

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative Edwards offered the following:

4
 5 **Amendment**

6 Remove lines 41-202 and insert:

7 (a) With respect to a child who was 16 years of age or
 8 older and less than 18 years of age at the time the alleged
 9 offense was committed, the state attorney may file an
 10 information when, in the state attorney's judgment and
 11 discretion, the public interest requires that adult sanctions be
 12 considered and when the offense charged is for the commission of
 13 or attempt to commit:

- 14 1. Murder;
- 15 2. Manslaughter;
- 16 3. Sexual battery;
- 17 4. Armed robbery;

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- 18 5. Aggravated assault with a firearm;
19 6. Aggravated child abuse;
20 7. Aggravated stalking;
21 8. Kidnapping;
22 9. Unlawful throwing, placing, or discharging of a
23 destructive device or bomb;
24 10. Aggravated battery resulting in great bodily harm,
25 permanent disability, or permanent disfigurement;
26 11. Carrying, displaying, using, or threatening or
27 attempting to use a weapon or firearm in furtherance of the
28 commission of a felony, provided the use or threatened use does
29 not include the mere acquisition of a deadly weapon or firearm
30 during the felony;
31 12. Possessing or discharging a firearm on school property
32 in violation of s. 790.115;
33 13. Home invasion robbery;
34 14. Carjacking;
35 15. Aggravated animal cruelty;
36 16. DUI resulting in fatality, great bodily harm,
37 permanent disability, or permanent disfigurement to a person
38 other than the accused;
39 17. Criminal use of personal identification information in
40 violation of s. 817.568(2)(b) or (c); or
41 18. Arson in violation of s. 806.031(2).
42 (b) With respect to a child who was 14 years of age or
43 older and less than 16 years of age at the time the alleged

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44 offense was committed, the state attorney may file an
45 information when, in the state attorney's judgment and
46 discretion, the public interest requires that adult sanctions be
47 considered and when the offense charged is for the commission of
48 or attempt to commit:

- 49 1. Murder;
50 2. Manslaughter; or
51 3. Sexual battery.

52 (2) EFFECT OF DIRECT FILE.—When a child is transferred for
53 criminal prosecution as an adult, the court may transfer and
54 certify to the adult circuit court for prosecution of the child
55 as an adult all related felony cases pertaining to the child
56 which have not yet resulted in a plea of guilty or nolo
57 contendere or in which a finding of guilt has not been made. If
58 the child is acquitted of all charged offenses or lesser
59 included offenses contained in the original case transferred to
60 adult court, any felony cases that were transferred to adult
61 court under this subsection shall be subject to the same
62 penalties such cases were subject to before being transferred to
63 adult court.

64 (3) TRANSFER PROHIBITION.—Notwithstanding any other
65 provision of law, a child who is eligible for direct file may
66 not be transferred to adult court for criminal prosecution if he
67 or she:

- 68 (a) Is pending a competency hearing in juvenile court; or

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69 (b) Has been previously found to be incompetent to proceed
70 and has not subsequently been found by a court to have attained
71 competency.

72 (4) Nothing in this section shall preclude the state
73 attorney from seeking to transfer a child for criminal
74 prosecution pursuant to s. 985.556.

75 (5) DATA COLLECTION RELATING TO DIRECT FILE.—

76 (a) The department shall collect data regarding children
77 who qualify for direct file under subsection (1), including, but
78 not limited to:

79 1. Age.

80 2. Race and ethnicity.

81 3. Gender.

82 4. Circuit and county of residence.

83 5. Circuit and county of offense.

84 6. Prior adjudicated offenses.

85 7. Prior periods of probation.

86 8. Previous contacts with law enforcement agencies or the
87 courts.

88 9. Initial charges.

89 10. Charges at disposition.

90 11. Whether adult codefendants were involved.

91 12. Whether child codefendants were involved who were
92 transferred to adult court.

93 13. Whether the child was represented by counsel.

94 14. Whether the child had waived counsel.

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95 15. Risk assessment instrument score.

96 16. The child's medical, mental health, substance abuse,
97 or trauma history.

98 17. The child's history of physical or mental impairment
99 or disability-related accommodations.

100 18. The child's history of abuse or neglect.

101 19. The child's history of foster care placements,
102 including the number of prior placements.

103 20. Whether the child has experienced a failed adoption.

104 21. Whether the child has fetal alcohol syndrome or was
105 exposed to controlled substances at birth.

106 22. Whether the child has below-average intellectual
107 functioning or is eligible for exceptional student education
108 services.

109 23. Whether the child has received mental health services
110 or treatment.

111 24. Whether the child has been the subject of a CINS/FINS
112 or dependency petition.

113 25. Plea offers made by the state and the outcome of any
114 plea offers.

115 26. Whether the child was transferred for criminal
116 prosecution as an adult.

117 27. The case resolution in juvenile court.

118 28. The case resolution in adult court.

119 (b) When a child is transferred for criminal prosecution
120 as an adult, the department shall also collect disposition data,

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121 including, but not limited to, whether the child received adult
122 sanctions, youthful offender sanctions, juvenile sanctions, or
123 diversion, and, if sentenced to prison, the length of prison
124 sentence or enhanced sentence.

125 (c) The department shall annually provide a report
126 analyzing this aggregated data to the President of the Senate
127 and the Speaker of the House of Representatives.

128 Section 2. Section 985.56, Florida Statutes, is amended to
129 read:

130 985.56 Indictment of a juvenile.—

131 (1) With respect to a child who is 13 years of age or
132 older and less than 18 years of age at the time the alleged
133 offense was committed, the state attorney may seek an indictment
134 before a grand jury when, in the state attorney's judgment and
135 discretion, the public interest requires that adult sanctions be
136 considered and when the offense charged is for the commission of
137 or attempt to commit murder, manslaughter, or sexual battery. ~~of~~
138 any age who is charged with a violation of state law punishable
139 by death or by life imprisonment The child is subject to the
140 jurisdiction of the court as set forth in s. 985.0301(2) unless
141 and until an indictment on the charge is returned by the grand
142 jury. When such indictment is returned, the petition for
143 delinquency, if any, must be dismissed and the child must be
144 tried ~~and handled in every respect~~ as an adult:

145 (a) On the indicting offense punishable by death or by
146 life imprisonment; and

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147 (b) On all other felonies or misdemeanors charged in the
148 indictment which are based on the same act or transaction as the
149 indicting offense ~~punishable by death or by life imprisonment or~~
150 ~~on one or more acts or transactions connected with the offense~~
151 ~~punishable by death or by life imprisonment.~~

152 (2) An adjudicatory hearing may not be held until 21 days
153 after the child is taken into custody and charged with having
154 committed an indictable offense ~~punishable by death or by life~~
155 ~~imprisonment~~, unless the state attorney advises the court in
156 writing that he or she does not intend to present the case to
157 the grand jury, or has presented the case to the grand jury and
158 the grand jury has not returned an indictment. If the court
159 receives such a notice from the state attorney, or if the grand
160 jury fails to act within the 21-day period, the court may
161 proceed as otherwise authorized under this part.

162 (3) Notwithstanding any other provision of law, a child
163 who is eligible for indictment may not be transferred to adult
164 court for criminal prosecution if he or she:

165 (a) Is pending a competency hearing in juvenile court; or

166 (b) Has been previously found to be incompetent to proceed
167 and has not subsequently been found by a court to have attained
168 competency.

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