

CS/SB 640 – Prosecution of Juvenile Offenders

This bill amends s. 985.556, F.S., deleting the involuntary mandatory waiver for children 14 years of age or older, and amends s. 985.557, F.S., deleting the discretionary direct file for children who were 14 or 15 years old at the time of the offense. It also restricts the discretionary direct file to “forcible felony, as defined in s. 776.08, F.S.” for 16 or 17 year olds, now named “discretionary prosecution of children as adults.” It also adds the following (new language in bold): “the state attorney may not file an information on a child charged with a misdemeanor, unless the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which involved an offense classified as a **forcible** felony under state law.” This bill also amends s. 985.56, F.S., removing “a child of any age” and adding “14 years of age or older” for being charged with a violation punishable by death or life imprisonment. Finally, it adds “Notwithstanding any other law, a child who commits an offense for which he or she may be indicted and who has a pending competency hearing in juvenile court or who previously has been found to be incompetent and has not been restored to competency by a court may not be transferred to adult court for criminal prosecution until the child’s competency is restored. A pending competency hearing or a finding of incompetency tolls the time limits in subsection (2).” Language is also changed to allow for a child who committed an indictable offense to receive juvenile sanctions.

Per DOC, there were approximately 723 new commitments to the prison system in FY 18-19 who committed their crimes when they were 14-17 years of age. In FY 19-20, there were 502. It is not known how many of these new commitments would be diverted from prison under the bill’s new language. Per DJJ, in FY 19-20, there were potentially 286 youth who would not be eligible for transfer to adult court for felonies under the new language. Of that number, there were 16 youth that the department was not able to determine if a forcible felony occurred (i.e. certain offenses not enumerated as forcible felonies). However, given the propensity for judges to use sentencing options other than prison, it is not known how many of those eligible were ultimately sentenced to prison.

In FY 18-19, 6 new commitments to prison under 14 years of age at the time of their offense. In FY 19-20, there were 8 new commitments.

CONFERENCE ADOPTED ESTIMATE: **Negative Significant**

- **Given the specific provisions of the bill, while DOC would see a reduction in juvenile inmates, DJJ would see an increase in juvenile commitments.**

Requested by: Senate