

**Charlotte County Board Of County Commissioners  
Agenda Item Summary**

## Item Number: R- 8

### 1 DEPARTMENT MAKING REQUEST

County Attorney

### 2 MEETING DATE

6/24/2014 9:00:00 AM

### 3 REQUESTED MOTION/ACTION

Approve and ratify Charlotte County's joinder with the Florida Assoc. of Counties (FAC) and other counties in FAC's administrative challenge to the Fla. Dept. of Juvenile Justice (DJJ) proposed new Rule and authorize payment to the FAC in an amount not to exceed \$3500 (see attached fee schedule from FAC detailing costs) for Charlotte County's cost share for the Rule challenge. The FAC will be represented by the Nabors Giblin law firm in the Rule Challenge.

### 4 AGENDA

Regular

### 5 IS THIS ITEM BUDGETED ( IF APPLICABLE ) -

**Budget Action**

**Financial Impact Summary Statement**

**Detailed Analysis Attached -**

**Budget Officer-**

### 6 BACKGROUND ( Why is this Action Necessary, and What Action will be accomplished )

Charlotte County's position is that the current proposed Rule by DJJ violates Fla. Statutes. Attached are Charlotte County's Comments to the Rule and proposed revisions to the Rule filed at the Rule Hearing on June 6th with DJJ.

As noted in the attached comments, pursuant to Section 985.686, Florida Statutes, counties are only responsible for the costs of secure detention for detention days occurring prior to final court disposition. DJJ is responsible for all other days, including days occurring on or after final court disposition. Of primary concern is the Department's continued position of creating exceptions to its statutory responsibility for providing the costs of secure juvenile detention which are not supported by the law, including an exception for days a youth is in detention based on a violation of probation if a youth is charged with a new violation of law occurring after the date the youth was placed on probation. This is in direct violation of Department of Juvenile Justice v. Okaloosa County, 113 So. 3d 1074 (Fla. 1st DCA 2013) (the Rule Challenge decision), and the Department's own interpretation of the decision.

#### **ATTACHMENTS:**

Name:

Description:

Type:

[FAC fee schedule.pdf](#)

Exhibit

Exhibit

[Nabors Giblin -](#)

[June 5 2014 Comments to Rule and Proposed Rule revisions.pdf](#)

Exhibit

Exhibit

**Gallagher, Daniel**

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**From:** Gail Ricks [<mailto:gricks@fl-counties.com>] **On Behalf Of** Ginger Delegal

**Sent:** Thursday, June 12, 2014 9:10 AM

**To:** Ginger Delegal

**Cc:** [gstewart@ngnlaw.com](mailto:gstewart@ngnlaw.com); [cschrader@ngnlaw.com](mailto:cschrader@ngnlaw.com); 'elabrador@broward.org'; Jess McCarty; Chris Holley; Lisa Hurley; Cragin Mosteller

**Subject:** ATTENTION and IMMEDIATE ACTION DJJ Rule Challenge Participation

**Importance:** High

**To: All Non-Fiscally Constrained County Attorneys**

Last Friday, the Department of Juvenile Justice held a public hearing on proposed new rules related to the billing and collection of the county cost share for juvenile pre-disposition secured detention. The revised rules are purportedly intended to implement the direction of the First District Court of Appeal in its opinion, invalidating the current rules. Despite the written submission of at least 22 counties and FAC and despite the direct participation of over 15 counties at the public hearing and FAC, the Department appears unwilling to make certain changes that would bring the rules in line with the court's direction. Accordingly, FAC will file a rule challenge. The deadline to do so is currently believed to be Monday, June 16.

Each of the 38 non-fiscally constrained counties are encouraged to join the petition. FAC has hired Nabors, Giblin & Nickerson, P.A., as special counsel to represent us in the rule challenge and any subsequent appeals. The large urban counties (Duval, Pinellas, Hillsborough, Palm Beach, Orange, Broward and Miami-Dade) can join this petition for \$2500 through the administrative process up to any appeal. If any appeal is taken, these seven counties can then remain in the FAC suit for \$2500 more (all the way to and through the Florida Supreme Court; for a total of \$5,000). All other remaining 31 counties can join the rule challenge petition for \$1,000 and for \$2500 more for any and all appeals (for a total of \$3,500). Payments should be made to FAC; counties will be individually named on the petition.

The FAC Executive Committee has authorized the hiring of NG&N and FAC's filing of the rule challenge. That decision will be reported to and ratified by the FAC Board of Directors next week during the FAC Annual Conference.

We understand the difficulty with the speed of the decision making at this point. I am attaching a draft of the petition for your reference. We are continuing to research the ability for counties to either join or intervene at future dates but do not have yet have advice on the ability to join/intervene at a later time.

Please let me know what questions you have and notify me by 5:00 on Friday, June 13<sup>th</sup> of your interest in being a named petitioner.

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**Virginia "Ginger" Delegal**

General Counsel

Florida Association of Counties

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(813) 281-0129 Fax

Reply to Tallahassee

June 5, 2014

**Via Electronic Mail**

John Milla  
Assistant General Counsel  
Department of Juvenile Justice  
2737 Centerview Drive, Suite 3200  
Tallahassee, FL 32399  
john.milla@djj.state.fl.us

Re: Proposed Rules 63G-1.011, 1.013, 1.016, and 1.017

Dear Mr. Milla:

Our Firm has been retained as counsel for Charlotte County, Collier County, Manatee County, Nassau County, Okaloosa County, St. Lucie County, and Walton County. Please accept these comments to supplement the letter submitted on March 28, 2014, regarding the Department's Proposed rules 63G-1.011, 1.013, 1.016, and 1.017, and any verbal comments that may be made at the public hearing, scheduled for June 6, 2014.

It is acknowledged that the Department has made some revisions to the proposed rules since the March 28, 2014 workshop, and we appreciate those efforts on the part of the Department. However, the above counties continue to maintain that the Proposed Rules need to be modified as set forth herein in order to avoid conflict with section 985.686, Florida Statutes, the law implemented, and with the Final Order reached in Okaloosa County et al. v. Department of Juvenile Justice, DOAH Case No. 12-0891RX (Final Order July 17, 2012), and affirmed on appeal in Department of Juvenile Justice v. Okaloosa County, 113 So. 3d 1074 (Fla. 1st DCA 2013) (the "Rule Challenge").

As set forth in section 985.686, Florida Statutes, the counties are only responsible for the costs of secure detention for detention days occurring prior to final court disposition; the State is responsible for all other days, including days occurring on or after final court disposition. Of primary concern is the Department's continued position of creating exceptions to its statutory responsibility for providing the costs of secure juvenile detention which are not supported by the law, including an exception for days a youth is in detention based on a violation of probation "when the youth is charged with a new violation of law occurring after the date the youth was

placed on probation.” This is in direct violation of the Rule Challenge decision, and the Department’s own interpretation of the decision.

The Rule challenge decision specifically stated that detention days occurring after any final court disposition, including any probation, are post dispositional, and the responsibility of the State, and not the counties. This was acknowledged by the Department in three separate stipulations with the counties, each of which were submitted to the Division of Administrative Hearings to resolve pending challenges. That language in each stipulation is provided in pertinent part:

The parties agree that “Final Court Disposition” as contained in section 985.686, Florida Statutes, and based on the decision of the First District Court of Appeal, means a disposition order entered by a court of competent jurisdiction, including an order sentencing a juvenile to commitment to the Department, or other private or public institution as allowed by law, placing the juvenile on probation, or dismissing the charge.

The parties further agree that a “Predispositional Day” means any secure detention day occurring prior to the day on which a Final Court Disposition is entered. Predispositional day does not include any secure detention day after a juvenile has been sentenced to commitment or placed on probation, or is waiting for release after dismissal of a charge.

Bay County et al. v. Department of Juvenile Justice, DOAH Case Nos. 11-0995, et al. (consolidated) Joint Stipulation of Facts and Procedure filed December 6, 2013; Okaloosa County v. Department of Juvenile Justice, DOAH Case No. 11-5894, Joint Stipulation of Facts and Procedure filed December 9, 2013; Volusia County et al. v. Department of Juvenile Justice, DOAH Case Nos. 13-1442, et al. (consolidated), Joint Stipulation of Facts and Procedure filed December 17, 2013. These stipulations are being transmitted with this letter. (The exhibits attached to the stipulations have all been omitted for length, but these are all on file with the Department).

Predisposition, as determined in the Rule Challenge and the Department’s own prior interpretation, means the period of time a juvenile is in secure detention prior to the entry of a Final Court Disposition. Any detention days occurring after a disposition, whether it be a disposition of commitment, probation, dismissal, or other final disposition, are the responsibility of the Department under section 985.686, Florida Statutes. The continued inclusion of exceptions to this simple and straightforward definition is contrary to the statute. The counties will continue to pursue any and all available remedies with regard to the Department’s shifting of

John Milla  
June 5, 2014  
Page 3

the costs from the State to the counties, in direct contradiction to the statute and legal authority interpreting the same.

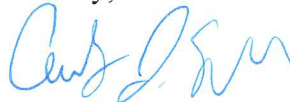
In addition to the above, the law implemented, section 985.686, Florida Statutes, subsection (3) specifically provides the following exclusion of costs from the responsibility of the counties:

(3) Each county shall pay the costs of providing detention care, exclusive of the costs of any preadjudicatory nonmedical educational or therapeutic services and \$2.5 million provided for additional medical and mental health care at the detention centers, for the period of time prior to final court disposition. The department shall develop an accounts payable system to allocate costs that are payable by the counties.

§ 985.686(3), Fla. Stat. (emphasis added). The above emphasized language has never been implemented in the Department's rules, and should be addressed. To continue to include these costs as shared costs is contrary to the law implemented.

Attached to this letter, please find specific comments to each of the Proposed Rules for the Department's consideration, setting forth particular areas of concern in detail. As always, the counties would like to work with the Department in order to develop rules that are in compliance with and consistent with the law, and that treat the counties equally and fairly in implementing detention cost share. To that end, the counties would like to increase communications with the Department during this process and to hopefully avoid or reduce future legal issues involving detention cost share.

Sincerely,



Carly J. Schrader

CJS:pad

Attachment

John Milla  
June 5, 2014  
Page 4

cc: Janette S. Knowlton, Charlotte County Attorney  
Daniel E. Gallagher, Assistant County Attorney

Jeffrey A. Klatzkow, Collier County Attorney  
Scott R. Teach, Deputy County Attorney

Mitchell O. Palmer, Manatee County Attorney  
James A. Minix, Assistant County Attorney

Dávid A. Hallman, Nassau County Attorney

Daniel S. McIntyre, St. Lucie County Attorney

Mark D. Davis, Walton County Attorney

Lisa Hurley, Florida Association of Counties

Notice of Proposed Rule

**DEPARTMENT OF JUVENILE JUSTICE**

**Detention Services**

RULE NOS.: RULE TITLES:

63G-1.011 Definitions

63G-1.013 Calculating Estimated Funding

63G-1.016 Monthly Reporting

63G-1.017 Monthly/Annual Reconciliation and Dispute Resolution

**PURPOSE AND EFFECT:** Amendments are necessary to comply with a recent appellate decision invalidating portions of the department's rules implementing detention cost sharing. The amendments provide a definition for "final court disposition," and create a methodology for estimating and reconciling each paying county's actual costs that will effectively reduce the counties' responsibility for secure detention costs.

**SUMMARY:** The amendments eliminate the current "commitment status" dividing line between state and county responsibility for secure detention costs, replacing it with one that reduces the counties' share, and increases state responsibility. Most notably, the state will assume responsibility for detention stays associated with technical violations of probation, and for those following the dismissal of all open charges. A new methodology for estimating and reconciling costs is adopted, which will utilize a uniform per diem, and thus ensure that the counties do not pay a higher rate than the state.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:** The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The SERC Checklist, and current information available to the department, indicates that the statutory threshold for ratification will not be exceeded.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 985.64, 985.686(11) FS.

**LAW IMPLEMENTED:** 985.686 FS.

**A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** Friday, June 6, 2014, 10:00 a.m.

**PLACE:** DJJ Headquarters, 2737 Centerview Dr., General Counsel's Conference Room 3223, Tallahassee, Florida

For information about participation by telephone contact John Milla at (850)921-4129

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

63G-1.011 Definitions.

~~(1) "Funding of detention services" means the funding required to provide detention services as determined by the General Appropriations Act Implementing Bill and/or General Bills.~~

~~(2) "Final Court Disposition" means the decision announced by the court at the disposition hearing determining the most appropriate services for a youth. Final court disposition includes commitment, probation, and dismissal of charges. A disposition order entered by a court of competent jurisdiction, including an order sentencing a juvenile to commitment to the Department, or other private or public institution as allowed by law, placing the juvenile on probation, or dismissing the charge. "Commitment" means the final court disposition of a juvenile delinquency charge through an order placing a youth in the custody of the department for placement in a residential or non-residential program. Commitment to the department is in lieu of a disposition of probation.~~

~~(3) "Shared County/State Juvenile Detention Trust Fund" means the state trust fund used to capture budget and costs associated with the counties' share of detention funding.~~

(4) "Fiscally constrained county" means a county which is not required to pay the full costs of its resident juveniles' secure detention services.

(5) "Juvenile Probation Officer" (JPO) means the primary case manager for the purpose of managing, coordinating, and monitoring the services provided and sanctions ~~sanctions~~ required for youth on probation, post-commitment probation or conditional release supervision.

(6) "Juvenile Justice Information System" (JJIS) means the department's electronic information system used to gather and store information on youth having contact with the department.

~~(7) "County of Residence" means the county where, at the time of referral, a child resides, as determined by a department intake officer pursuant to Rule 63G-1.012, F.A.C., and entered in the Juvenile Justice Information System, except for those youth described in subsection 63G-1.012(2), F.A.C., below.~~

~~(8) "Pre commitment" means those days a youth is detained in a detention center prior to being committed to the department.~~

~~(8)(9) "Reconciliation period" means the first through the last day of a month during which reconciliation by the county and the department for the previous month's utilization takes place.~~

~~(9)(10) "Secure detention" means a physically state owned and operated physically restricting facility for the temporary care of children, pending adjudication, disposition, or placement.~~

~~(10)(11) "Service day" means any day or portion of a day spent by a youth in secure detention.~~

~~(11)(12) "Utilization" means a summary of service days.~~

(12) "Estimated per diem" means the per diem calculated prior to the state fiscal year

**Comment [CJS1]:** Eliminate. This definition when read in conjunction with section 63G-1.010 is in conflict with the decision reached in the Rule Challenge, as ultimate responsibility for the costs of detention care is not determined by the General Appropriations Act.

**Comment [CJS2]:** This definition was previously agreed to by the department.

**Comment [CJS3]:** Eliminate, or redefine as "means the Trust Fund created by section 985.6015," in order to avoid conflict with that section.

**Comment [CJS4]:** This is confusing, as there is also an "annual reconciliation"

**Comment [CJS5]:** The Department should ensure that all references are to "secure detention" instead of simply detention, as this is a defined term.



utilizing an estimate of the total service days for the prior fiscal year and the total actual costs of secure detention from the prior fiscal year ~~total appropriation for detention centers~~. The resulting per diem is then used to estimate the cost to a county under the methodology in Rule 63G-1.013, F.A.C.

(13) "Actual per diem" means the per diem calculated utilizing total actual service days and the total actual ~~expenditures~~ costs for secure ~~the cost of~~ detention for the purpose of reconciliation under the methodology in Rule 63G-1.017, F.A.C.

(14) "Predisposition" means any secure detention day occurring prior to the day on which a Final Court Disposition is entered. Predisposition does not include any secure detention day after a juvenile has been sentenced to commitment or placed on probation, or is waiting for release after dismissal of a charge. Each county is only responsible for the predisposition days for youth residing within the respective county. ~~the period of time a youth is in detention care prior to entry of a final court disposition by the court. The counties are responsible for all predisposition days including all service days for youth that are, at the time of the detention;~~

~~(a) In detention for contempt of court if the youth is not committed to the department or on department supervised probation;~~

~~(b) In detention while on department supervised probation when the youth is charged with a new violation of law occurring after the date the youth was placed on probation;~~

(15) "Postdisposition" means any secure detention day occurring on or after the day on which a Final Court Disposition is entered. ~~the period of time a youth is in detention care after entry of a final court disposition.~~ The State is responsible for all postdisposition days including, but not limited to, all service days for youth that are, at the time of the secure detention:

(a) ~~Committed to the department, whether to the department or an outside facility, including youth on conditional release and for service days where the juvenile has absconded from nonresidential commitment or has escaped from residential commitment;~~

~~(b) On department supervised probation, unless the youth is charged with new law violations occurring after the date the youth was placed on probation, including postcommitment probation;~~

~~(c) Without charges, as all charges against the youth have been dismissed or the youth has been found not guilty. Where the charge has been dismissed, or the youth has been found not guilty;~~ and

(d) For service days for juveniles waiting for placement or release.

(16) "Actual Costs" means the funds the department expends for the operation of secure detention during the fiscal year, less any costs not jointly shared by the State and the counties, including but not limited to the costs of any preadjudicatory nonmedical educational or therapeutic services and \$2.5 million provided for additional medical and mental health care at the detention centers, as set forth in section 985.686(3), Florida Statutes.

Rulemaking Authority 985.64, ~~985.686(11)~~ ~~985.686(10)~~ FS. Law Implemented 985.686 FS. History—New 7-6-10, Amended \_\_\_\_\_.

63G-1.013 Calculating Estimated Funding.

(1) Estimates for each county's individual portion of secure detention funding will be

**Comment [CJS6]:** It would be more accurate for the department to base its estimate on the prior year's actual costs. This may assist in decreasing the difference between the estimated amounts charged to the counties, and the counties' ultimate actual costs determined at the end of the year, and would provide more certainty in the process going forward.

**Comment [CJS7]:** This definition was previously agreed to by the department.

**Comment [CJS8]:** It is unclear in what context this would occur. In addition, the language "if the youth is not committed to the department or on department supervised probation" is too restrictive—there could be other instances where a detention day is postdispositional, not covered in these circumstances, such as commitment outside of the Department, or on conditional release. This provision should be deleted.

**Comment [CJS9]:** As stated in our comment letter, this provision conflicts with the law implemented, section 985.686, Florida Statutes, and the Rule Challenge decision which interprets that provision.

**Comment [CJS10]:** See above comment.

calculated as follows:

(a) ~~The department shall estimate the number of service days for the upcoming fiscal year based upon prior use of secure detention during the previous fiscal year and generally accepted statistical methods.~~ Utilizing previous fiscal year data, the department shall estimate: ~~All youth served in secure detention during the most recently reconciled previous fiscal year as reflected in the JJIS will be identified;~~

1. ~~The number of predisposition service days for each county;~~

2. ~~The total number of service days for secure detention, including both predisposition and postdisposition service days.~~

(b) ~~The total budget for detention, as authorized in the General Appropriations Act actual costs for secure detention from the previous fiscal year,~~ shall be divided by the total number of service days estimate, which will produce an estimated per diem. ~~The total number of pre-commitment service days in secure detention is computed by including all days up to but not including the date of commitment to the department.~~

(c) ~~The department shall multiply the estimated per diem by the estimated expected number of predisposition service days for each county to calculate each county's estimated costs for its share of secure detention careshare of the total budget.~~

(2) ~~The total number of pre-commitment service days for each county from the most recently reconciled previous fiscal year utilization data will be divided by the total pre-commitment service days for all counties for that same time period to arrive at each county's percentage of the total.~~

(3) ~~Each county's percentage will be multiplied by the total estimated annual appropriation in the shared county/state juvenile detention trust fund for the upcoming fiscal year to determine each county's share of the total budget.~~

(2)(4) ~~The counties' estimated costs of secure detention estimated share of the total budget will be billed to the counties in monthly installments.~~

(3)(5) ~~Invoices are to be mailed at the beginning of the month prior to the service period, so that an invoice for the August service period will be mailed in July.~~

*Rulemaking Authority 985.64, 985.686(11) 985.686(10) FS. Law Implemented 985.686(3) FS. History—New 7-6-10, Amended \_\_\_\_\_.*

#### 63G-1.016 Monthly Reporting.

(1) Each month, the department shall generate a web based on-line utilization report that provides each county's actual usage for the previous service month. The report is to be used by the counties to validate utilization.

(2) The report shall contain the following information:

- (a) Youth's name;
- (b) Youth's address at the time of the referral;
- (c) Sex;
- (d) Date of birth;
- (e) Name of parent or guardian, if available;
- (f) Phone contact, if available;

**Comment [CJS11]:** Should be clarified to insert a specific date for mailing of invoices and for due dates for payment.

- (g) Charge category;
- (h) Admission date;
- (i) ~~Final court Commitment~~ disposition date, if available;

(j) Reasons for secure detention for each service day; and

(k)(e) Number of ~~secure~~ detention days identified as predisposition days, and number of secure detention days identified as postdisposition days.

(3) The report will be available electronically on the first day of each month for the previous month's utilization.

(4) The limited release of juvenile identifying information contained in each county's monthly report is confidential. The release will not include treatment or charging information, is limited to the county official(s) designated to receive the report, and is not to be used for any purpose other than that of verifying the provision of ~~secure~~ detention services.

*Rulemaking Authority 985.64, 985.686(11) ~~985.686(10)~~ FS. Law Implemented 985.686(3), (7) FS. History—New 7-6-10, Amended \_\_\_\_\_.*

#### 63G-1.017 Monthly/Annual Reconciliation and Dispute Resolution.

(1) On the first day of each month, the department shall make available to each county a utilization report described in Rule 63G-1.016, F.A.C.

(2) The county shall have from the first to the fourteenth day of the month to review the on-line utilization information reported for the previous month, during which time there shall be no change in the utilization information. If the county takes issue with any of the utilization data, it shall mark the record for dispute on-line and provide a reason for the dispute. Disputes involving a detained youth's county of residence or disposition must include one or more of the following indicia of specificity:

- (a) Address invalid – not in county;
- (b) Address invalid – street number not valid;
- (c) Address invalid – not residence of youth;
- (d) Address invalid – see text (must enter text);
- (e) Detention stay invalid – see text (must enter text);-
- (f) Service day is a postdisposition day – see text (must enter text).

(3) The department will make every effort to review all disputes for the previous month between the fifteenth and twenty-fourth day of each month for the reconciliation period. ~~The department's response, provided on-line, constitutes notice of final action.~~ All pending disputes will be resolved by the department no later than 60 days after the end of the reconciliation period.

~~(4) In October of each year, the department will perform an annual reconciliation of utilization and costs for the prior fiscal year to calculate the difference between the estimated costs and the actual costs of each county for its share of secure detention care. This annual reconciliation shall be performed as follows: The department shall provide: Based on a county's actual utilization, a recalculation of that county's share of the shared county/state juvenile detention trust fund expenditures will be performed.~~

(a) The total actual costs for secure detention shall be divided by the total number of service

**Comment [CJS12]:** Department should clarify rule that its final action is the annual reconciliation, which is consistent with its past practices, and remove this provision regarding the monthly challenges to eliminate confusion. See our letter of March 28, 2014.

days for secure detention, which will produce an actual per diem.

(b) The department shall multiply the actual per diem by each county's actual predisposition service days to calculate each county's share of the actual costs of secure detention for the fiscal year.

(c) The reconciliation shall reflect the difference between the estimated costs paid by the county during the fiscal year and the county's actual costs. ~~(a) The actual cost to operate detention care based on actual expenditures, detailing expenditures by appropriation category and by detention center;~~

~~(b) The number of predisposition service days for each county;~~

~~(e) The total number of all service days for secure detention, including both predisposition and postdisposition service days.~~

The department shall share documentation of the above amounts and calculations with the counties, including the department's calculation of the actual costs, the predisposition days for each county, and the postdisposition days and any other days for which the State is responsible, and shall allow the counties to provide input into these amounts and calculations before the annual reconciliation statement is finalized and provided to each county.

(5) ~~By~~ November 1 of each year, the department will provide each county ~~the~~ annual reconciliation statement for the previous fiscal year, which shall be prepared as provided in subsection (4) above. ~~The calculation shall be performed as follows: The statement shall reflect the difference between the amount paid by the county based on the estimated utilization and the actual utilization reconciled in subsection (4) above.~~

~~(a) The total expenditures shall be divided by the total number of service days, which will produce an actual per diem;~~

~~(b) The actual per diem will be applied to each county's actual predisposition service days to calculate each county's actual costs;~~

~~(c) The reconciliation shall reflect the difference between the estimated costs paid by the county during the fiscal year and the county's actual costs. The statement shall reflect the difference between the amount paid by the county based on the estimated utilization and the actual utilization reconciled in subsection (4) above;~~

(6) If the total amount paid by a county during the fiscal year falls short of ~~the amount owed its actual costs as determined in subsection (5), based on actual utilization,~~ the county will be invoiced for that additional amount. The amount due will be applied to the county's account. An invoice will accompany the reconciliation statement, and shall be payable on or before March 1. If the amount paid by a county during the fiscal year exceeds ~~the amount owed based on actual utilization~~ its actual costs, the county will receive a credit payment from the department for its excess payments. The credit payment shall be made to the overpaying county by March 1, will be applied to the county's account and be included on the invoice sent in November.

~~(7) For the purpose of determining the actual utilization and actual per diem, The department is responsible for paying for the cost of secure detention for all service days for youth that reside out of state or whose address cannot be determined, and for any service days which are not otherwise predisposition days, including service days incurred as a sanction in juvenile~~

**Comment [SC13]:** Section 985.686, Florida Statutes, provides for input from the counties regarding the department's calculations.

**Comment [CJS14]:** If this is to be final action of the Department it should be identified as such. Also, there are no provisions which provide what happens in the case of a challenge as far as applications of invoices and credits. This should also be clarified. If it is the Department's position that an administrative challenge of one county to the reconciliation does not affect the reconciliation as to other counties, this should be stated.

deterrence or similar programs.

*Rulemaking Authority 985.64, 985.686(11) ~~985.686(10)~~ FS. Law Implemented 985.686(5), (7)  
FS. History—New 7-6-10, Amended\_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Jason Welty, Chief of Staff

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Wansley Walters,  
Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 23, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: March 11,  
2014