

By Senator Klein

28-671A-98

1 A bill to be entitled
2 An act relating to the prosecution of juveniles
3 as adults; amending s. 985.227, F.S.; providing
4 for a juvenile to be prosecuted as an adult if
5 the juvenile is charged with grand theft of a
6 motor vehicle; reenacting s. 985.21(4)(e),
7 F.S., relating to the state attorney's
8 authority to prosecute a juvenile as an adult,
9 to incorporate the amendment to s. 985.227,
10 F.S., in a reference thereto; providing an
11 effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Paragraph (a) of subsection (1) of section
16 985.227, Florida Statutes, is amended to read:

17 985.227 Prosecution of juveniles as adults by the
18 direct filing of an information in the criminal division of
19 the circuit court; discretionary criteria; mandatory
20 criteria.--

21 (1) DISCRETIONARY DIRECT FILE; CRITERIA.--

22 (a) With respect to any child who was 14 or 15 years
23 of age at the time the alleged offense was committed, the
24 state attorney may file an information when in the state
25 attorney's judgment and discretion the public interest
26 requires that adult sanctions be considered or imposed and
27 when the offense charged is:

- 28 1. Arson;
- 29 2. Sexual battery;
- 30 3. Robbery;
- 31 4. Kidnapping;

- 1 5. Aggravated child abuse;
2 6. Aggravated assault;
3 7. Aggravated stalking;
4 8. Murder;
5 9. Manslaughter;
6 10. Unlawful throwing, placing, or discharging of a
7 destructive device or bomb;
8 11. Armed burglary in violation of s. 810.02(2)(b) or
9 specified burglary of a dwelling or structure in violation of
10 s. 810.02(2)(c);
11 12. Aggravated battery;
12 13. Lewd or lascivious assault or act in the presence
13 of a child;
14 14. Carrying, displaying, using, threatening, or
15 attempting to use a weapon or firearm during the commission of
16 a felony; ~~or~~
17 15. Grand theft in violation of s. 812.014(2)(a); ~~or~~
18 16. Grand theft of a motor vehicle in violation of s.
19 812.014(2)(c)6. or grand theft of a motor vehicle valued at
20 \$20,000 or more in violation of s. 812.014(2)(b).

21 Section 2. For the purpose of incorporating the
22 amendment made by this act to section 985.227, Florida
23 Statutes, in a reference thereto, paragraph (e) of subsection
24 (4) of section 985.21, Florida Statutes, is reenacted to read:
25 985.21 Intake and case management.--
26 (4) The intake counselor or case manager shall make a
27 preliminary determination as to whether the report, affidavit,
28 or complaint is complete, consulting with the state attorney
29 as may be necessary. In any case where the intake counselor or
30 case manager or the state attorney finds that the report,
31 affidavit, or complaint is insufficient by the standards for a

1 probable cause affidavit, the intake counselor or case manager
2 or state attorney shall return the report, affidavit, or
3 complaint, without delay, to the person or agency originating
4 the report, affidavit, or complaint or having knowledge of the
5 facts or to the appropriate law enforcement agency having
6 investigative jurisdiction of the offense, and shall request,
7 and the person or agency shall promptly furnish, additional
8 information in order to comply with the standards for a
9 probable cause affidavit.

10 (e) The state attorney may in all cases take action
11 independent of the action or lack of action of the intake
12 counselor or case manager, and shall determine the action
13 which is in the best interest of the public and the child. If
14 the child meets the criteria requiring prosecution as an adult
15 pursuant to s. 985.226, the state attorney shall request the
16 court to transfer and certify the child for prosecution as an
17 adult or shall provide written reasons to the court for not
18 making such request. In all other cases, the state attorney
19 may:

- 20 1. File a petition for dependency;
- 21 2. File a petition pursuant to chapter 984;
- 22 3. File a petition for delinquency;
- 23 4. File a petition for delinquency with a motion to
24 transfer and certify the child for prosecution as an adult;
- 25 5. File an information pursuant to s. 985.227;
- 26 6. Refer the case to a grand jury;
- 27 7. Refer the child to a diversionary, pretrial
28 intervention, arbitration, or mediation program, or to some
29 other treatment or care program if such program commitment is
30 voluntarily accepted by the child or the child's parents or
31 legal guardians; or

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8. Decline to file.

Section 3. This act shall take effect July 1, 1998.

SENATE SUMMARY

Authorizes a state attorney to file an information against a juvenile so that the juvenile is prosecuted as an adult if the juvenile is charged with grand theft of a motor vehicle or grand theft of a motor vehicle valued at \$20,000 or more.