

HB 771 – Direct Filing of an Information (Similar CS/SB 638)

This bill amends s. 985.557, F.S., deleting “in the state attorney’s judgment and discretion” and “conspiracy to commit” so that it now reads “the state attorney may file an information when the public interest requires that adult sanctions be considered or imposed and when the offense charged is for the commission of, or attempt to commit, any of the following” list of offenses for those 14 or 15 years of age. It also deletes “in the state attorney’s judgment and discretion” for those 16 or 17 years of age, now stating that “the state attorney may file an information when the public interest requires that adult sanctions be considered or imposed.” It also deletes “or adjudications withheld,” so that the state attorney may only file an information on a child charged with a misdemeanor when the child has had at least two previous adjudications for delinquent acts. Finally, it creates a due process evidentiary hearing before a judge, where “a child charged with a crime or his or her parent or guardian may request a due process evidentiary hearing after the state attorney’s filing of an information in adult court under this section.” It is listed what the judge should consider when determining “whether it is necessary for the community’s protection that the child be prosecuted in adult court” and it is stated that “the adult court shall retain jurisdiction unless the court finds by a preponderance of the evidence that the factors listed...support returning the child to juvenile court.”

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 was one youth charged with “conspiracy to commit.” It is not known how including an evidentiary hearing might impact the number of youth direct filed to adult court for felonies (778 in FY 19-20), which would then impact the number of those sentenced to prison. The number sentenced to prison is also unknown, but judges already show a propensity to use sentencing options other than prison, which could influence how they respond in an evidentiary hearing.

CONFERENCE ADOPTED ESTIMATE: **Negative Indeterminate**

- **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