

1 A bill to be entitled
2 An act relating to juvenile justice; amending
3 s. 39.01, F.S.; providing that the penalty
4 imposed for the offense of escaping from a
5 detention facility applies to a juvenile who
6 escapes from a low-risk residential facility;
7 amending s. 39.021, F.S.; revising requirements
8 for the Department of Juvenile Justice and the
9 Juvenile Justice Advisory Board with respect to
10 reporting to the Legislature on the costs and
11 benefits of the department's commitment
12 programs; amending s. 39.042, F.S.; specifying
13 the conditions under which a juvenile charged
14 with domestic violence may be placed in
15 detention if the juvenile does not meet the
16 criteria for detention; requires a court order
17 to hold the juvenile in detention beyond 48
18 hours; requires a court hearing upon the
19 request of the state attorney or victim to
20 determine whether continued detention is
21 necessary; repealing s. 39.0445, F.S., relating
22 to juvenile justice domestic violence
23 offenders; amending s. 39.052, F.S.; requiring
24 the court to transfer all pending juvenile
25 court cases to adult court on a juvenile
26 transferred to adult court; amending s. 39.054,
27 F.S.; authorizing the court to take further
28 action if the restitution is not made;
29 authorizing the court to order the juvenile's
30 parent or guardian to make restitution if the
31 parent or guardian failed to make a diligent

1 and good-faith effort to prevent the juvenile
2 from engaging in delinquent acts; amending s.
3 39.057, F.S.; clarifying the minimum period a
4 juvenile who is committed to certain programs
5 is required to participate in the boot camp
6 component of the program; revising requirements
7 for the department in evaluating boot camp
8 programs; amending s. 39.059, F.S.; revising
9 circumstances under which a juvenile may be
10 prosecuted as an adult; prohibiting the court
11 from imposing a combination of adult and
12 juvenile sanctions against a juvenile;
13 providing for supervision by the department to
14 terminate if a juvenile is sentenced as an
15 adult; amending s. 39.076, F.S.; revising
16 standards for screening department personnel;
17 providing an effective date.

18

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

20

21 Section 1. Paragraph (b) of subsection (59) of section
22 39.01, Florida Statutes, 1996 Supplement, is amended to read:

23 39.01 Definitions.--When used in this chapter:

24 (59) "Restrictiveness level" means the level of
25 custody provided by programs that service the custody and care
26 needs of committed children. There shall be five
27 restrictiveness levels:

28 (b) Low-risk residential.--Youth assessed and
29 classified for placement in programs at this level represent a
30 low risk to themselves and public safety and do require
31 placement and services in residential settings. Programs or

1 program models in this restrictiveness level include: Short
2 Term Offender Programs (STOP), group treatment homes, family
3 group homes, proctor homes, and Short Term Environmental
4 Programs (STEP). Section 39.061 applies to children placed in
5 programs in this restrictiveness level.

6 Section 2. Subsection (13) of section 39.021, Florida
7 Statutes, 1996 Supplement, is amended to read:

8 39.021 Administering the juvenile justice continuum.--

9 (13) The Department of Juvenile Justice in
10 consultation with the Juvenile Justice Advisory Board and
11 providers shall develop a cost-benefit model and apply the
12 model to each commitment program. Program recommitment rates
13 shall be a component of the model. The cost-benefit model
14 shall compare program costs to benefits ~~to produce a~~
15 ~~cost-benefit ratio~~. A report ranking commitment programs
16 based on cost-benefit ~~ratios~~ shall be submitted to the
17 appropriate substantive and appropriations committees of each
18 house of the Legislature, no later than December 31 of each
19 year. It is the intent of the Legislature that continual
20 development efforts take place to improve the validity and
21 reliability of the cost-benefit model.

22 Section 3. Subsection (2) of section 39.042, Florida
23 Statutes, is amended to read:

24 39.042 Use of detention.--

25 (2)(a) All determinations and court orders regarding
26 placement of a child into detention care shall comply with all
27 requirements and criteria provided in this part and shall be
28 based on a risk assessment of the child, unless the child is
29 placed into detention care as provided in subparagraph (b)3.

30 (b)1. The risk assessment instrument for detention
31 care placement determinations and orders shall be developed by

1 the Department of Juvenile Justice in agreement with
 2 representatives appointed by the following associations: the
 3 Conference of Circuit Judges of Florida, the Prosecuting
 4 Attorneys Association, and the Public Defenders Association.
 5 Each association shall appoint two individuals, one
 6 representing an urban area and one representing a rural area.
 7 The parties involved shall evaluate and revise the risk
 8 assessment instrument as is considered necessary using the
 9 method for revision as agreed by the parties. The risk
 10 assessment instrument shall take into consideration, but need
 11 not be limited to, prior history of failure to appear, prior
 12 offenses, offenses committed pending adjudication, any
 13 unlawful possession of a firearm, theft of a motor vehicle or
 14 possession of a stolen motor vehicle, and community control
 15 status at the time the child is taken into custody. The risk
 16 assessment instrument shall also take into consideration
 17 appropriate aggravating and mitigating circumstances, and
 18 shall be designed to target a narrower population of children
 19 than s. 39.044(2). The risk assessment instrument shall also
 20 include any information concerning the child's history of
 21 abuse and neglect. The risk assessment shall indicate whether
 22 detention care is warranted, and, if detention care is
 23 warranted, whether the child should be placed into secure,
 24 nonsecure, or home detention care.

25 2. If, at the detention hearing, the court finds a
 26 material error in the scoring of the risk assessment
 27 instrument, the court may amend the score to reflect factual
 28 accuracy.

29 3. A child who is charged with committing an offense
 30 of domestic violence as defined in s. 741.28(1) and who does
 31

1 not meet detention criteria may be held in secure detention if
2 the court makes specific written findings that:

3 a. The offense of domestic violence which the child is
4 charged with committing caused physical injury to the victim;

5 b. Respite care for the child is not available; and

6 c. It is necessary to place the the child in secure
7 detention in order to protect the victim from further injury.

8 ~~for up to 48 hours if a respite home or similar authorized~~
9 ~~residential facility is not available. The court may order~~
10 ~~that the child continue to be held in secure detention~~
11 ~~provided that a hearing is held at the end of each 48-hour~~
12 ~~period, excluding Saturdays, Sundays, and legal holidays, in~~
13 ~~which the state attorney and the department may recommend to~~
14 ~~the court that the child continue to be held in secure~~
15 ~~detention.~~

16
17 The child may not be held in secure detention for more than 48
18 hours unless ordered by the court. After 48 hours, the court
19 shall hold a hearing if the state attorney or victim requests
20 that secure detention be continued. The child may continue to
21 be held in secure detention if the court makes a specific,
22 written finding that secure detention is necessary to protect
23 the victim from further injury. However, the child may not be
24 held in secure detention beyond the time limits set forth in
25 s. 39.044.

26 Section 4. Paragraph (e) of subsection (3) of section
27 39.052, Florida Statutes, 1996 Supplement, is created to read:

28 (3) TRANSFER OF A CHILD FOR PROSECUTION AS AN ADULT.--

29 (e) Once the child has been transferred for criminal
30 prosecution as an adult, the court shall transfer and certify
31

1 all pending juvenile court cases pertaining to that child to
2 the adult court for prosecution.

3 Section 5. Paragraphs (f) and (i) of subsection (1) of
4 section 39.054, Florida Statutes, are amended to read:

5 39.054 Powers of disposition.--

6 (1) The court that has jurisdiction of an adjudicated
7 delinquent child may, by an order stating the facts upon which
8 a determination of a sanction and rehabilitative program was
9 made at the disposition hearing:

10 (f) As part of the community control program to be
11 implemented by the Department of Juvenile Justice, or, in the
12 case of a committed child, as part of the community-based
13 sanctions ordered by the court at the disposition hearing or
14 before the child's release from commitment, order the child to
15 make restitution in money, through a promissory note cosigned
16 by the child's parent or guardian, or in kind for any damage
17 or loss caused by the child's offense in a reasonable amount
18 or manner to be determined by the court. The clerk of the
19 circuit court shall be the receiving and dispensing agent. In
20 such case, the court shall order the child or the child's
21 parent or guardian to pay to the office of the clerk of the
22 circuit court an amount not to exceed the actual cost incurred
23 by the clerk as a result of receiving and dispensing
24 restitution payments. The clerk shall notify the court if
25 restitution is not made, and the court shall take any further
26 action that is necessary against the child or the child's
27 parent or guardian.A finding by the court, after a hearing,
28 that the parent or guardian has made diligent and good faith
29 efforts to prevent the child from engaging in delinquent acts
30 absolves the parent or guardian of liability for restitution
31 under this paragraph.

1 (i) In addition to the sanctions imposed on the child,
2 order the parent or guardian of the child to perform community
3 service if the court finds that the parent or guardian did not
4 make a diligent and good-faith ~~good faith~~ effort to prevent
5 the child from engaging in delinquent acts. The court may also
6 order the parent or guardian to make restitution in money or
7 in kind for any damage or loss caused by the child's offense.
8 The court shall determine a reasonable amount or manner of
9 restitution, and payment shall be made to the clerk of the
10 circuit court as provided in paragraph (f).

11 Section 6. Subsections (6) and (9) of section 39.057,
12 Florida Statutes, are amended to read:

13 39.057 Boot camp for children.--

14 (6) A boot camp operated by the department, a county,
15 or a municipality must provide for the following minimum
16 periods of participation:

17 (a) A participant in a low-risk residential program
18 must spend at least 2 months in the boot camp component of the
19 program and 2 months in aftercare.

20 (b) A participant in a moderate-risk residential
21 program ~~or a high-risk residential program~~ must spend at least
22 4 months in the boot camp component of the program and 4
23 months in aftercare.

24
25 This subsection does not preclude the operation of a program
26 that requires the participants to spend more than 4 months in
27 the boot camp component of the program or that requires the
28 participants to complete two sequential programs of 4 months
29 each in the boot camp component of the program.

30 (9) The department shall keep records and monitor
31 criminal activity, educational progress, and employment

1 placement of all boot camp program participants in department,
2 county, and municipal boot camp programs after their release
3 from the program. The department must publish an outcome
4 evaluation study of each boot camp program within 18 months
5 after the the fourth platoon has graduated ~~program becomes~~
6 ~~operational, which includes a comparison of criminal activity,~~
7 ~~educational progress, and employment placements of children~~
8 ~~completing the program with the criminal activity, educational~~
9 ~~progress, and employment records of children completing other~~
10 ~~types of programs.~~

11 Section 7. Section 39.059, Florida Statutes, is
12 amended to read:

13 39.059 Community control or commitment of a child to
14 the department; disposition as an adult ~~children prosecuted as~~
15 ~~adults.--~~

16 (1) A child who is found to have committed a
17 ~~delinquent act or~~ violation of law may, as an alternative to
18 adult ~~other~~ dispositions, be committed to the department for
19 treatment in an appropriate program for children outside the
20 adult correctional system or, be placed in a community control
21 program for juveniles, ~~be classified as a youthful offender,~~
22 ~~or be classified as a serious or habitual juvenile offender~~
23 pursuant to s. 39.058. ~~If the court determines that the child~~
24 ~~meets the criteria of a serious or habitual delinquent child,~~
25 ~~the intake counselor or case manager shall consult with~~
26 ~~designated staff from a serious or habitual juvenile offender~~
27 ~~program to further assess the appropriateness of placing the~~
28 ~~child in such program.~~

29 (2) Upon a plea of guilty ~~or a finding of guilt~~, the
30 court may refer the case to the department for investigation
31

1 and recommendation as to the suitability of its programs for
2 the child.

3 (3) In order to utilize this section, the court shall
4 stay ~~and withhold~~ adjudication of guilt and instead shall
5 adjudge the child to have committed a delinquent act.
6 Adjudication of delinquency shall not be deemed a conviction,
7 nor shall it operate to impose any of the civil disabilities
8 ordinarily resulting from a conviction. The court shall impose
9 an adult sanction or a juvenile sanction and may not sentence
10 the child to a combination of adult and juvenile punishments.
11 Either a juvenile or adult sanction may include the
12 enforcement of any restitution previously ordered in any
13 juvenile proceedings. If the court imposes a juvenile
14 sanction and the department subsequently determines the
15 sanction unsuitable for the child, the department shall return
16 the child to the sentencing court for further proceedings
17 including the imposition of adult sanctions.

18 (4) Upon adjudicating a child delinquent under
19 subsection (1), the court may shall have the power by order
20 to:

21 (a) Place the child in a community control program
22 under the supervision of the department for an indeterminate
23 period of time until the child reaches the age of 19 years or
24 sooner if discharged by order of the court.

25 (b) Commit the child to the department ~~for treatment~~
26 ~~in an appropriate program for children~~ for an indeterminate
27 period of time until the child is 19 years of age, or 21 years
28 of age if the child is committed to a serious habitual
29 offender program or maximum-risk program, or until the child
30 is or sooner if discharged by the department. The department
31 shall notify the court of its intent to discharge no later

1 than 14 days prior to discharge. Failure of the court to
 2 timely respond to the department's notice shall be considered
 3 approval for discharge.

4 ~~(c) Commit the child to the department for placement~~
 5 ~~in a serious or habitual delinquent children program for an~~
 6 ~~indeterminate period of time until the child is 21 or sooner~~
 7 ~~if discharged by the treatment provider and the department.~~
 8 ~~The department shall notify the court of its intent to~~
 9 ~~discharge no later than 14 days prior to discharge. Failure~~
 10 ~~of the court to timely respond to the department's notice~~
 11 ~~shall be considered approval for discharge.~~

12 (5) When the court orders commitment of a child to the
 13 Department of Juvenile Justice for treatment in any of the
 14 department's programs for children, the court shall order the
 15 natural or adoptive parents of such child, the natural father
 16 of such child born out of wedlock who has acknowledged his
 17 paternity in writing before the court, or guardian of such
 18 child's estate, if possessed of assets which under law may be
 19 disbursed for the care, support, and maintenance of the child,
 20 to pay fees to the department equal to the actual cost of the
 21 care, support, and maintenance of the child, unless the court
 22 determines that the parent or legal guardian of the child is
 23 indigent. The court may reduce the fees or waive the fees upon
 24 a showing by the parent or guardian of an inability to pay the
 25 full cost of the care, support, and maintenance of the child.
 26 In addition, the court may waive the fees if it finds that the
 27 child's parent or guardian was the victim of the child's
 28 delinquent act or violation of law or if the court finds that
 29 the parent or guardian has made a diligent and good faith
 30 effort to prevent the child from engaging in the delinquent
 31 act or violation of law. When the order affects the

1 guardianship estate, a certified copy of the order shall be
 2 delivered to the judge having jurisdiction of the guardianship
 3 estate.

4 (6)(a) If a child proves not to be suitable to a
 5 community control program under the provisions of paragraph
 6 (4)(a), the court shall have the power to commit the child to
 7 the department as described in paragraph (4)(b) ~~or paragraph~~
 8 ~~(4)(c)~~.

9 (b) If a child proves not to be suitable to a
 10 community control program or for a treatment program under the
 11 provisions of paragraph (4)(b) ~~or a serious or habitual~~
 12 ~~delinquent children program under the provisions of paragraph~~
 13 ~~(4)(c)~~, the court may revoke the previous adjudication of of
 14 delinquency, impose an adjudication of guilt, ~~classify the~~
 15 ~~child as a youthful offender when appropriate~~, and impose any
 16 sentence that ~~which~~ it may lawfully impose, giving credit for
 17 all time spent by the child in the department.

18 (7)(a) At the sentencing hearing the court shall
 19 receive and consider a presentence investigation report by the
 20 Department of Corrections regarding the suitability of the
 21 offender for disposition as an adult or as a juvenile, ~~or a~~
 22 ~~youthful offender~~. The presentence investigation report must
 23 include a comments section prepared by the Department of
 24 Juvenile Justice, with its recommendations as to disposition.
 25 This report requirement may be waived by the offender.

26 (b) After considering the presentence investigation
 27 report, the court shall give all parties present at the
 28 hearing an opportunity to comment on the issue of sentence and
 29 any proposed rehabilitative plan. Parties to the case include
 30 the parent, guardian, or legal custodian of the offender; the
 31 offender's counsel; the state attorney; representatives of the

1 Department of Corrections and the Department of Juvenile
2 Justice; the victim or victim's representative;
3 representatives of the school system; and the law enforcement
4 officers involved in the case.

5 (c) In determining whether to impose ~~youthful offender~~
6 ~~or~~ juvenile sanctions instead of adult sanctions, the court
7 shall consider the following criteria:

8 1. The seriousness of the offense to the community and
9 whether the community would best be protected by juvenile
10 ~~youthful offender~~, or adult sanctions.

11 2. Whether the offense was committed in an aggressive,
12 violent, premeditated, or willful manner.

13 3. Whether the offense was against persons or against
14 property, with greater weight being given to offenses against
15 persons, especially if personal injury resulted.

16 4. The sophistication and maturity of the offender.

17 5. The record and previous history of the offender,
18 including:

19 a. Previous contacts with the Department of
20 Corrections, the Department of Juvenile Justice, the
21 Department of Children and Family ~~Health and Rehabilitative~~
22 Services, other law enforcement agencies, and the courts.

23 b. Prior periods of probation or community control.

24 c. Prior adjudications that the offender committed a
25 delinquent act or violation of law as a child.

26 d. Prior commitments to the Department of Juvenile
27 Justice, the Department of Children and Family ~~Health and~~
28 ~~Rehabilitative~~ Services, or other facilities or institutions.

29 6. The prospects for adequate protection of the public
30 and the likelihood of deterrence and reasonable rehabilitation
31

1 of the offender if assigned to services and facilities of the
2 Department of Juvenile Justice.

3 7. Whether the Department of Juvenile Justice has
4 appropriate programs, facilities, and services immediately
5 available.

6 8. Whether ~~youthful offender~~ or adult sanctions would
7 provide more appropriate punishment and deterrence to further
8 violations of law than the imposition of juvenile sanctions.

9 (d) Any decision to impose adult sanctions must be in
10 writing, but is presumed appropriate, and the court is not
11 required to set forth specific findings or enumerate the
12 criteria in this subsection as any basis for its decision to
13 impose adult sanctions.

14 ~~(e) If the court determines not to impose youthful~~
15 ~~offender or adult sanctions, the court may order disposition~~
16 ~~pursuant to s. 39.054 as an alternative to youthful offender~~
17 ~~or adult sentencing.~~

18 ~~(f) After appropriate sanctions for the offense are~~
19 ~~determined, the court shall develop, approve, and order a plan~~
20 ~~of community control. The community control plan shall contain~~
21 ~~rules, requirements, conditions, and programs designed to~~
22 ~~encourage responsible and acceptable behavior and to promote~~
23 ~~the rehabilitation of the child and the protection of the~~
24 ~~community.~~

25 (e)(g) The court may receive and consider any other
26 relevant and material evidence, including other reports,
27 written or oral, in its effort to determine the action to be
28 taken with regard to the child, and may rely upon such
29 evidence to the extent of its probative value even if the
30 evidence would not be competent in an adjudicatory hearing.

31

1 ~~(f)(h)~~ The court shall notify any victim of the
2 offense of the hearing and shall notify, or subpoena if
3 appropriate, the parents, guardians, or legal custodians of
4 the child to attend the disposition hearing.

5 ~~(g)(i)~~ Upon completion of the predisposition report,
6 it must be made available to the child's counsel and the state
7 attorney by the department prior to the disposition hearing.

8 (8) It is the intent of the Legislature that the
9 criteria and guidelines in this section ~~subsection~~ are
10 mandatory and that a determination of disposition under this
11 section ~~subsection~~ is subject to the right of the child to
12 appellate review under s. 39.069.

13 (9) When a child is sentenced as an adult, the court
14 shall dismiss any pending juvenile delinquency petition and
15 terminate the child's supervision by the department.

16 Section 8. Subsection (3) of section 39.076, Florida
17 Statutes, 1996 Supplement, is amended to read:

18 39.076 Departmental contracting powers; personnel
19 standards and screening.--

20 (3) The department shall require employment screening
21 pursuant to chapter 435, using the level 2 ~~±~~ standards for
22 screening set forth in that chapter, for personnel in
23 delinquency facilities, services, and programs.

24 Section 9. Section 39.0445, Florida Statutes, is
25 repealed.

26 Section 10. This act shall take effect October 1,
27 1997.