

## CHAPTER 2

# LEGISLATIVE HISTORY AND POLICY UPDATE

### 2.1 Introduction

During the past decade, Florida has enacted a series of important and far reaching requirements aimed at ensuring the provision of quality and accountable education for all Florida students in public schools and juvenile justice education programs. In the public schools, new curriculum standards, high stakes standardized student testing, and the grading of schools are some examples. In juvenile justice education, quality assurance (QA) with standards and key indicators that are raised annually as called for by legislatively mandated best practices research, technical assistance, corrective action, and sanctions for poor performance are some of the examples.

Given the events occurring since September 11th, particularly related to the subsequent economic disruptions and, in the case of Florida, dramatic tourism declines and associated state budget shortfalls, the future of education reform in public schools and juvenile justice is uncertain at best.

This chapter provides brief highlights of Florida's recent history of juvenile justice reform, particularly in relation to the attainment of quality and accountable juvenile justice education. The chapter demonstrates how innovative legislation that is responsibly and appropriately implemented can produce those practices and outcomes originally envisioned.

The chapter is comprised of three subsequent sections. Section 2.2 discusses the history of juvenile justice and education legislation from the 1983 *Bobby M.* period to 1998. Section 2.3 provides a focused assessment of House Bill (HB) 349, a 1999 hallmark legislative act that has set Florida far apart from other states with its mandate that best education practices research guide all the state's juvenile justice education policies and practices. Section 2.4 provides a summary discussion of the chapter.

### 2.2 Legislative History

During 1983, the Florida juvenile justice system came under scrutiny from the federal courts as a result of a federal class action lawsuit. The lawsuit was filed on behalf of a 14-year old boy referred to as *Bobby M.* and three other children who were confined at the Arthur G. Dozier Training School for Boys in Marianna, the Florida School for Boys in Okeechobee, and the Alyce D. McPherson School for Girls in Ocala. The *Bobby M.* complaint alleged inhumane conditions and treatment in the three existing training schools that served as Florida's highest security facilities for juvenile offenders. Ultimately the training school for

girls was closed, and a series of other juvenile justice reforms were initiated that continue to influence Florida juvenile justice today.

Specifically, numerous legislative activities occurred over the next decade regarding the treatment and education of youths in Florida's juvenile justice system. In 1986, section 230.2316, F.S., which is referred to as the Dropout Prevention Act, was created. This act authorized and encouraged district school boards throughout Florida to establish comprehensive Dropout Prevention programs that employ alternative teaching methodologies, curricula, learning activities, and diagnostic and assessment procedures to meet the individual needs, interests, abilities, and talents of students for whom traditional education programs are ineffective as demonstrated by their high rates of student truancy, failure, disruptive behavior, or school dropout. Youth services programs (defined as commitment programs and detention centers for juvenile offenders) were required to provide appropriate basic academic, vocational, or exceptional curricula and related services supporting the program's rehabilitative goals and leading to students obtaining either a high school diploma or its equivalent.

In 1987, a consent decree resulted in the reduction of the security capacity of the remaining two training schools. This consent decree mandated the establishment of a multi-disciplinary assessment process and a continuum of programs to meet the identified needs of youths entering the system. The Juvenile Justice Act of 1990 completely revamped Florida's juvenile justice system in response to the *Bobby M.* case. This act recognized similarities in the needs of delinquent and dependent children and authorized funding for enhanced prevention and early intervention service needs and risk assessments, reduction in the use of secure detention, alternative placement and supervision, and treatment programs to meet the needs of these youths.

In 1993, the Department of Juvenile Justice (DJJ) was created by the Florida Legislature as the administrative agency to develop, coordinate, and oversee comprehensive services and programs statewide for the prevention, early intervention, control, and rehabilitative treatment of juvenile offenders. The Juvenile Justice Reform Act of 1994 removed juvenile justice programs and services from the Department of Health and Rehabilitative Services (HRS), and assigned them to the newly created DJJ. There was consensus among the Florida Department of Education (DOE), HRS, and the Florida Legislature that a strong internal QA process was necessary to ensure more effective treatment for youths at risk. A collaborative effort between these agencies resulted in a process for conducting QA reviews, and standards and key indicators were developed to oversee the quality of the custody, care, and education received by these youths.

In 1996, the *Bobby M.* decree was fully vacated by the federal courts and during this same year, the Florida Legislature enacted section 230.23161, F.S., titled, Educational Services in Department of Juvenile Justice Programs. This legislation defined the specific requirements for juvenile justice educational services and required DOE to conduct QA reviews, annually revise the QA standards and key indicators, and write an annual report on the status of juvenile justice education programs to be included in DJJ's annual report to the legislature.

Over the next two years, annual reviews of juvenile justice educational programs were conducted.

In 1998, DOE awarded a new contract for a more comprehensive data-driven QA process to the School of Criminology and Criminal Justice at Florida State University, which created the Juvenile Justice Educational Enhancement Program (JJEPP) to implement this process. Simultaneously, the legislature modified statutory language in section 230.23161(12), F.S. from, “school districts may contract with private providers” to “school districts are authorized and strongly encouraged to contract with a private provider for the provision of educational programs to youths placed with DJJ.” The legislature also required numerous studies and reports concerning the current status of juvenile justice education from DOE, JJEPP, Office of Program Policy And Government Accountability (OPPAGA), and the Juvenile Justice Accountability Board (JJAB). More recent legislation has focused on accountability and effectiveness of juvenile programs.

### **2.3 HB 349 (1999): Exemplary Legislation**

In 1999, based on agency reports required in 1998, the Florida Legislature enacted comprehensive legislation relating to juvenile justice education reform. HB 349 mandated DOE

[T]o establish and operate, either directly or indirectly through a contract, a mechanism to provide quality assurance reviews of all juvenile justice education programs and provide technical assistance and related research to school districts and providers on how to establish, develop, and operate educational programs that exceed the minimum quality assurance standards.

DOE contracts with JJEPP, which uses a unique research-driven accountability system, to fulfill these requirements. Through best practice research, JJEPP annually raises the bar in the QA standards and corrective action process, and JJEPP uses research to shape state policy related to juvenile justice education.

HB 349 also amended several statutes relating to juvenile justice education services and contained numerous requirements related to state, district, and program levels. The legislation included state level accountability requirements and a series of specific studies to be conducted, year-round schooling, the development of a State Board of Education Rule (SBER) for juvenile justice educational services, and specific program requirements to provide a continuum of care for youths in the system. Possibly in response to the statutory language encouraging privatization in 1998, HB 349 also added the requirement of school districts to conduct contract management of privately operated educational programs. Other notable requirements included:

- DOE shall recommend an administrative rule to the SBE articulating expectations for high-quality, effective educational programs for youths in DJJ programs.
- Model contracts must be developed for educational services in DJJ programs.
- QA will evaluate school districts both as providers and as contractors.

- Model transition procedures must be developed for students moving into and out of DJJ programs.
- A standardized content of educational records must be developed as part of the student's commitment record.
- Model procedures for securing educational records in DJJ programs must be developed.
- The waiving of General Education Development (GED) testing fees for students in DJJ programs.
- DOE shall notify school districts to allow students 16 years of age and older to take the GED exams prior to exit from the program.
- Designate a coordinator for juvenile justice educational programs to serve as the DOE point of contact.
- The development or selection and implementation of a common battery of assessment tools for DJJ programs.
- DOE shall establish and operate, either directly or indirectly through a contract, a mechanism to provide QA, technical assistance, and research related to education in the juvenile justice system.
- DOE annual reporting of QA results, the status of cooperative agreements and contracts, exceptional student education (ESE), funding, and recommendations.
- The QA rating for the education component shall be disaggregated from the overall QA score and reported separately.
- DJJ and DOE QA review site visits shall be conducted during the same week.
- DOE must develop a system of collecting information on the academic performance of students and reporting on the results.

In response to these requirements, DOE and JJEEP staff developed and modified state policy to be implemented at the local level, including the development of Rule 6A-6.05281, FAC. This rule outlines specific requirements for juvenile justice education, including eligibility criteria for youths served in juvenile justice educational programs, the content and transfer of student records, pre- and post-assessment, individual academic planning, transition services, instructional programming and academic expectations, qualifications of instructional staff, funding, contracting with private providers for the provision of educational services, interventions and sanctions, and interagency coordination. Other document development and policy changes included the modification of the QA standards to comply with HB 349 (1999) requirements, the development of a transition guidebook and a contract management technical assistance paper (TAP), JJEEP's pre- and post-longitudinal research studies, and numerous DOE memoranda relating to GED policies and other special requirements for educating juvenile justice youths.

Many requirements of HB 349 (1999) are still in the process of being implemented, including the development of a common battery of assessments for the purpose of conducting and reporting entry and exit assessments of juvenile justice students and the development of an interagency agreement between DOE and DJJ.

In 1999, there was also a movement to place the administrative responsibility of educational services in juvenile justice programs under a central school district that would be operated by

a state agency, such as the DJJ or DOE. After much public debate, recommendations were given to the legislature that local school districts maintain the responsibility of administering educational services to youths in juvenile justice programs, with monitoring and technical assistance provided by DOE and JJEPP.

## **2000 Legislation and SB 2464**

Among other initiatives, Senate Bill (SB) 2464 (2000) clarifies, modifies, and/or amends requirements resulting from HB 349 (1999). Most of the modifications address “the intent of the legislature that youths in the juvenile justice system be provided...effective education that will meet the individual needs of each child.” SB 2464 (2000) reverses the funding formula that was implemented under HB 349 (1999) to remain the same as that for public schools, and the administrative fees for GED testing that were waived in HB 349 (1999) are clarified in SB 2464 (2000) to be the responsibility of the school district who may require providers to pay by contractual agreement.

New requirements in SB 2464 (2000) include (1) giving school districts providing instructional personnel at facilities with 50 beds/slots or more access to the school district’s school system database for the purpose of accessing student records; (2) a cooperative agreement and a plan for juvenile justice educational service enhancement between DJJ and DOE, which are to be developed annually; (3) youths who have not received a high school diploma or its equivalent and are not employed while in a DJJ program or on conditional release status shall participate in vocational/technical education or post-secondary education, subject to available funding; (4) full-time juvenile justice teachers are eligible for the critical-teacher-shortage tuition-reimbursement program; (5) juvenile justice programs may use a 30-day exemption for students’ immunization records; (6) encouragement of the development of academic and vocational protocols; and (7) provision for educational services for minors in local jails.

Among the mandates in SB 2464 (2000) is one that requires three studies to be coordinated and conducted by DOE. SB 2464 (2000) requires DOE to conduct a facilities study, conduct a funding study, and, with DJJ, develop a multiagency plan for vocational/technical education.

Legislation required that the funding study determine the precise funding level needed to provide educational programming in DJJ facilities. The study was submitted to the Governor of Florida and to the Florida Legislature in 2001. JJEPP assisted DOE in planning, carrying out, and writing this study. The study did not result in legislative action for an increased, unique cost factor for juvenile justice students. Nonetheless, DOE and JJEPP are currently developing a process to annually monitor individual juvenile justice education programs costs and expenditures. For additional discussion of funding and the funding study, see Chapter 8.

In conducting the facilities study, DOE completed a statewide survey of the facilities in which juvenile justice educational programs operate to determine the adequacy of the facilities for educational use. The information gathered in the study was to be used to

develop a three-year plan that addresses any facility deficiencies found. The plan was submitted to the Governor of Florida, the Speaker of the Florida House of Representatives, and the President of the Florida Senate in 2001. The DOE Division of Support Services Office of Facilities Development and Management began the survey by disseminating a statewide questionnaire (DOE Memorandum 00-133) to all DJJ programs concerning the condition of their educational facilities.

In the second part of the study, DOE hired 3D International, an architectural consulting firm, to conduct an on-site architectural survey of existing educational space in DJJ facilities throughout the state. Employees of 3D International surveyed 132 facilities on site. The assessment criteria used to conduct the survey included the elimination of portable classrooms, the size of spaces housing educational programs, technology requirements, instructional aides, the physical environment (indoor air quality and lighting), safety requirements, and Americans with Disabilities Act (ADA) requirements. Two student to teacher ratios (18:1 for regular education programs and 10:1 for special education programs) were used to determine the adequacy of educational space in each of the facilities surveyed. Recommendations for addressing identified deficiencies include renovations/replacements and new construction/additions. According to the recommendations in the three-year budget, the total cost to address the deficiencies found in the facilities assessment are: (1) using an 18:1 student to teacher ratio, the total cost over a three-year implementation period would be \$106,628,265; and (2) using a 10:1 student to teacher ratio, the three-year cost recommendations would equal \$153,483,106.

Given the recent budget deficits, it is undetermined as to how or if the Legislature might respond to this study. As a result, many juvenile justice educational programs will be forced to contend with a lack of appropriate space for educational, vocational, and special programs.

The third multi-agency task required by SB 2464 is a plan for vocational/technical education in juvenile justice programs. The 2000 legislature required the development of a multi-agency plan for vocational/technical education and the establishment of the curriculum, goals, and outcome measures for vocational/technical programs in juvenile justice residential commitment facilities.

Staff from the DOE Division of Workforce Development, the DOE Bureau of Student Support and Community Intervention, and the DJJ Office of the Secretary began meeting in August 2000 to begin work on the multiagency plan. A steering committee was established, and the Multi-Agency Vocational Planning Committee assisted members with the plan. Members of the steering committee included representatives from the DOE Division of Public Schools, the DOE Division of Workforce Development, DJJ, JJEPP, providers, school districts, and business organizations.

The *State Plan for Vocational Education for Youth in Juvenile Justice Commitment Facilities* was completed in 2001, and interagency staff began implementation of the plan in the fall of 2001. Currently the plan is still in the early stages of implementation.

## **2000 DJJ Legislative Update**

In 1999, the Florida Legislature passed extensive legislation aimed at improving quality and ensuring the accountability of juvenile justice education. In 2000, the legislature focused its reform on getting tough on juvenile crime and restructuring the custody and care of juvenile offenders under the discretion of DJJ in the form of SB 838, SB 1192, SB 1196, SB 1548, and HB 69.

SB 838, titled DNA Testing, requires any youth who is or has been incarcerated or is on probation or conditional release to submit a blood sample for DNA testing.

SB 1192, titled Juvenile Tough Love, increases the length of stay for some youths in detention and Children in Need of Services and Families in Need of Services (CINS/FINS) shelters. It allows secure placement after one incident of contempt of court or running away from a staff-secure shelter. DJJ's jurisdiction is raised to 21 years of age for youths placed in high- and maximum-risk facilities, and the court is allowed to retain jurisdiction for up to one year after a youth is released from these programs.

SB 1196, titled Juvenile Justice Reorganization, restructures DJJ and renames custody and care services for youths in the system, including aligning DJJ's 15 districts with Florida's 20 judicial circuits. SB 1196 creates five programs within the department, including prevention and victim services, detention, residential and correctional facilities, probation and community corrections, and administration. Community control is renamed as probation; aftercare is renamed as conditional release. It creates within DJJ the position of youth custody officers who are authorized to take into custody youths who violate probation, conditional release, or home detention, or youths who repeatedly fail to appear in court. SB 1196 also requires DJJ to report the financial ability of parents of delinquent youths, who may be charged up to \$20 per day for their child's stay in detention and may be charged for the cost of their child's care in commitment programs.

SB 1548, titled 10-20-Life for Juveniles, requires that 16 and 17 year-old juvenile offenders be prosecuted and sentenced as adults if they commit or attempt to commit one of seventeen different felonies while possessing or discharging a firearm or destructive device. The law gives the state attorney discretion if exceptional circumstances exist that warrant some action other than prosecution of the case in adult court.

HB 69, titled Habitual Juvenile Offender Accountability Act, requires the state attorney's office to transfer to the adult system 16 and 17 year-old youths who have 3 prior felony adjudications occurring at least 45 days apart and are now charged with a fourth felony.

## **2001 Legislation and HB 267**

Beyond contending with budget deficits, there is minimal legislation in 2001 concerning juvenile justice and education-related issues. HB 267 (2001) allows day treatment programs to reduce their number of school days from 240 to 230. The bill also requires DJJ, in collaboration with DOE, to annually report on the funding of all DJJ programs. This

includes DJJ and DOE funds. DJJ is required to report funding for each program in relation to a program's recidivism, QA score, and pre- and post-outcomes.

The largest part of HB 267 (2001) relates to no contact orders. The bill requires each school district to enter into a cooperative agreement with DJJ for the purpose of protecting victims. It prohibits certain students from attending schools where their victim or their victim's siblings attend, and it requires school principals to take specific actions when a student has been the victim of a violent crime committed by another student on the same campus.

## **2.4 Summary Discussion**

What emerges from this legislative history is emphasis on accountability. To realize change, however, well-envisioned legislation should have appropriate and responsible implementation. Florida's 1999 legislative mandate for best practice research allows JJEEP to responsibly guide state policy regarding juvenile justice education. The bar continues to be raised regarding standards for juvenile justice educational services.

Although HB 349 (1999) provides far-reaching accountability in juvenile justice education, this bill and subsequent legislation are still in the process of fully being implemented. Some areas that continue to be debated in relation to quality juvenile justice education include funding, vocational education, economy of scale, teacher certification, and ever increasing "tough love" initiatives for Florida's juvenile delinquents.