **(\$418,803) (GR)** reduction made to contracted domestic violence services.
- **(\$941,617) (GR)** reduction made to Legislative Initiatives to Reduce & Prevent Juvenile Crime. Two programs impacted by this reduction are Orange County BCC (JAM) - \$650,000 and Eckerd Youth Alternatives, Inc – \$291,617
- **(\$87,500) (GR)** reduction to contracted mental health services.
- **(\$392,579) (GR)** reduction for juvenile assessment centers (JACs) and restores \$3.0 M non-recurring GR for one year. Reduction will be distributed amongst all existing JACs.

Executive Direction & Support Services:

Information Technology	\$ 6,727,283	64.5 FTE
Executive Dir & Support Services	\$ 21,853,749	232.5 FTE

Residential and Correctional Facilities:

Non-Secure Res. Commitment	\$ 150,032,477	295.0 FTE
Secure Res. Commitment	\$ 115,166,028	745.0 FTE

Budget Reductions

- **(\$2.9 M) (GR)** reduction to low-risk bed capacity. This represents a loss of 84 beds.
- **(\$5.6 M) (GR)** reduction to moderate-risk bed capacity. This represents a loss of 160 beds.
- **(\$15.1 M) (GR)** reduction to secure bed capacity. This represents a loss of 308 beds.
- **(\$1.2 M) (GR)** reduction to the per diem rate for the STAR program located in Polk County. Per Diem rate will be reduced to approximately \$112.54.
- **(\$1.7 M) (GR)** reduction to Wilderness Therapeutic program. This represents a loss of 54 beds.

Prevention & Victim Services:

Delinquency Prevention	\$ 59,053,487	17.0 FTE
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Budget Reductions

- **(\$1.9 M) (GR)** reduction to the CINS/FINS appropriation
- **(\$200,000) (GR)** reduction to PACE Center for Girls
- **(\$365,131) (GR)** reduction to contract service payments for prevention services.

Other Budget Issues of Note:

- Provides sufficient funding such that there will be no increase in staff health insurance costs.
- Juvenile Justice Education Supplemental Allocation – \$12.1 million (\$925 per student) to supplement other sources of funding for students in juvenile justice education programs

DJJ Budget Comparison After Governor's Vetoes FY 2007-2008 / FY 2008-2009

	<i>FY 2007-08</i>		<i>FY 2008-09</i>	
	<u>FTEs</u>	<u>Budget</u>	<u>FTEs</u>	<u>Budget</u>
<u>Juvenile Detention</u>				
Detention Centers	2,098.50	\$137,527,306	2,026.50	\$133,473,343
<u>Probation/Community Corrections</u>				
Aftercare	25.00	\$ 35,615,860	25.00	\$ 32,938,051
Juvenile Probation	1,531.50	\$107,386,259	1,522.5	\$103,698,605
Non-Res Del	-0-	\$ 22,597,716	-0-	\$ 19,647,619
<u>Executive Direction</u>				
Executive Direction	232.50	\$ 22,185,502	232.50	\$21,853,749
Information Tech	64.50	\$ 6,973,734	64.50	\$6,727,283
<u>Residential</u>				
Non-Secure	295.00	\$171,998,363	295.00	\$150,032,477
Secure	747.00	\$137,013,444	745.00	\$115,166,028
<u>Prevention</u>	17.00	\$ 68,027,425	17.00	\$ 59,053,487
¹DJJ Total	<u>5,011.00</u>	<u>\$709,325,609</u>	4,928.00	\$642,840,642

¹ For the purpose of comparing identical numbers from previous years, the totals from FY 07-08 and FY 08-09 are both **AFTER** the Governor's Vetoes.