

1 A bill to be entitled
2 An act relating to juvenile justice; amending s.
3 943.0585, F.S.; permitting a juvenile with one prior
4 sealing or expunction to obtain a court-ordered
5 expunction; amending s. 985.01, F.S.; revising
6 purposes and intent concerning juvenile justice;
7 amending s. 985.03, F.S.; revising the definition of
8 "disposition hearing"; defining the term "replica
9 firearm"; amending s. 985.0301, F.S.; providing that a
10 court may retain post disposition jurisdiction until a
11 child reaches age 21 for certain youth on post-
12 commitment probation; amending s. 985.032, F.S.;
13 providing that requests by the Department of Juvenile
14 Justice to modify court orders must be made by
15 counsel; providing an exception; amending s. 985.433,
16 F.S.; revising provisions relating to disposition
17 hearings; amending s. 985.439, F.S.; providing for the
18 tolling of a probation period when a notice of
19 affidavit of violation is filed until the allegation
20 is resolved; allowing continued supervision during the
21 tolling period; amending s. 985.455, F.S.; revising
22 provisions relating to children committed to the
23 department; amending s. 985.465, F.S.; revising the
24 maximum amount of time a juvenile may be committed to
25 a juvenile corrections facility in certain

26 | circumstances; revising the age ranges of juveniles
 27 | who may be committed to such facilities; revising the
 28 | offenses that permit juveniles to be committed to such
 29 | a facilities; amending ss. 330.41 and 985.721, F.S.;
 30 | conforming provisions to changes made by the act;
 31 | providing an effective date.

32 |

33 | Be It Enacted by the Legislature of the State of Florida:

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35 | Section 1. Paragraph (g) of subsection (1) of section
 36 | 943.0585, Florida Statutes, is amended to read:

37 | 943.0585 Court-ordered expunction of criminal history
 38 | records.—

39 | (1) ELIGIBILITY.—A person is eligible to petition a court
 40 | to expunge a criminal history record if:

41 | (g) The person has never secured a prior sealing or
 42 | expunction of a criminal history record under this section, s.
 43 | 943.059, former s. 893.14, former s. 901.33, or former s.
 44 | 943.058, unless expunction is sought of a criminal history
 45 | record previously sealed for 10 years pursuant to paragraph (h)
 46 | and the record is otherwise eligible for expunction, with the
 47 | exception of one prior juvenile sealing or expunction which is
 48 | permissible under this subsection.

49 | Section 2. Paragraphs (d) and (h) of subsection (1) of
 50 | section 985.01, Florida Statutes, are amended to read:

51 985.01 Purposes and intent.—

52 (1) The purposes of this chapter are:

53 (d) To ensure the protection of society, by providing for
 54 a comprehensive ~~standardized~~ assessment of the child's needs so
 55 that the most appropriate control, discipline, punishment, and
 56 treatment can be administered consistent with the seriousness of
 57 the act committed, the community's long-term need for public
 58 safety, the prior record of the child, and the specific
 59 rehabilitation needs of the child, while also providing,
 60 whenever possible, restitution to the victim of the offense.

61 (h) To care for children in the least restrictive and most
 62 appropriate service environments to ensure that children
 63 assessed as low ~~and moderate~~ risk to reoffend are not committed
 64 to residential programs, unless the court deems such placement
 65 appropriate.

66 Section 3. Subsections (43) through (54) of section
 67 985.03, Florida Statutes, are renumbered as subsections (44)
 68 through (55), respectively, subsection (21) of that section is
 69 amended, and a new subsection (43) is added to that section, to
 70 read:

71 985.03 Definitions.—As used in this chapter, the term:

72 (21) "Disposition hearing" means a hearing in which the
 73 court determines the most appropriate dispositional services ~~in~~
 74 ~~the least restrictive available setting~~ provided for under part
 75 VII, in delinquency cases.

76 (43) "Replica firearm" means any replica of a firearm, toy
 77 gun, or other item that substantially looks like a firearm or is
 78 modified to reasonably look like a real functioning firearm when
 79 it is used, possessed, displayed, or discharged.

80 Section 4. Paragraph (b) of subsection (5) of section
 81 985.0301, Florida Statutes, is amended to read:

82 985.0301 Jurisdiction.—

83 (5)

84 (b) The court shall retain jurisdiction, unless
 85 relinquished by its own order:

86 1. Over a child on probation until the child reaches 19
 87 years of age.

88 2. Over a child committed to the department until the
 89 child reaches 21 years of age, specifically for the purpose of
 90 allowing the child to complete the commitment program, including
 91 conditional release supervision or post commitment probation if
 92 youth is 19 years of age or older upon release from the
 93 commitment program.

94 Section 5. Subsection (2) of section 985.032, Florida
 95 Statutes, is renumbered as subsection (3), and a new subsection
 96 (2) is added to that section, to read:

97 985.032 Legal representation for delinquency cases.—

98 (2) Any request by the department to modify a court's
 99 order, to include, but not be limited to, detention, probation,
 100 or commitment orders and recommendations for early termination

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101 of probation or release from a commitment program, shall be made
102 by department counsel unless the request addresses a scrivener's
103 error.

104 Section 6. Subsections (7) through (10) of section
105 985.433, Florida Statutes, are renumbered as subsections (8)
106 through (11), respectively, present subsections (7) and (8) are
107 amended, and a new subsection (7) is added to that section, to
108 read:

109 985.433 Disposition hearings in delinquency cases.—When a
110 child has been found to have committed a delinquent act, the
111 following procedures shall be applicable to the disposition of
112 the case:

113 (7) The predisposition report, results of the
114 multidisciplinary staffing, and any of the department's
115 recommendations therein are to be given the weight the court
116 deems appropriate.

117 (8)~~(7)~~ If the court determines that the child should be
118 adjudicated as having committed a delinquent act and should be
119 committed to the department, such determination shall be in
120 writing or on the record of the hearing. The determination shall
121 include a specific finding of the reasons for the decision to
122 adjudicate and to commit the child to the department, including
123 any determination that the child was a member of a criminal gang
124 or used, possessed, displayed, or discharged a firearm or
125 replica firearm; or used or displayed a deadly weapon.

126 (a) The department shall recommend to the court the most
 127 appropriate placement and treatment plan, specifically
 128 identifying the restrictiveness level most appropriate for the
 129 child if commitment is recommended. If the court has determined
 130 that the child was a member of a criminal gang, that
 131 determination shall be given great weight in identifying the
 132 most appropriate restrictiveness level for the child. The court
 133 shall consider the department's recommendation in making its
 134 commitment decision.

135 (b) The court may ~~shall~~ commit the child to the department
 136 at the restrictiveness level identified or may order placement
 137 at a different restrictiveness level. The court shall state in
 138 writing ~~for the record~~ the reasons ~~that establish by a~~
 139 ~~preponderance of the evidence why~~ the court is deviating from
 140 ~~disregarding the assessment of the child and the restrictiveness~~
 141 level recommended by the department. Any party may appeal the
 142 court's findings resulting in a modified level of
 143 restrictiveness under this paragraph.

144 (c) If the court determines that it is necessary, pursuant
 145 to s. 985.465, for a child to stay in a physically secure
 146 residential commitment program in excess of 36 months, the court
 147 shall state in writing the reasons it finds the minimum length
 148 of stay necessary. The court may consider the following factors
 149 when making this determination of necessity:

150 1. Whether the current offense would be a life or first-

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151 degree felony if committed by an adult;
152 2. Whether the current offense involves the possession,
153 display, or discharge of a firearm;
154 3. Whether the current offense was against a person and
155 not property;
156 4. Whether the current offense was committed in an
157 aggressive, violent, premeditated, or willful manner;
158 5. Whether the child has prior adjudications or withholds
159 of adjudication for offenses involving firearms or the display
160 or use of a deadly weapon;
161 6. Whether the child has prior adjudications or withholds
162 of adjudication for offenses listed in s. 985.465(1);
163 7. Whether the child has any mental health issues or
164 intellectual disabilities that would make extended commitment
165 detrimental to the child's development;
166 8. Whether the child acted under extreme duress or under
167 the domination of another person;
168 9. Whether the child has no prior adjudications or
169 withholds of adjudication; or
170 10. Whether the child has been unsuccessful in less-
171 restrictive rehabilitative placements.
172 ~~(d)-(e)~~ The court may also require that the child be placed
173 in a probation program following the child's discharge from
174 commitment. Community-based sanctions under subsection (9) ~~(8)~~
175 may be imposed by the court at the disposition hearing or at any

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176 time prior to the child's release from commitment.

177 ~~(9)-(8)~~ If the court determines not to adjudicate and
178 commit to the department, then the court shall determine what
179 community-based sanctions it will impose in a probation program
180 for the child. Community-based sanctions may include, but are
181 not limited to, counselling services, participation in substance
182 abuse treatment, a day-treatment probation program, restitution
183 in money or in kind, a curfew, supervised release with or
184 without electronic monitoring, revocation, or suspension of the
185 driver license of the child, community service, and appropriate
186 educational programs as determined by the district school board.

187 Section 7. Subsections (2) through (5) of section 985.439,
188 Florida Statutes, are renumbered as subsections (3) through (6),
189 respectively, and a new subsection (2) is added to that section,
190 to read:

191 985.439 Violation of probation or postcommitment
192 probation.—

193 (2) Upon the filing of an affidavit alleging a violation
194 of probation and following the issuance of a custody order for
195 such violation, or a notice to appear under this section, the
196 probationary period is tolled until the court enters a ruling on
197 the alleged violation. Notwithstanding the tolling of probation,
198 the court shall retain jurisdiction over the juvenile for any
199 violation of the conditions of probation that is alleged to have
200 occurred during the tolling period. The probation officer is

201 permitted to continue to supervise the juvenile who remains
 202 available to the officer for supervision. The court will
 203 maintain jurisdiction until the juvenile reaches the age of 19
 204 or 21 pursuant to s. 985.0301.

205 Section 8. Subsection (3) of section 985.455, Florida
 206 Statutes, is amended to read:

207 985.455 Other dispositional issues.—

208 (3) Any commitment of a delinquent child to the department
 209 must have the court determine a minimum period of time to remain
 210 in the program; however, the child must remain until the program
 211 is completed. ~~must be for an indeterminate period of time, which~~
 212 ~~may include periods of temporary release; however,~~ The period of
 213 time may not exceed the maximum term of imprisonment that an
 214 adult may serve for the same offense, except that the duration
 215 of a minimum-risk nonresidential commitment for an offense that
 216 is a misdemeanor of the second degree, or is equivalent to a
 217 misdemeanor of the second degree, may be for a period not to
 218 exceed 6 months. The child shall have an objective performance-
 219 based treatment plan while in the commitment program ~~The~~
 220 ~~duration of the child's placement in a commitment program of any~~
 221 ~~restrictiveness level shall be based on objective performance-~~
 222 ~~based treatment planning.~~ The child's treatment plan progress
 223 and adjustment-related issues shall be reported to the court
 224 quarterly, unless the court requests monthly reports. If the
 225 child is under the jurisdiction of a dependency court, the court

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226 | may receive and consider any information provided by the
227 | Guardian Ad Litem Program or the child's attorney ad litem, if
228 | appointed. The child's length of stay in a commitment program
229 | may be extended if the child fails to comply with or participate
230 | in treatment activities. ~~The child's length of stay in the~~
231 | ~~program shall not be extended for purposes of sanction or~~
232 | ~~punishment.~~ Any temporary release from such program must be
233 | approved by the court. Any child so committed may be discharged
234 | from institutional confinement or a program upon the direction
235 | of the department with the concurrence of the court. The child's
236 | treatment plan progress and adjustment-related issues must be
237 | communicated to the court at the time the department requests
238 | the court to consider releasing the child from the commitment
239 | program. The department shall give the court that committed the
240 | child to the department reasonable notice, in writing, of its
241 | desire to discharge the child from a commitment facility. The
242 | court that committed the child may thereafter accept or reject
243 | the request. If the court does not respond within 10 days after
244 | receipt of the notice, the request of the department shall be
245 | deemed granted. This section does not limit the department's
246 | authority to revoke a child's temporary release status and
247 | return the child to a commitment facility for any violation of
248 | the terms and conditions of the temporary release.

249 | Section 9. Section 985.465, Florida Statutes, is amended
250 | to read:

251 985.465 Juvenile correctional facilities or juvenile
 252 prison.—A juvenile correctional facility or juvenile prison is a
 253 physically secure residential commitment program with a
 254 designated length of stay from 18 months to 36 months or longer
 255 if the court makes a finding of necessity as required in s.
 256 985.433(8)(c), primarily serving children 12 ~~13~~ years of age to
 257 21 ~~19~~ years of age or until the jurisdiction of the court
 258 expires. Each child committed to this level must meet one of the
 259 following criteria:

260 (1) The child is at least 12 ~~13~~ years of age at the time
 261 of the disposition for the current offense and has been
 262 adjudicated on the current offense for:

- 263 (a) Arson;
- 264 (b) Sexual battery;
- 265 (c) Robbery;
- 266 (d) Kidnapping;
- 267 (e) Aggravated child abuse;
- 268 (f) Aggravated assault with a firearm or replica firearm;
- 269 (g) Aggravated stalking;
- 270 (h) Murder;
- 271 (i) Manslaughter;
- 272 (j) Unlawful throwing, placing, or discharging of a
 273 destructive device or bomb;
- 274 (k) Armed burglary;
- 275 (l) Aggravated battery;

276 (m) Carjacking;

277 (n) Home-invasion robbery;

278 (o) Burglary with an assault or battery;

279 (p) Any lewd or lascivious offense committed upon or in
 280 the presence of a person less than 16 years of age; ~~or~~

281 (q) Carrying, displaying, using, threatening to use, or
 282 attempting to use a ~~weapon or~~ firearm or replica firearm during
 283 the commission of a felony or displaying or using a deadly
 284 weapon during the commission of a felony; or

285 (r) Written or electronic threats to kill, do bodily
 286 injury, or conduct a mass shooting or an act of terrorism.

287 (2) The child is at least 13 years of age at the time of
 288 the disposition, the current offense is a felony, and the child
 289 has previously been committed three or more times to a
 290 delinquency commitment program.

291 (3) The child is at least 13 years of age and is currently
 292 committed for a felony offense and transferred from a moderate-
 293 risk or high-risk residential commitment placement.

294 (4) The child is at least 13 years of age at the time of
 295 the disposition for the current offense, the child is eligible
 296 for prosecution as an adult for the current offense, and the
 297 current offense is ranked at level 7 or higher on the Criminal
 298 Punishment Code offense severity ranking chart pursuant to s.
 299 921.0022.

300 Section 10. Paragraph (a) of subsection (2) of section

301 330.41, Florida Statutes, is amended to read:

302 330.41 Unmanned Aircraft Systems Act.—

303 (2) DEFINITIONS.—As used in this act, the term:

304 (a) "Critical infrastructure facility" means any of the
 305 following, if completely enclosed by a fence or other physical
 306 barrier that is obviously designed to exclude intruders, or if
 307 clearly marked with a sign or signs which indicate that entry is
 308 forbidden and which are posted on the property in a manner
 309 reasonably likely to come to the attention of intruders:

310 1. An electrical power generation or transmission
 311 facility, substation, switching station, or electrical control
 312 center.

313 2. A chemical or rubber manufacturing or storage facility.

314 3. A mining facility.

315 4. A natural gas or compressed gas compressor station,
 316 storage facility, or natural gas or compressed gas pipeline.

317 5. A liquid natural gas or propane gas terminal or storage
 318 facility with a capacity of 4,000 gallons or more.

319 6. Any portion of an aboveground oil or gas pipeline.

320 7. A wireless communications facility, including the
 321 tower, antennae, support structures, and all associated ground-
 322 based equipment.

323 8. A state correctional institution as defined in s.
 324 944.02 or a private correctional facility authorized under
 325 chapter 957.

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326 9. A secure detention center or facility, as defined in s.
327 985.03, or a nonsecure residential facility, a high-risk
328 residential facility, or a maximum-risk residential facility, as
329 those terms are described in s. 985.03(45) ~~s. 985.03(44)~~.

330 10. A county detention facility, as defined in s. 951.23.

331 Section 11. Subsection (2) of section 985.721, Florida
332 Statutes, is amended to read:

333 985.721 Escapes from secure detention or residential
334 commitment facility.—An escape from:

335 (2) Any residential commitment facility described in s.
336 985.03(45) ~~s. 985.03(44)~~, maintained for the custody, treatment,
337 punishment, or rehabilitation of children found to have
338 committed delinquent acts or violations of law; or

339
340 constitutes escape within the intent and meaning of s. 944.40
341 and is a felony of the third degree, punishable as provided in
342 s. 775.082, s. 775.083, or s. 775.084.

343 Section 12. This act shall take effect July 1, 2023.