

1 A bill to be entitled
2 An act relating to juvenile justice; creating
3 chapter 985, F.S., relating to certain juvenile
4 proceedings; creating s. 985.01, F.S.;
5 providing purposes and intent; providing
6 certain contracting authority of the Department
7 of Juvenile Justice or Department of Children
8 and Family Services; providing for both
9 departments to require employment screening of
10 personnel in programs for children or youths,
11 including certain volunteers and other
12 personnel of contracted-for programs; providing
13 for both departments to grant exemptions from
14 disqualification for working with children;
15 creating s. 985.02, F.S.; providing legislative
16 intent and findings for the juvenile justice
17 system; creating s. 985.03, F.S.; providing
18 definitions; renumbering and amending s.
19 39.045, F.S., relating to oaths, records, and
20 confidential information; removing specified
21 provisions; prohibiting release to outside
22 party of certain information gained by victim
23 regarding juvenile court case, except under
24 specified circumstances; creating s. 985.05,
25 F.S.; providing for court records; renumbering
26 and amending s. 39.0573, F.S., relating to
27 statewide information sharing; renumbering s.
28 39.0574, F.S., relating to school district and
29 law enforcement information sharing;
30 renumbering and amending s. 39.0585, F.S.,
31 relating to information systems; substituting

1 reference to the Department of Children and
 2 Family Services for reference to the Department
 3 of Health and Rehabilitative Services to
 4 conform to departmental reorganization and
 5 renaming; renumbering and amending s. 39.022,
 6 F.S., relating to court jurisdiction;
 7 conforming references; renumbering and amending
 8 s. 39.014, F.S.; providing for legal
 9 representation for delinquency cases;
 10 renumbering and amending s. 39.041, F.S.,
 11 relating to the right to counsel; providing for
 12 liability of nonindigent or
 13 indigent-but-able-to-contribute parent or legal
 14 guardian for certain legal fees and costs under
 15 specified circumstances when child is
 16 transferred for criminal prosecution;
 17 renumbering s. 39.0476, F.S., relating to
 18 powers with respect to certain children;
 19 creating s. 985.205, F.S.; providing that
 20 hearings are open to the public; providing for
 21 the court to close hearings under specified
 22 circumstances; renumbering and amending s.
 23 39.0515, F.S., relating to rights of victims;
 24 conforming reference; renumbering and amending
 25 s. 39.037, F.S., relating to taking a child
 26 into custody; conforming references;
 27 renumbering and amending s. 39.064, F.S.,
 28 relating to detention of furloughed children or
 29 escapees; conforming references; renumbering s.
 30 39.0471, F.S., relating to juvenile justice
 31 assessment centers; renumbering and amending s.

1 39.047, F.S., relating to intake and case
 2 management; conforming references and
 3 departmental name; renumbering and amending s.
 4 39.038, F.S., relating to release or delivery
 5 from custody; conforming references;
 6 renumbering and amending s. 39.039, F.S.,
 7 relating to fingerprinting and photographing a
 8 minor; conforming departmental name;
 9 renumbering and amending s. 39.042, F.S.,
 10 relating to the use of detention; conforming
 11 reference; renumbering s. 39.043, F.S.,
 12 relating to prohibited uses of detention;
 13 renumbering and amending s. 39.044, F.S.,
 14 relating to detention; conforming references;
 15 transferring and renumbering s. 39.0145, F.S.,
 16 relating to punishment for contempt of court;
 17 conforming reference; repealing s. 39.0445,
 18 F.S., relating to juvenile domestic violence
 19 offender; conforming reference; renumbering s.
 20 39.048, F.S., relating to petitions for
 21 delinquency; renumbering and amending s.
 22 39.049, F.S., relating to process and service;
 23 conforming reference; renumbering and amending
 24 s. 39.0495, F.S., relating to threatening or
 25 dismissing employees; conforming references;
 26 renumbering s. 39.073, F.S., relating to court
 27 and witness fees; renumbering s. 39.051, F.S.,
 28 relating to answers to petitions; renumbering
 29 and amending s. 39.0517, F.S., relating to
 30 incompetency in juvenile delinquency cases;
 31 conforming departmental name; renumbering and

1 amending s. 39.046, F.S., relating to medical,
 2 psychiatric, psychological, substance abuse,
 3 and educational examinations and treatment;
 4 conforming departmental name; creating s.
 5 985.225, F.S.; providing for indictment of a
 6 juvenile, including indictment of child of any
 7 age who is charged with a violation of state
 8 law punishable by death or life imprisonment;
 9 providing for adjudicatory hearing; providing
 10 for sentencing of child as adult under certain
 11 circumstances; providing for sentencing;
 12 creating s. 985.226, F.S.; providing criteria
 13 for waiver of juvenile court jurisdiction;
 14 providing guidelines and time limits with
 15 respect to waiver hearing; specifying effect of
 16 order waiving jurisdiction; creating s.
 17 985.227, F.S.; providing for prosecution of
 18 juveniles as adults; requiring the state
 19 attorney to develop policies and guidelines
 20 with respect to determination for filing
 21 information on juvenile, and requiring annual
 22 report of same by the state attorney to the
 23 Legislature and Juvenile Justice Advisory
 24 Board; creating s. 985.228, F.S.; providing for
 25 adjudicatory hearings, withheld adjudications,
 26 and orders of adjudication; creating s.
 27 985.229, F.S.; providing for predisposition
 28 reports and additional evaluations; providing
 29 for imposition of sanctions; providing for
 30 certain notification of victims; providing
 31 legislative intent; creating s. 985.23, F.S.;

1 providing for disposition hearings in
 2 delinquency cases; creating s. 985.231, F.S.;
 3 providing powers of disposition in delinquency
 4 cases; providing for court-ordered payment of
 5 certain fees by parent or guardian, or
 6 participation in counseling by parent,
 7 custodian, or guardian, under specified
 8 circumstances; providing for enforcement
 9 through contempt powers; renumbering s. 39.078,
 10 F.S., relating to commitment forms; creating s.
 11 985.233, F.S.; providing dispositional powers
 12 and procedures and alternatives for juveniles
 13 prosecuted as adults; providing for
 14 court-ordered payment of certain fees by parent
 15 or guardian for cost of care in juvenile
 16 justice facilities; providing legislative
 17 intent; renumbering s. 39.069, F.S., relating
 18 to appeals; renumbering s. 39.0711, F.S.,
 19 relating to additional grounds for appeals by
 20 the state; renumbering s. 39.072, F.S.,
 21 relating to orders or decisions when the state
 22 appeals; renumbering and amending s. 39.0255,
 23 F.S., relating to civil citations; conforming a
 24 reference; renumbering s. 39.019, F.S.,
 25 relating to teen courts; renumbering and
 26 amending s. 39.0361, F.S., relating to the
 27 Neighborhood Restorative Justice Act; removing
 28 short title designation; conforming reference
 29 and departmental name; renumbering and amending
 30 s. 39.026, F.S., relating to community
 31 arbitration; providing for establishment of

1 programs; selection of community arbitrators,
2 procedures, hearings, disposition, review, and
3 funding; renumbering and amending s. 39.055,
4 F.S., relating to early delinquency
5 intervention; conforming departmental name;
6 providing procedures and criteria for
7 determination by Department of Juvenile Justice
8 of whether certain children are likely to
9 exhibit further significant delinquent
10 behavior, under specified circumstances;
11 providing for program placement; providing for
12 certain reports to the Legislature by the
13 department on program development and
14 implementation; renumbering s. 39.0475, F.S.,
15 relating to delinquency pretrial intervention;
16 renumbering s. 39.0551, F.S., relating to
17 juvenile assignment centers; renumbering s.
18 39.0571, F.S., relating to juvenile sexual
19 offender commitment programs; renumbering and
20 amending s. 39.057, F.S., relating to boot
21 camps for children; conforming a reference;
22 renumbering and amending s. 39.058, F.S.,
23 relating to serious or habitual juvenile
24 offenders; conforming references; renumbering
25 and amending s. 39.0582, F.S., relating to
26 intensive residential treatment; conforming
27 references; renumbering and amending s.
28 39.0583, F.S., relating to intensive
29 residential treatment programs; conforming
30 references; renumbering s. 39.0581, F.S.,
31 relating to maximum-risk residential programs;

1 renumbering and amending s. 39.0584, F.S.,
 2 relating to commitment programs for juvenile
 3 felony offenders; conforming references;
 4 renumbering and amending s. 39.05841, F.S.,
 5 relating to vocational work training programs;
 6 providing that Department of Juvenile Justice
 7 may require participation by certain juveniles
 8 in vocational work programs; providing for
 9 establishment of guidelines and specifying
 10 procedures; providing for an agricultural and
 11 industrial production and marketing program;
 12 providing for contracts with respect to a
 13 juvenile industry program including the
 14 operation of a direct private sector business
 15 within a juvenile facility; providing for
 16 workers' compensation coverage; renumbering s.
 17 39.067, F.S., relating to furlough and
 18 intensive aftercare; renumbering and amending
 19 s. 39.003, F.S., relating to the Juvenile
 20 Justice Advisory Board; conforming references
 21 and departmental name; renumbering s. 39.085,
 22 F.S., relating to the Alternative Education
 23 Institute; renumbering s. 39.0572, F.S.,
 24 relating to the Task Force on Juvenile Sexual
 25 Offenders and their Victims; renumbering and
 26 amending s. 39.021, F.S., relating to
 27 administering the juvenile justice continuum;
 28 conforming departmental name; removing
 29 specified provisions; creating s. 985.405,
 30 F.S.; requiring the Department of Juvenile
 31 Justice to adopt certain rules relating to

1 program management; renumbering s. 39.024,
 2 F.S., relating to juvenile justice training
 3 academies, the Juvenile Justice Standards and
 4 Training Commission, and the Juvenile Justice
 5 Training Trust Fund; renumbering s. 39.076,
 6 F.S., relating to contracting and personnel;
 7 renumbering s. 39.075, F.S., relating to
 8 consultants; creating s. 985.409, F.S.;
 9 providing for participation in the Florida
 10 Casualty Insurance Risk Management Trust Fund;
 11 renumbering s. 39.074, F.S., relating to
 12 facilities siting; renumbering and amending s.
 13 39.0215, F.S., relating to county and municipal
 14 delinquency programs and facilities; creating
 15 s. 985.412, F.S.; providing for quality
 16 assurance; providing for an annual report to
 17 the Legislature and Governor with respect to
 18 program quality; renumbering and amending s.
 19 39.025, F.S., relating to district juvenile
 20 justice boards; removing short title
 21 designation; conforming references and
 22 departmental name; removing specified
 23 provisions; creating s. 985.414, F.S.;
 24 providing for county juvenile justice councils;
 25 providing purpose, duties, and
 26 responsibilities; providing for an annual
 27 report; creating s. 985.415, F.S.; providing
 28 for county juvenile justice partnership grants;
 29 creating s. 985.416, F.S.; providing for
 30 innovation zones; renumbering s. 39.062, F.S.,
 31 relating to transferring children from the

1 Department of Corrections to the Department of
 2 Juvenile Justice; renumbering s. 39.063, F.S.,
 3 relating to transferring children to other
 4 treatment services; renumbering s. 39.065,
 5 F.S., relating to contracts for the transfer of
 6 children under federal custody; renumbering s.
 7 39.51, F.S., relating to the Interstate Compact
 8 on Juveniles; renumbering s. 39.511, F.S.,
 9 relating to execution of the compact;
 10 renumbering s. 39.512, F.S., relating to the
 11 juvenile compact administrator; renumbering s.
 12 39.513, F.S., relating to supplementary
 13 agreements; renumbering s. 39.514, F.S.,
 14 relating to financial arrangements; renumbering
 15 s. 39.515, F.S., relating to responsibility of
 16 state departments, agencies, and officers;
 17 renumbering s. 39.516, F.S., relating to
 18 additional procedures with respect to the
 19 compact; creating s. 984.01, F.S.; providing
 20 purposes and intent with respect to children
 21 and families in need of services; providing
 22 certain contracting authority of the Department
 23 of Juvenile Justice or Department of Children
 24 and Family Services; providing for both
 25 departments to require employment screening of
 26 personnel in programs for children or youths,
 27 including certain volunteers or other personnel
 28 of contracted-for programs; providing for both
 29 departments to grant exemptions from
 30 disqualification for working with children;
 31 creating s. 984.02, F.S.; providing legislative

1 intent; creating s. 984.03, F.S.; providing
 2 definitions; renumbering and amending s. 39.42,
 3 F.S., relating to children in need of services
 4 and families in need of services; conforming
 5 reference; renumbering and amending s. 39.015,
 6 F.S., relating to rules relating to habitual
 7 truants; conforming references; renumbering and
 8 amending s. 39.4451, F.S., relating to oaths,
 9 records, and confidential information; removing
 10 a reference; renumbering s. 39.447, F.S.,
 11 relating to appointed counsel; renumbering and
 12 amending s. 39.017, F.S., relating to
 13 attorney's fees; conforming references;
 14 creating s. 984.09, F.S.; providing for
 15 punishment for contempt of court; providing for
 16 an alternative sanctions coordinator position
 17 within each judicial circuit; renumbering and
 18 amending s. 39.423, F.S., relating to intake of
 19 children; conforming reference and departmental
 20 name; renumbering and amending s. 39.424, F.S.,
 21 relating to services to families in need of
 22 services; conforming reference; renumbering s.
 23 39.426, F.S., relating to staffing for
 24 treatment and services to families in need of
 25 services; renumbering and amending s. 39.421,
 26 F.S., relating to taking certain children into
 27 custody; conforming references; renumbering and
 28 amending s. 39.422, F.S., relating to shelter
 29 placement of certain children; revising
 30 catchline; renumbering and amending s. 39.436,
 31 F.S., relating to petitions for children in

1 need of services; conforming references;
 2 renumbering s. 39.437, F.S., relating to
 3 process and service; renumbering s. 39.438,
 4 F.S., relating to response to petition and
 5 representation of parties; renumbering s.
 6 39.4431, F.S., relating to referral of
 7 children-in-need-of-services cases to
 8 mediation; renumbering and amending s. 39.446,
 9 F.S., relating to examination and treatment of
 10 certain children; conforming references and
 11 departmental name; renumbering s. 39.44, F.S.,
 12 relating to hearings for
 13 children-in-need-of-services cases; renumbering
 14 s. 39.441, F.S., relating to orders of
 15 adjudication; renumbering and amending s.
 16 39.442, F.S., relating to powers of
 17 disposition; conforming departmental name;
 18 renumbering s. 39.4375, F.S., relating to court
 19 and witness fees; renumbering s. 39.4441, F.S.,
 20 relating to appeals; amending s. 39.01, F.S.;
 21 conforming references, departmental name;
 22 removing specified provisions; defining
 23 "district administrator," "circuit," and
 24 "health and human services board"; revising
 25 definitions applicable to ch. 39, F.S.;
 26 repealing ss. 39.0205, 39.0206, F.S., relating
 27 to a short title and a definition; renumbering
 28 s. 39.061, F.S., relating to escapes from
 29 detention or residential commitment facilities;
 30 repealing s. 39.419, F.S., relating to a
 31 definition; repealing ss. 39.027, 39.028,

1 39.029, 39.033, 39.034, 39.035, 39.036, F.S.,
 2 relating to community arbitration, which
 3 provisions are otherwise incorporated into this
 4 act; repealing ss. 39.052, 39.053, 39.054,
 5 39.059, F.S., relating to adjudicatory
 6 hearings, adjudication, powers of disposition,
 7 and community control or commitment of children
 8 prosecuted as adults, which provisions are
 9 otherwise incorporated into this act; repealing
 10 ss. 39.05842, 39.05843, 39.05844, 39.05845,
 11 F.S., relating to vocational/work programs,
 12 which provisions are otherwise incorporated
 13 into this act; repealing s. 39.056, F.S.,
 14 relating to early delinquency intervention,
 15 which provision is otherwise incorporated into
 16 this act; amending s. 39.002, F.S.; providing
 17 legislative intent for the juvenile justice
 18 system; removing specified provisions; amending
 19 s. 39.012, F.S.; providing for the Department
 20 of Children and Family Services to adopt
 21 certain rules relating to program management;
 22 removing specified provisions; designating and
 23 naming parts of ch. 985, F.S.; providing
 24 legislative intent with respect to reservation
 25 of certain statutory chapters for sections of
 26 statute relating to specified subjects and with
 27 respect to construction and statutory
 28 assignment of certain other acts; providing a
 29 directive to the Division of Statutory
 30 Revision; requiring the Juvenile Justice
 31 Advisory Board and the Department of Juvenile

1 Justice to conduct research to determine
2 effective aftercare program models; providing
3 an appropriation; requiring reports to the
4 Legislature; providing an effective date.
5

6 Be It Enacted by the Legislature of the State of Florida:
7

8 Section 1. Section 985.01, Florida Statutes, is
9 created to read:

10 985.01 Purposes and intent; personnel standards and
11 screening.--

12 (1) The purposes of this chapter are:

13 (a) To provide judicial and other procedures to assure
14 due process through which children and other interested
15 parties are assured fair hearings by a respectful and
16 respected court or other tribunal and the recognition,
17 protection, and enforcement of their constitutional and other
18 legal rights, while ensuring that public safety interests and
19 the authority and dignity of the courts are adequately
20 protected.

21 (b) To provide for the care, safety, and protection of
22 children in an environment that fosters healthy social,
23 emotional, intellectual, and physical development; to ensure
24 secure and safe custody; and to promote the health and
25 well-being of all children under the state's care.

26 (c) To ensure the protection of society, by providing
27 for a comprehensive standardized assessment of the child's
28 needs so that the most appropriate control, discipline,
29 punishment, and treatment can be administered consistent with
30 the seriousness of the act committed, the community's
31 long-term need for public safety, the prior record of the

1 child, and the specific rehabilitation needs of the child,
2 while also providing whenever possible restitution to the
3 victim of the offense.

4 (d) To preserve and strengthen the child's family ties
5 whenever possible, by providing for removal of the child from
6 parental custody only when his or her welfare or the safety
7 and protection of the public cannot be adequately safeguarded
8 without such removal; and, when the child is removed from his
9 or her own family, to secure custody, care, and discipline for
10 the child as nearly as possible equivalent to that which
11 should have been given by the parents; and to assure, in all
12 cases in which a child must be permanently removed from
13 parental custody, that the child be placed in an approved
14 family home, adoptive home, independent living program, or
15 other placement that provides the most stable and permanent
16 living arrangement for the child, as determined by the court.

17 (e)1. To assure that the adjudication and disposition
18 of a child alleged or found to have committed a violation of
19 Florida law be exercised with appropriate discretion and in
20 keeping with the seriousness of the offense and the need for
21 treatment services, and that all findings made under this
22 chapter be based upon facts presented at a hearing that meets
23 the constitutional standards of fundamental fairness and due
24 process.

25 2. To assure that the sentencing and placement of a
26 child tried as an adult be appropriate and in keeping with the
27 seriousness of the offense and the child's need for
28 rehabilitative services, and that the proceedings and
29 procedures applicable to such sentencing and placement be
30 applied within the full framework of constitutional standards
31 of fundamental fairness and due process.

1 (f) To provide children committed to the Department of
2 Juvenile Justice with training in life skills, including
3 career education.

4 (2) The Department of Juvenile Justice or the
5 Department of Children and Family Services, as appropriate,
6 may contract with the Federal Government, other state
7 departments and agencies, county and municipal governments and
8 agencies, public and private agencies, and private individuals
9 and corporations in carrying out the purposes of, and the
10 responsibilities established in, this chapter.

11 (a) When the Department of Juvenile Justice or the
12 Department of Children and Family Services contracts with a
13 provider for any program for children, all personnel,
14 including owners, operators, employees, and volunteers, in the
15 facility must be of good moral character. A volunteer who
16 assists on an intermittent basis for less than 40 hours per
17 month need not be screened if the volunteer is under direct
18 and constant supervision by persons who meet the screening
19 requirements.

20 (b) The Department of Juvenile Justice and the
21 Department of Children and Family Services shall require
22 employment screening pursuant to chapter 435, using the level
23 2 standards set forth in that chapter for personnel in
24 programs for children or youths.

25 (c) The Department of Juvenile Justice or the
26 Department of Children and Family Services may grant
27 exemptions from disqualification from working with children as
28 provided in s. 435.07.

29 (3) It is the intent of the Legislature that this
30 chapter be liberally interpreted and construed in conformity
31 with its declared purposes.

1 Section 2. Section 985.02, Florida Statutes, is
2 created to read:

3 985.02 Legislative intent for the juvenile justice
4 system.--

5 (1) GENERAL PROTECTIONS FOR CHILDREN.--It is a purpose
6 of the Legislature that the children of this state be provided
7 with the following protections:

8 (a) Protection from abuse, neglect, and exploitation.

9 (b) A permanent and stable home.

10 (c) A safe and nurturing environment which will
11 preserve a sense of personal dignity and integrity.

12 (d) Adequate nutrition, shelter, and clothing.

13 (e) Effective treatment to address physical, social,
14 and emotional needs, regardless of geographical location.

15 (f) Equal opportunity and access to quality and
16 effective education, which will meet the individual needs of
17 each child, and to recreation and other community resources to
18 develop individual abilities.

19 (g) Access to preventive services.

20 (h) An independent, trained advocate, when
21 intervention is necessary, and a skilled guardian or caretaker
22 in a safe environment when alternative placement is necessary.

23 (2) SUBSTANCE ABUSE SERVICES.--The Legislature finds
24 that children in the care of the state's dependency and
25 delinquency systems need appropriate health care services,
26 that the impact of substance abuse on health indicates the
27 need for health care services to include substance abuse
28 services where appropriate, and that it is in the state's best
29 interest that such children be provided the services they need
30 to enable them to become and remain independent of state care.
31 In order to provide these services, the state's dependency and

1 delinquency systems must have the ability to identify and
2 provide appropriate intervention and treatment for children
3 with personal or family-related substance abuse problems. It
4 is therefore the purpose of the Legislature to provide
5 authority for the state to contract with community substance
6 abuse treatment providers for the development and operation of
7 specialized support and overlay services for the dependency
8 and delinquency systems, which will be fully implemented and
9 utilized as resources permit.

10 (3) JUVENILE JUSTICE AND DELINQUENCY PREVENTION.--It
11 is the policy of the state with respect to juvenile justice
12 and delinquency prevention to first protect the public from
13 acts of delinquency. In addition, it is the policy of the
14 state to:

15 (a) Develop and implement effective methods of
16 preventing and reducing acts of delinquency, with a focus on
17 maintaining and strengthening the family as a whole so that
18 children may remain in their homes or communities.

19 (b) Develop and implement effective programs to
20 prevent delinquency, to divert children from the traditional
21 juvenile justice system, to intervene at an early stage of
22 delinquency, and to provide critically needed alternatives to
23 institutionalization and deep-end commitment.

24 (c) Provide well-trained personnel, high-quality
25 services, and cost-effective programs within the juvenile
26 justice system.

27 (d) Increase the capacity of local governments and
28 public and private agencies to conduct rehabilitative
29 treatment programs and to provide research, evaluation, and
30 training services in the field of juvenile delinquency
31 prevention.

1
 2 The Legislature intends that detention care, in addition to
 3 providing secure and safe custody, will promote the health and
 4 well-being of the children committed thereto and provide an
 5 environment that fosters their social, emotional,
 6 intellectual, and physical development.

7 (4) DETENTION.--

8 (a) The Legislature finds that there is a need for a
 9 secure placement for certain children alleged to have
 10 committed a delinquent act. The Legislature finds that
 11 detention under part II should be used only when less
 12 restrictive interim placement alternatives prior to
 13 adjudication and disposition are not appropriate. The
 14 Legislature further finds that decisions to detain should be
 15 based in part on a prudent assessment of risk and be limited
 16 to situations where there is clear and convincing evidence
 17 that a child presents a risk of failing to appear or presents
 18 a substantial risk of inflicting bodily harm on others as
 19 evidenced by recent behavior; presents a history of committing
 20 a serious property offense prior to adjudication, disposition,
 21 or placement; has acted in direct or indirect contempt of
 22 court; or requests protection from imminent bodily harm.

23 (b) The Legislature intends that a juvenile found to
 24 have committed a delinquent act understands the consequences
 25 and the serious nature of such behavior. Therefore, the
 26 Legislature finds that secure detention is appropriate to
 27 provide punishment that discourages further delinquent
 28 behavior. The Legislature also finds that certain juveniles
 29 have committed a sufficient number of criminal acts, including
 30 acts involving violence to persons, to represent sufficient
 31 danger to the community to warrant sentencing and placement

1 within the adult system. It is the intent of the Legislature
2 to establish clear criteria in order to identify these
3 juveniles and remove them from the juvenile justice system.

4 (5) SERIOUS OR HABITUAL JUVENILE OFFENDERS.--The
5 Legislature finds that fighting crime effectively requires a
6 multipronged effort focusing on particular classes of
7 delinquent children and the development of particular
8 programs. This state's juvenile justice system has an
9 inadequate number of beds for serious or habitual juvenile
10 offenders and an inadequate number of community and
11 residential programs for a significant number of children
12 whose delinquent behavior is due to or connected with illicit
13 substance abuse. In addition, a significant number of children
14 have been adjudicated in adult criminal court and placed in
15 this state's prisons where programs are inadequate to meet
16 their rehabilitative needs and where space is needed for adult
17 offenders. Recidivism rates for each of these classes of
18 offenders exceed those tolerated by the Legislature and by the
19 citizens of this state.

20 (6) SITING OF FACILITIES.--

21 (a) The Legislature finds that timely siting and
22 development of needed residential facilities for juvenile
23 offenders is critical to the public safety of the citizens of
24 this state and to the effective rehabilitation of juvenile
25 offenders.

26 (b) It is the purpose of the Legislature to guarantee
27 that such facilities are sited and developed within reasonable
28 timeframes after they are legislatively authorized and
29 appropriated.

30 (c) The Legislature further finds that such facilities
31 must be located in areas of the state close to the home

1 communities of the children they house in order to ensure the
2 most effective rehabilitation efforts and the most intensive
3 postrelease supervision and case management.

4 (d) It is the intent of the Legislature that all other
5 departments and agencies of the state shall cooperate fully
6 with the Department of Juvenile Justice to accomplish the
7 siting of facilities for juvenile offenders.

8
9 The supervision, counseling, rehabilitative treatment, and
10 punitive efforts of the juvenile justice system should avoid
11 the inappropriate use of correctional programs and large
12 institutions. The Legislature finds that detention services
13 should exceed the primary goal of providing safe and secure
14 custody pending adjudication and disposition.

15 (7) PARENTAL, CUSTODIAL, AND GUARDIAN
16 RESPONSIBILITIES.--Parents, custodians, and guardians are
17 deemed by the state to be responsible for providing their
18 children with sufficient support, guidance, and supervision to
19 deter their participation in delinquent acts. The state
20 further recognizes that the ability of parents, custodians,
21 and guardians to fulfill those responsibilities can be greatly
22 impaired by economic, social, behavioral, emotional, and
23 related problems. It is therefore the policy of the
24 Legislature that it is the state's responsibility to ensure
25 that factors impeding the ability of caretakers to fulfill
26 their responsibilities are identified through the delinquency
27 intake process and that appropriate recommendations to address
28 those problems are considered in any judicial or nonjudicial
29 proceeding.

30 Section 3. Section 985.03, Florida Statutes, is
31 created to read:

1 985.03 Definitions.--When used in this chapter, the
2 term:

3 (1) "Addictions receiving facility" means a substance
4 abuse service provider as defined in chapter 397.

5 (2) "Adjudicatory hearing" means a hearing for the
6 court to determine whether or not the facts support the
7 allegations stated in the petition, as is provided for under
8 s. 985.228 in delinquency cases.

9 (3) "Adult" means any natural person other than a
10 child.

11 (4) "Arbitration" means a process whereby a neutral
12 third person or panel, called an arbitrator or an arbitration
13 panel, considers the facts and arguments presented by the
14 parties and renders a decision which may be binding or
15 nonbinding.

16 (5) "Authorized agent" or "designee" of the department
17 means a person or agency assigned or designated by the
18 Department of Juvenile Justice or the Department of Children
19 and Family Services, as appropriate, to perform duties or
20 exercise powers pursuant to this chapter and includes contract
21 providers and their employees for purposes of providing
22 services to and managing cases of children in need of services
23 and families in need of services.

24 (6) "Child" or "juvenile" or "youth" means any
25 unmarried person under the age of 18 who has not been
26 emancipated by order of the court and who has been found or
27 alleged to be dependent, in need of services, or from a family
28 in need of services; or any married or unmarried person who is
29 charged with a violation of law occurring prior to the time
30 that person reached the age of 18 years.

31

1 (7) "Child eligible for an intensive residential
2 treatment program for offenders less than 13 years of age"
3 means a child who has been found to have committed a
4 delinquent act or a violation of law in the case currently
5 before the court and who meets at least one of the following
6 criteria:

7 (a) The child is less than 13 years of age at the time
8 of the disposition for the current offense and has been
9 adjudicated on the current offense for:

- 10 1. Arson;
- 11 2. Sexual battery;
- 12 3. Robbery;
- 13 4. Kidnapping;
- 14 5. Aggravated child abuse;
- 15 6. Aggravated assault;
- 16 7. Aggravated stalking;
- 17 8. Murder;
- 18 9. Manslaughter;
- 19 10. Unlawful throwing, placing, or discharging of a
20 destructive device or bomb;
- 21 11. Armed burglary;
- 22 12. Aggravated battery;
- 23 13. Lewd or lascivious assault or act in the presence
24 of a child; or
- 25 14. Carrying, displaying, using, threatening, or
26 attempting to use a weapon or firearm during the commission of
27 a felony.

28 (b) The child is less than 13 years of age at the time
29 of the disposition, the current offense is a felony, and the
30 child has previously been committed at least once to a
31 delinquency commitment program.

1 (c) The child is less than 13 years of age and is
2 currently committed for a felony offense and transferred from
3 a moderate-risk or high-risk residential commitment placement.

4 (8) "Child in need of services" means a child for whom
5 there is no pending investigation into an allegation or
6 suspicion of abuse, neglect, or abandonment; no pending
7 referral alleging the child is delinquent; or no current
8 supervision by the Department of Juvenile Justice or the
9 Department of Children and Family Services for an adjudication
10 of dependency or delinquency. The child must also, pursuant to
11 this chapter, be found by the court:

12 (a) To have persistently run away from the child's
13 parents or legal custodians despite reasonable efforts of the
14 child, the parents or legal custodians, and appropriate
15 agencies to remedy the conditions contributing to the
16 behavior. Reasonable efforts shall include voluntary
17 participation by the child's parents or legal custodians and
18 the child in family mediation, services, and treatment offered
19 by the Department of Juvenile Justice or the Department of
20 Children and Family Services;

21 (b) To be habitually truant from school, while subject
22 to compulsory school attendance, despite reasonable efforts to
23 remedy the situation pursuant to s. 232.19 and through
24 voluntary participation by the child's parents or legal
25 custodians and by the child in family mediation, services, and
26 treatment offered by the Department of Juvenile Justice or the
27 Department of Children and Family Services; or

28 (c) To have persistently disobeyed the reasonable and
29 lawful demands of the child's parents or legal custodians, and
30 to be beyond their control despite efforts by the child's
31 parents or legal custodians and appropriate agencies to remedy

1 the conditions contributing to the behavior. Reasonable
2 efforts may include such things as good faith participation in
3 family or individual counseling.

4 (9) "Child who has been found to have committed a
5 delinquent act" means a child who, pursuant to the provisions
6 of this chapter, is found by a court to have committed a
7 violation of law or to be in direct or indirect contempt of
8 court, except that this definition shall not include an act
9 constituting contempt of court arising out of a dependency
10 proceeding or a proceeding pursuant to part III of this
11 chapter.

12 (10) "Child support" means a court-ordered obligation,
13 enforced under chapter 61 and ss. 409.2551-409.2597, for
14 monetary support for the care, maintenance, training, and
15 education of a child.

16 (11) "Circuit" means any of the 20 judicial circuits
17 as set forth in s. 26.021.

18 (12) "Community control" means the legal status of
19 probation created by law and court order in cases involving a
20 child who has been found to have committed a delinquent act.
21 Community control is an individualized program in which the
22 freedom of the child is limited and the child is restricted to
23 noninstitutional quarters or restricted to the child's home in
24 lieu of commitment to the custody of the Department of
25 Juvenile Justice.

26 (13) "Comprehensive assessment" or "assessment" means
27 the gathering of information for the evaluation of a juvenile
28 offender's or a child's physical, psychological, educational,
29 vocational, and social condition and family environment as
30 they relate to the child's need for rehabilitative and
31 treatment services, including substance abuse treatment

1 services, mental health services, developmental services,
2 literacy services, medical services, family services, and
3 other specialized services, as appropriate.

4 (14) "Court," unless otherwise expressly stated, means
5 the circuit court assigned to exercise jurisdiction under this
6 chapter.

7 (15)(a) "Delinquency program" means any intake,
8 community control and furlough, or similar program; regional
9 detention center or facility; or community-based program,
10 whether owned and operated by or contracted by the Department
11 of Juvenile Justice, or institution owned and operated by or
12 contracted by the Department of Juvenile Justice, which
13 provides intake, supervision, or custody and care of children
14 who are alleged to be or who have been found to be delinquent
15 pursuant to part II.

16 (b) "Delinquency program staff" means supervisory and
17 direct care staff of a delinquency program as well as support
18 staff who have direct contact with children in a delinquency
19 program.

20 (c) "Delinquency prevention programs" means programs
21 designed for the purpose of reducing the occurrence of
22 delinquency, including youth and street gang activity, and
23 juvenile arrests. The term excludes arbitration, diversionary
24 or mediation programs, and community service work or other
25 treatment available subsequent to a child committing a
26 delinquent act.

27 (16) "Department" means the Department of Juvenile
28 Justice.

29 (17) "Designated facility" or "designated treatment
30 facility" means any facility designated by the Department of
31 Juvenile Justice to provide treatment to juvenile offenders.

1 (18) "Detention care" means the temporary care of a
2 child in secure, nonsecure, or home detention, pending a court
3 adjudication or disposition or execution of a court order.

4 There are three types of detention care, as follows:

5 (a) "Secure detention" means temporary custody of the
6 child while the child is under the physical restriction of a
7 detention center or facility pending adjudication,
8 disposition, or placement.

9 (b) "Nonsecure detention" means temporary custody of
10 the child while the child is in a residential home in the
11 community in a physically nonrestrictive environment under the
12 supervision of the Department of Juvenile Justice pending
13 adjudication, disposition, or placement.

14 (c) "Home detention" means temporary custody of the
15 child while the child is released to the custody of the
16 parent, guardian, or custodian in a physically nonrestrictive
17 environment under the supervision of the Department of
18 Juvenile Justice staff pending adjudication, disposition, or
19 placement.

20 (19) "Detention center or facility" means a facility
21 used pending court adjudication or disposition or execution of
22 court order for the temporary care of a child alleged or found
23 to have committed a violation of law. A detention center or
24 facility may provide secure or nonsecure custody. A facility
25 used for the commitment of adjudicated delinquents shall not
26 be considered a detention center or facility.

27 (20) "Detention hearing" means a hearing for the court
28 to determine if a child should be placed in temporary custody,
29 as provided for under ss. 985.213 and 985.215 in delinquency
30 cases.

31

1 (21) "Disposition hearing" means a hearing in which
2 the court determines the most appropriate dispositional
3 services in the least restrictive available setting provided
4 for under s. 985.231, in delinquency cases.

5 (22) "District" means a service district of the
6 Department of Juvenile Justice.

7 (23) "District juvenile justice manager" means the
8 person appointed by the Secretary of Juvenile Justice,
9 responsible for planning, managing, and evaluating all
10 juvenile justice continuum programs and services delivered or
11 funded by the Department of Juvenile Justice within the
12 district.

13 (24) "Family" means a collective body of persons,
14 consisting of a child and a parent, guardian, adult custodian,
15 or adult relative, in which:

16 (a) The persons reside in the same house or living
17 unit; or

18 (b) The parent, guardian, adult custodian, or adult
19 relative has a legal responsibility by blood, marriage, or
20 court order to support or care for the child.

21 (25) "Family in need of services" means a family that
22 has a child for whom there is no pending investigation into an
23 allegation of abuse, neglect, or abandonment or no current
24 supervision by the Department of Juvenile Justice or the
25 Department of Children and Family Services for an adjudication
26 of dependency or delinquency. The child must also have been
27 referred to a law enforcement agency or the Department of
28 Juvenile Justice for:

29 (a) Running away from parents or legal custodians;
30
31

1 (b) Persistently disobeying reasonable and lawful
2 demands of parents or legal custodians, and being beyond their
3 control; or

4 (c) Habitual truancy from school.

5 (26) "Foster care" means care provided a child in a
6 foster family or boarding home, group home, agency boarding
7 home, child care institution, or any combination thereof.

8 (27) "Habitually truant" means that:

9 (a) The child has 15 unexcused absences within 90 days
10 with or without the knowledge or justifiable consent of the
11 child's parent or legal guardian and is not exempt from
12 attendance by virtue of being over the age of compulsory
13 school attendance or by meeting the criteria in s. 232.06, s.
14 232.09, or any other exemptions specified by law or the rules
15 of the State Board of Education;

16 (b) In addition to the actions described in s. 232.17,
17 the school administration has completed the following
18 escalating activities to determine the cause, and to attempt
19 the remediation, of the child's truant behavior:

20 1. After a minimum of 3 and prior to 15 unexcused
21 absences within 90 days, one or more meetings have been held,
22 either in person or by phone, between a school attendance
23 assistant or school social worker, the child's parent or
24 guardian, and the child, if necessary, to report and to
25 attempt to solve the truancy problem. However, if the school
26 attendance assistant or school social worker has documented
27 the refusal of the parent or guardian to participate in the
28 meetings, then this requirement has been met;

29 2. Educational counseling has been provided to
30 determine whether curriculum changes would help solve the
31 truancy problem, and, if any changes were indicated, such

1 changes were instituted but proved unsuccessful in remedying
 2 the truant behavior. Such curriculum changes may include
 3 enrollment of the child in an alternative education program
 4 that meets the specific educational and behavioral needs of
 5 the child, including a second chance school, as provided for
 6 in s. 230.2316, designed to resolve truant behavior;

7 3. Educational evaluation, pursuant to the
 8 requirements of s. 232.19(3)(b)3., has been provided; and

9 4. The school social worker, the attendance assistant,
 10 or the school superintendent's designee if there is no school
 11 social worker or attendance assistant has referred the student
 12 and family to the children-in-need-of-services and
 13 families-in-need-of-services provider or the case staffing
 14 committee, established pursuant to s. 984.12, as determined by
 15 the cooperative agreement required in s. 232.19(3). The case
 16 staffing committee may request the department or its designee
 17 to file a child-in-need-of-services petition based upon the
 18 report and efforts of the school district or other community
 19 agency or may seek to resolve the truancy behavior through the
 20 school or community-based organizations or agencies.

21
 22 If a child within the compulsory school attendance age is
 23 responsive to the interventions described in this paragraph
 24 and has completed the necessary requirements to pass the
 25 current grade as indicated in the district pupil progression
 26 plan, the child shall not be determined to be habitually
 27 truant. If a child within the compulsory school attendance age
 28 has 15 unexcused absences or fails to enroll in school, the
 29 state attorney may file a child-in-need-of-services petition.
 30 Prior to filing a petition, the child must be referred to the
 31 appropriate agency for evaluation. After consulting with the

1 evaluating agency, the state attorney may elect to file a
2 child-in-need-of-services petition.

3 (c) A school social worker or other person designated
4 by the school administration, if the school does not have a
5 school social worker, and an intake counselor or case manager
6 of the Department of Juvenile Justice have jointly
7 investigated the truancy problem or, if that was not feasible,
8 have performed separate investigations to identify conditions
9 which may be contributing to the truant behavior; and if,
10 after a joint staffing of the case to determine the necessity
11 for services, such services were determined to be needed, the
12 persons who performed the investigations met jointly with the
13 family and child to discuss any referral to appropriate
14 community agencies for economic services, family or individual
15 counseling, or other services required to remedy the
16 conditions that are contributing to the truant behavior; and

17 (d) The failure or refusal of the parent or legal
18 guardian or the child to participate, or make a good faith
19 effort to participate, in the activities prescribed to remedy
20 the truant behavior, or the failure or refusal of the child to
21 return to school after participation in activities required by
22 this subsection, or the failure of the child to stop the
23 truant behavior after the school administration and the
24 Department of Juvenile Justice have worked with the child as
25 described in s. 232.19(3) shall be handled as prescribed in s.
26 232.19.

27 (28) "Halfway house" means a community-based
28 residential program for 10 or more committed delinquents at
29 the moderate-risk restrictiveness level that is operated or
30 contracted by the Department of Juvenile Justice.

31

1 (29) "Intake" means the initial acceptance and
2 screening by the Department of Juvenile Justice of a complaint
3 or a law enforcement report or probable cause affidavit of
4 delinquency, family in need of services, or child in need of
5 services to determine the recommendation to be taken in the
6 best interests of the child, the family, and the community.
7 The emphasis of intake is on diversion and the least
8 restrictive available services. Consequently, intake includes
9 such alternatives as:

10 (a) The disposition of the complaint, report, or
11 probable cause affidavit without court or public agency action
12 or judicial handling when appropriate.

13 (b) The referral of the child to another public or
14 private agency when appropriate.

15 (c) The recommendation by the intake counselor or case
16 manager of judicial handling when appropriate and warranted.

17 (30) "Intake counselor" or "case manager" means the
18 authorized agent of the Department of Juvenile Justice
19 performing the intake or case management function for a child
20 alleged to be delinquent.

21 (31) "Judge" means the circuit judge exercising
22 jurisdiction pursuant to this chapter.

23 (32) "Juvenile justice continuum" includes, but is not
24 limited to, delinquency prevention programs and services
25 designed for the purpose of preventing or reducing delinquent
26 acts, including criminal activity by youth gangs, and juvenile
27 arrests, as well as programs and services targeted at children
28 who have committed delinquent acts, and children who have
29 previously been committed to residential treatment programs
30 for delinquents. The term includes
31 children-in-need-of-services and families-in-need-of-services

1 programs; aftercare and reentry services; substance abuse and
2 mental health programs; educational and vocational programs;
3 recreational programs; community services programs; community
4 service work programs; and alternative dispute resolution
5 programs serving children at risk of delinquency and their
6 families, whether offered or delivered by state or local
7 governmental entities, public or private for-profit or
8 not-for-profit organizations, or religious or charitable
9 organizations.

10 (33) "Juvenile sexual offender" means:

11 (a) A juvenile who has been found by the court
12 pursuant to s. 985.228 to have committed a violation of
13 chapter 794, chapter 796, chapter 800, s. 827.071, or s.
14 847.0133;

15 (b) A juvenile found to have committed any violation
16 of law or delinquent act involving juvenile sexual abuse.

17 "Juvenile sexual abuse" means any sexual behavior which occurs
18 without consent, without equality, or as a result of coercion.
19 For purposes of this subsection, the following definitions
20 apply:

21 1. "Coercion" means the exploitation of authority, use
22 of bribes, threats of force, or intimidation to gain
23 cooperation or compliance.

24 2. "Equality" means two participants operating with
25 the same level of power in a relationship, neither being
26 controlled nor coerced by the other.

27 3. "Consent" means an agreement including all of the
28 following:

29 a. Understanding what is proposed based on age,
30 maturity, developmental level, functioning, and experience.

31

1 b. Knowledge of societal standards for what is being
2 proposed.

3 c. Awareness of potential consequences and
4 alternatives.

5 d. Assumption that agreement or disagreement will be
6 accepted equally.

7 e. Voluntary decision.

8 f. Mental competence.

9
10 Juvenile sexual offender behavior ranges from noncontact
11 sexual behavior such as making obscene phone calls,
12 exhibitionism, voyeurism, and the showing or taking of lewd
13 photographs to varying degrees of direct sexual contact, such
14 as frottage, fondling, digital penetration, rape, fellatio,
15 sodomy, and various other sexually aggressive acts.

16 (34) "Legal custody" means a legal status created by
17 court order or letter of guardianship which vests in a
18 custodian of the person or guardian, whether an agency or an
19 individual, the right to have physical custody of the child
20 and the right and duty to protect, train, and discipline the
21 child and to provide him or her with food, shelter, education,
22 and ordinary medical, dental, psychiatric, and psychological
23 care.

24 (35) "Licensed child-caring agency" means a person,
25 society, association, or agency licensed by the Department of
26 Children and Family Services to care for, receive, and board
27 children.

28 (36) "Licensed health care professional" means a
29 physician licensed under chapter 458, an osteopathic physician
30 licensed under chapter 459, a nurse licensed under chapter
31

1 464, a physician assistant certified under chapter 458, or a
2 dentist licensed under chapter 466.

3 (37) "Likely to injure oneself" means that, as
4 evidenced by violent or other actively self-destructive
5 behavior, it is more likely than not that within a 24-hour
6 period the child will attempt to commit suicide or inflict
7 serious bodily harm on himself or herself.

8 (38) "Likely to injure others" means that it is more
9 likely than not that within a 24-hour period the child will
10 inflict serious and unjustified bodily harm on another person.

11 (39) "Mediation" means a process whereby a neutral
12 third person called a mediator acts to encourage and
13 facilitate the resolution of a dispute between two or more
14 parties. It is an informal and nonadversarial process with
15 the objective of helping the disputing parties reach a
16 mutually acceptable and voluntary agreement. In mediation,
17 decisionmaking authority rests with the parties. The role of
18 the mediator includes, but is not limited to, assisting the
19 parties in identifying issues, fostering joint problem
20 solving, and exploring settlement alternatives.

21 (40) "Necessary medical treatment" means care which is
22 necessary within a reasonable degree of medical certainty to
23 prevent the deterioration of a child's condition or to
24 alleviate immediate pain of a child.

25 (41) "Parent" means a woman who gives birth to a child
26 and a man whose consent to the adoption of the child would be
27 required under s. 63.062(1)(b). If a child has been legally
28 adopted, the term "parent" means the adoptive mother or father
29 of the child. The term does not include an individual whose
30 parental relationship to the child has been legally
31 terminated, or an alleged or prospective parent, unless the

1 parental status falls within the terms of either s. 39.4051(7)
2 or s. 63.062(1)(b).

3 (42) "Preliminary screening" means the gathering of
4 preliminary information to be used in determining a child's
5 need for further evaluation or assessment or for referral for
6 other substance abuse services through means such as
7 psychosocial interviews; urine and breathalyzer screenings;
8 and reviews of available educational, delinquency, and
9 dependency records of the child.

10 (43) "Preventive services" means social services and
11 other supportive and rehabilitative services provided to the
12 parent of the child, the legal guardian of the child, or the
13 custodian of the child and to the child for the purpose of
14 averting the removal of the child from the home or disruption
15 of a family which will or could result in the placement of a
16 child in foster care. Social services and other supportive
17 and rehabilitative services shall promote the child's need for
18 a safe, continuous, stable living environment and shall
19 promote family autonomy and shall strengthen family life as
20 the first priority whenever possible.

21 (44) "Relative" means a grandparent,
22 great-grandparent, sibling, first cousin, aunt, uncle,
23 great-aunt, great-uncle, niece, or nephew, whether related by
24 the whole or half blood, by affinity, or by adoption. The term
25 does not include a stepparent.

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

30 (a) Minimum-risk nonresidential.--Youth assessed and
31 classified for placement in programs at this restrictiveness

1 level represent a minimum risk to themselves and public safety
 2 and do not require placement and services in residential
 3 settings. Programs or program models in this restrictiveness
 4 level include: community counselor supervision programs,
 5 special intensive group programs, nonresidential marine
 6 programs, nonresidential training and rehabilitation centers,
 7 and other local community nonresidential programs.

8 (b) Low-risk residential.--Youth assessed and
 9 classified for placement in programs at this level represent a
 10 low risk to themselves and public safety and do require
 11 placement and services in residential settings. Programs or
 12 program models in this restrictiveness level include: Short
 13 Term Offender Programs (STOP), group treatment homes, family
 14 group homes, proctor homes, and Short Term Environmental
 15 Programs (STEP). Section 944.401 applies to children placed in
 16 programs in this restrictiveness level.

17 (c) Moderate-risk residential.--Youth assessed and
 18 classified for placement in programs in this restrictiveness
 19 level represent a moderate risk to public safety. Programs
 20 are designed for children who require close supervision but do
 21 not need placement in facilities that are physically secure.
 22 Programs in the moderate-risk residential restrictiveness
 23 level provide 24-hour awake supervision, custody, care, and
 24 treatment. Upon specific appropriation, a facility at this
 25 restrictiveness level may have a security fence around the
 26 perimeter of the grounds of the facility and may be
 27 hardware-secure or staff-secure. The staff at a facility at
 28 this restrictiveness level may seclude a child who is a
 29 physical threat to himself or others. Mechanical restraint
 30 may also be used when necessary. Programs or program models in
 31 this restrictiveness level include: halfway houses, START

1 Centers, the Dade Intensive Control Program, licensed
 2 substance abuse residential programs, and moderate-term
 3 wilderness programs designed for committed delinquent youth
 4 that are operated or contracted by the Department of Juvenile
 5 Justice. Section 944.401 applies to children in moderate-risk
 6 residential programs.

7 (d) High-risk residential.--Youth assessed and
 8 classified for this level of placement require close
 9 supervision in a structured residential setting that provides
 10 24-hour-per-day secure custody, care, and supervision.
 11 Placement in programs in this level is prompted by a concern
 12 for public safety that outweighs placement in programs at
 13 lower restrictiveness levels. Programs or program models in
 14 this level are staff-secure or physically secure residential
 15 commitment facilities and include: training schools, intensive
 16 halfway houses, residential sex offender programs, long-term
 17 wilderness programs designed exclusively for committed
 18 delinquent youth, boot camps, secure halfway house programs,
 19 and the Broward Control Treatment Center. Section 944.401
 20 applies to children placed in programs in this restrictiveness
 21 level.

22 (e) Maximum-risk residential.--Youth assessed and
 23 classified for this level of placement require close
 24 supervision in a maximum security residential setting that
 25 provides 24-hour-per-day secure custody, care, and
 26 supervision. Placement in a program in this level is prompted
 27 by a demonstrated need to protect the public. Programs or
 28 program models in this level are maximum-secure-custody,
 29 long-term residential commitment facilities that are intended
 30 to provide a moderate overlay of educational, vocational, and
 31 behavioral-modification services and include programs for

1 serious and habitual juvenile offenders and other
2 maximum-security program models authorized by the Legislature
3 and established by rule.

4 (46) "Secure detention center or facility" means a
5 physically restricting facility for the temporary care of
6 children, pending adjudication, disposition, or placement.

7 (47) "Serious or habitual juvenile offender," for
8 purposes of commitment to a residential facility and for
9 purposes of records retention, means a child who has been
10 found to have committed a delinquent act or a violation of
11 law, in the case currently before the court, and who meets at
12 least one of the following criteria:

13 (a) The youth is at least 13 years of age at the time
14 of the disposition for the current offense and has been
15 adjudicated on the current offense for:

- 16 1. Arson;
- 17 2. Sexual battery;
- 18 3. Robbery;
- 19 4. Kidnapping;
- 20 5. Aggravated child abuse;
- 21 6. Aggravated assault;
- 22 7. Aggravated stalking;
- 23 8. Murder;
- 24 9. Manslaughter;
- 25 10. Unlawful throwing, placing, or discharging of a
26 destructive device or bomb;
- 27 11. Armed burglary;
- 28 12. Aggravated battery;
- 29 13. Lewd or lascivious assault or act in the presence
30 of a child; or

1 14. Carrying, displaying, using, threatening, or
2 attempting to use a weapon or firearm during the commission of
3 a felony.

4 (b) The youth is at least 13 years of age at the time
5 of the disposition, the current offense is a felony, and the
6 child has previously been committed at least two times to a
7 delinquency commitment program.

8 (c) The youth is at least 13 years of age and is
9 currently committed for a felony offense and transferred from
10 a moderate-risk or high-risk residential commitment placement.

11 (48) "Serious or habitual juvenile offender program"
12 means the program established in s. 985.31.

13 (49) "Shelter" means a place for the temporary care of
14 a child who is alleged to be or who has been found to be
15 delinquent.

16 (50) "Shelter hearing" means a hearing provided for
17 under s. 984.14 in family-in-need-of-services cases or
18 child-in-need-of-services cases.

19 (51) "Staff-secure shelter" means a facility in which
20 a child is supervised 24 hours a day by staff members who are
21 awake while on duty. The facility is for the temporary care
22 and assessment of a child who has been found to be dependent,
23 who has violated a court order and been found in contempt of
24 court, or whom the Department of Children and Family Services
25 is unable to properly assess or place for assistance within
26 the continuum of services provided for dependent children.

27 (52) "Substance abuse" means using, without medical
28 reason, any psychoactive or mood-altering drug, including
29 alcohol, in such a manner as to induce impairment resulting in
30 dysfunctional social behavior.

31

1 (53) "Taken into custody" means the status of a child
2 immediately when temporary physical control over the child is
3 attained by a person authorized by law, pending the child's
4 release, detention, placement, or other disposition as
5 authorized by law.

6 (54) "Temporary legal custody" means the relationship
7 that a juvenile court creates between a child and an adult
8 relative of the child, adult nonrelative approved by the
9 court, or other person until a more permanent arrangement is
10 ordered. Temporary legal custody confers upon the custodian
11 the right to have temporary physical custody of the child and
12 the right and duty to protect, train, and discipline the child
13 and to provide the child with food, shelter, and education,
14 and ordinary medical, dental, psychiatric, and psychological
15 care, unless these rights and duties are otherwise enlarged or
16 limited by the court order establishing the temporary legal
17 custody relationship.

18 (55) "Temporary release" means the terms and
19 conditions under which a child is temporarily released from a
20 commitment facility or allowed home visits. If the temporary
21 release is from a moderate-risk residential facility, a
22 high-risk residential facility, or a maximum-risk residential
23 facility, the terms and conditions of the temporary release
24 must be approved by the child, the court, and the facility.
25 The term includes periods during which the child is supervised
26 pursuant to a reentry program or an aftercare program or a
27 period during which the child is supervised by a case manager
28 or other nonresidential staff of the department or staff
29 employed by an entity under contract with the department. A
30 child placed in a postcommitment community control program by
31 order of the court is not considered to be on temporary

1 release and is not subject to the terms and conditions of
2 temporary release.

3 (56) "Training school" means one of the following
4 facilities: the Arthur G. Dozier School or the Eckerd Youth
5 Development Center.

6 (57) "Violation of law" or "delinquent act" means a
7 violation of any law of this state, the United States, or any
8 other state which is a misdemeanor or a felony or a violation
9 of a county or municipal ordinance which would be punishable
10 by incarceration if the violation were committed by an adult.

11 (58) "Waiver hearing" means a hearing provided for
12 under s. 985.226(3).

13 Section 4. Section 39.045, Florida Statutes, 1996
14 Supplement, is transferred, renumbered as section 985.04,
15 Florida Statutes, and amended to read:

16 985.04 ~~39.045~~ Oaths; records; confidential
17 information.--

18 (1) Authorized agents of the Department of Juvenile
19 Justice may administer oaths and affirmations.

20 ~~(2) The clerk of the court shall make and keep records~~
21 ~~of all cases brought before it pursuant to this part. The~~
22 ~~court shall preserve the records pertaining to a child charged~~
23 ~~with committing a delinquent act or violation of law until the~~
24 ~~child reaches 24 years of age or reaches 26 years of age if he~~
25 ~~or she is a serious or habitual delinquent child, until 5~~
26 ~~years after the last entry was made, or until 3 years after~~
27 ~~the death of the child, whichever is earlier, and may then~~
28 ~~destroy them, except that records made of traffic offenses in~~
29 ~~which there is no allegation of delinquency may be destroyed~~
30 ~~as soon as this can be reasonably accomplished. The court~~
31 ~~shall make official records of all petitions and orders filed~~

1 ~~in a case arising pursuant to this part and of any other~~
 2 ~~pleadings, certificates, proofs of publication, summonses,~~
 3 ~~warrants, and writs that are filed pursuant to the case.~~

4 (2)~~(3)~~ Records maintained by the Department of
 5 Juvenile Justice, including copies of records maintained by
 6 the court, which pertain to a child found to have committed a
 7 delinquent act which, if committed by an adult, would be a
 8 crime specified in ss. 110.1127, 393.0655, 394.457, 397.451,
 9 402.305(2), 409.175, and 409.176 may not be destroyed pursuant
 10 to this section, except in cases of the death of the child.
 11 Such records, however, shall be sealed by the court for use
 12 only in meeting the screening requirements for personnel in s.
 13 402.3055 and the other sections cited above, or pursuant to
 14 departmental rule; however, current criminal history
 15 information must be obtained from the Department of Law
 16 Enforcement in accordance with s. 943.053. The information
 17 shall be released to those persons specified in the above
 18 cited sections for the purposes of complying with those
 19 sections. The court may punish by contempt any person who
 20 releases or uses the records for any unauthorized purpose.

21 ~~(4) The clerk shall keep all official records required~~
 22 ~~by this section separate from other records of the circuit~~
 23 ~~court, except those records pertaining to motor vehicle~~
 24 ~~violations, which shall be forwarded to the Department of~~
 25 ~~Highway Safety and Motor Vehicles. Except as provided in~~
 26 ~~subsection (9) and s. 943.053, official records required by~~
 27 ~~this part are not open to inspection by the public, but may be~~
 28 ~~inspected only upon order of the court by persons deemed by~~
 29 ~~the court to have a proper interest therein, except that a~~
 30 ~~child and the parents, guardians, or legal custodians of the~~
 31 ~~child and their attorneys, law enforcement agencies, the~~

1 ~~Department of Juvenile Justice and its designees, the Parole~~
 2 ~~Commission, and the Department of Corrections shall always~~
 3 ~~have the right to inspect and copy any official record~~
 4 ~~pertaining to the child. The court may permit authorized~~
 5 ~~representatives of recognized organizations compiling~~
 6 ~~statistics for proper purposes to inspect, and make abstracts~~
 7 ~~from, official records under whatever conditions upon the use~~
 8 ~~and disposition of such records the court may deem proper and~~
 9 ~~may punish by contempt proceedings any violation of those~~
 10 ~~conditions.~~

11 (3)(5) Except as provided in subsections (2), (4),
 12 (5), and (6)(3), (8), (9), and (10), and s. 943.053, all
 13 information obtained under this part in the discharge of
 14 official duty by any judge, any employee of the court, any
 15 authorized agent of the Department of Juvenile Justice, the
 16 Parole Commission, the Juvenile Justice Advisory Board, the
 17 Department of Corrections, the district juvenile justice
 18 boards, any law enforcement agent, or any licensed
 19 professional or licensed community agency representative
 20 participating in the assessment or treatment of a juvenile is
 21 confidential and may be disclosed only to the authorized
 22 personnel of the court, the Department of Juvenile Justice and
 23 its designees, the Department of Corrections, the Parole
 24 Commission, the Juvenile Justice Advisory Board, law
 25 enforcement agents, school superintendents and their
 26 designees, any licensed professional or licensed community
 27 agency representative participating in the assessment or
 28 treatment of a juvenile, and others entitled under this
 29 chapter part to receive that information, or upon order of the
 30 court. Within each county, the sheriff, the chiefs of police,
 31 the district school superintendent, and the department shall

1 enter into an interagency agreement for the purpose of sharing
2 information about juvenile offenders among all parties. The
3 agreement must specify the conditions under which summary
4 criminal history information is to be made available to
5 appropriate school personnel, and the conditions under which
6 school records are to be made available to appropriate
7 department personnel. The agencies entering into such
8 agreement must comply with s. 943.0525, and must maintain the
9 confidentiality of information that is otherwise exempt from
10 s. 119.07(1), as provided by law.

11 ~~(6) All orders of the court entered pursuant to this~~
12 ~~part must be in writing and signed by the judge, except that~~
13 ~~the clerk or deputy clerk may sign a summons or notice to~~
14 ~~appear.~~

15 ~~(7) A court record of proceedings under this part is~~
16 ~~not admissible in evidence in any other civil or criminal~~
17 ~~proceeding, except that:~~

18 ~~(a) Orders transferring a child for trial as an adult~~
19 ~~are admissible in evidence in the court in which he or she is~~
20 ~~tried, but create no presumption as to the guilt of the child;~~
21 ~~nor may such orders be read to, or commented upon in the~~
22 ~~presence of, the jury in any trial.~~

23 ~~(b) Orders binding an adult over for trial on a~~
24 ~~criminal charge, made by the judge as a committing magistrate,~~
25 ~~are admissible in evidence in the court to which the adult is~~
26 ~~bound over.~~

27 ~~(c) Records of proceedings under this part forming a~~
28 ~~part of the record on appeal must be used in the appellate~~
29 ~~court in the manner provided in s. 39.069(4).~~

30 ~~(d) Records are admissible in evidence in any case in~~
31 ~~which a person is being tried upon a charge of having~~

1 ~~committed perjury, to the extent such records are necessary to~~
2 ~~prove the charge.~~

3 ~~(e) Records of proceedings under this part may be used~~
4 ~~to prove disqualification pursuant to ss. 39.076, 110.1127,~~
5 ~~393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, and~~
6 ~~409.176, and for proof in a chapter 120 proceeding pursuant to~~
7 ~~s. 415.1075.~~

8 (4)(8)(a) Records in the custody of the Department of
9 Juvenile Justice regarding children are not open to inspection
10 by the public. Such records may be inspected only upon order
11 of the Secretary of Juvenile Justice or his or her authorized
12 agent by persons who have sufficient reason and upon such
13 conditions for their use and disposition as the secretary or
14 his or her authorized agent deems proper. The information in
15 such records may be disclosed only to other employees of the
16 Department of Juvenile Justice who have a need therefor in
17 order to perform their official duty; to other persons as
18 authorized by rule of the Department of Juvenile Justice; and,
19 upon request, to the Juvenile Justice Advisory Board and the
20 Department of Corrections. The secretary or his or her
21 authorized agent may permit properly qualified persons to
22 inspect and make abstracts from records for statistical
23 purposes under whatever conditions upon their use and
24 disposition the secretary or his or her authorized agent deems
25 proper, provided adequate assurances are given that children's
26 names and other identifying information will not be disclosed
27 by the applicant.

28 (b) The destruction of records pertaining to children
29 committed to or supervised by the Department of Juvenile
30 Justice pursuant to a court order, which records are retained
31 until a child reaches the age of 24 years or until a serious

1 or habitual delinquent child reaches the age of 26 years,
2 shall be subject to chapter 943.

3 ~~(5)(9)~~ Notwithstanding any other provisions of this
4 part, the name, photograph, address, and crime or arrest
5 report of a child:

6 (a) Taken into custody if the child has been taken
7 into custody by a law enforcement officer for a violation of
8 law which, if committed by an adult, would be a felony; or

9 (b) Found by a court to have committed three or more
10 violations of law which, if committed by an adult, would be
11 misdemeanors

12

13 shall not be considered confidential and exempt from the
14 provisions of s. 119.07(1) solely because of the child's age.

15 ~~(6)(10)~~ This part does not prohibit the release of the
16 juvenile offense report by a law enforcement agency to the
17 victim of the offense. However, information gained by the
18 victim pursuant to this chapter, including the next of kin of
19 a homicide victim, regarding any case handled in juvenile
20 court, must not be revealed to any outside party, except as is
21 reasonably necessary in pursuit of legal remedies.

22 ~~(7)(11)~~(a) Notwithstanding any other provision of this
23 section, when a child of any age is taken into custody by a
24 law enforcement officer for an offense that would have been a
25 felony if committed by an adult, or a crime of violence, the
26 law enforcement agency must notify the superintendent of
27 schools that the child is alleged to have committed the
28 delinquent act.

29 (b) Notwithstanding paragraph (a) or any other
30 provision of this section, when a child of any age is formally
31 charged by a state attorney with a felony or a delinquent act

1 that would be a felony if committed by an adult, the state
2 attorney shall notify the superintendent of the child's school
3 that the child has been charged with such felony or delinquent
4 act. The information obtained by the superintendent of schools
5 pursuant to this section must be released within 48 hours
6 after receipt to appropriate school personnel, including the
7 principal of the school of the child. The principal must
8 immediately notify the child's immediate classroom teachers.
9 Upon notification, the principal is authorized to begin
10 disciplinary actions pursuant to s. 232.26.

11 ~~(8)(12)~~ Criminal history information made available to
12 governmental agencies by the Department of Law Enforcement or
13 other criminal justice agencies shall not be used for any
14 purpose other than that specified in the provision authorizing
15 the releases.

16 Section 5. Section 985.05, Florida Statutes, is
17 created to read:

18 985.05 Court records.--

19 (1) The clerk of the court shall make and keep records
20 of all cases brought before it pursuant to this part. The
21 court shall preserve the records pertaining to a child charged
22 with committing a delinquent act or violation of law until the
23 child reaches 24 years of age or reaches 26 years of age if he
24 or she is a serious or habitual delinquent child, until 5
25 years after the last entry was made, or until 3 years after
26 the death of the child, whichever is earlier, and may then
27 destroy them, except that records made of traffic offenses in
28 which there is no allegation of delinquency may be destroyed
29 as soon as this can be reasonably accomplished. The court
30 shall make official records of all petitions and orders filed
31 in a case arising pursuant to this part and of any other

1 pleadings, certificates, proofs of publication, summonses,
2 warrants, and writs that are filed pursuant to the case.

3 (2) The clerk shall keep all official records required
4 by this section separate from other records of the circuit
5 court, except those records pertaining to motor vehicle
6 violations, which shall be forwarded to the Department of
7 Highway Safety and Motor Vehicles. Except as provided in ss.
8 943.053 and 985.04(4), official records required by this part
9 are not open to inspection by the public, but may be inspected
10 only upon order of the court by persons deemed by the court to
11 have a proper interest therein, except that a child and the
12 parents, guardians, or legal custodians of the child and their
13 attorneys, law enforcement agencies, the Department of
14 Juvenile Justice and its designees, the Parole Commission, and
15 the Department of Corrections shall always have the right to
16 inspect and copy any official record pertaining to the child.
17 The court may permit authorized representatives of recognized
18 organizations compiling statistics for proper purposes to
19 inspect, and make abstracts from, official records under
20 whatever conditions upon the use and disposition of such
21 records the court may deem proper and may punish by contempt
22 proceedings any violation of those conditions.

23 (3) All orders of the court entered pursuant to this
24 part must be in writing and signed by the judge, except that
25 the clerk or deputy clerk may sign a summons or notice to
26 appear.

27 (4) A court record of proceedings under this part is
28 not admissible in evidence in any other civil or criminal
29 proceeding, except that:

30 (a) Orders transferring a child for trial as an adult
31 are admissible in evidence in the court in which he or she is

1 tried, but create no presumption as to the guilt of the child;
2 nor may such orders be read to, or commented upon in the
3 presence of, the jury in any trial.

4 (b) Orders binding an adult over for trial on a
5 criminal charge, made by the judge as a committing magistrate,
6 are admissible in evidence in the court to which the adult is
7 bound over.

8 (c) Records of proceedings under this part forming a
9 part of the record on appeal must be used in the appellate
10 court in the manner provided in s. 985.234.

11 (d) Records are admissible in evidence in any case in
12 which a person is being tried upon a charge of having
13 committed perjury, to the extent such records are necessary to
14 prove the charge.

15 (e) Records of proceedings under this part may be used
16 to prove disqualification pursuant to ss. 110.1127, 393.0655,
17 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and
18 985.407, and for proof in a chapter 120 proceeding pursuant to
19 s. 415.1075.

20 Section 6. Section 39.0573, Florida Statutes, is
21 transferred, renumbered as section 985.06, Florida Statutes,
22 and amended to read:

23 985.06 ~~39.0573~~ Statewide information sharing system;
24 interagency workgroup.--

25 (1) The Department of Education, the Department of
26 Juvenile Justice, and the Department of Law Enforcement shall
27 create an information-sharing workgroup for the purpose of
28 developing and implementing a workable statewide system of
29 sharing information among school districts, state and local
30 law enforcement agencies, providers, the Department of
31 Juvenile Justice, and the Department of Education. The system

1 shall build on processes previously authorized in statute and
2 on any revisions to federal statutes on confidentiality. The
3 information to be shared shall focus on youth who are involved
4 in the juvenile justice system, youth who have been tried as
5 adults and found guilty of felonies, and students who have
6 been serious discipline problems in schools. The participating
7 agencies shall implement improvements that maximize the
8 sharing of information within applicable state and federal
9 statutes and rules and that utilize statewide databases and
10 data delivery systems to streamline access to the information
11 needed to provide joint services to disruptive, violent, and
12 delinquent youth.

13 (2) The interagency workgroup shall be coordinated
14 through the Department of Education and shall include
15 representatives from the state agencies specified in
16 subsection (1), school superintendents, school district
17 information system directors, principals, teachers, juvenile
18 court judges, police chiefs, county sheriffs, clerks of the
19 circuit court, the Department of Children and Family Health
20 ~~and Rehabilitative~~ Services, providers of juvenile services
21 including a provider from a juvenile substance abuse program,
22 and district juvenile justice managers.

23 (3) The interagency workgroup shall, at a minimum,
24 address the following:

25 (a) The use of the Florida Information Resource
26 Network and other statewide information access systems as
27 means of delivering information to school personnel or
28 providing an initial screening for purposes of determining
29 whether further access to information is warranted.

30 (b) A statewide information delivery system that will
31 provide local access by participating agencies and schools.

1 (c) The need for cooperative agreements among agencies
2 which may access information.

3 (d) Legal considerations and the need for legislative
4 action necessary for accessing information by participating
5 agencies.

6 (e) Guidelines for how the information shall be
7 accessed, used, and disseminated.

8 (f) The organizational level at which information may
9 be accessed and shared.

10 (g) The specific information to be maintained and
11 shared through the system.

12 (h) The cost implications of an improved system.

13 (4) The Department of Education, the Department of
14 Juvenile Justice, and the Department of Law Enforcement shall
15 implement improvements leading to the statewide information
16 access and delivery system, to the extent feasible, and shall
17 develop a cooperative agreement specifying their roles in such
18 a system.

19 (5) By December 31, 1995, the interagency workgroup
20 shall make an interim report to the President of the Senate,
21 the Speaker of the House of Representatives, the Governor, and
22 the Cabinet on its progress toward designing and implementing
23 improvements in the access and delivery of information.

24 (6) Members of the interagency workgroup shall serve
25 without added compensation and each participating agency shall
26 support the travel, per diem, and other expenses of its
27 representatives.

28 Section 7. Section 39.0574, Florida Statutes, is
29 transferred and renumbered as section 985.07, Florida
30 Statutes.

31

1 Section 8. Section 39.0585, Florida Statutes, 1996
2 Supplement, is transferred, renumbered as section 985.08,
3 Florida Statutes, and amended to read:

4 985.08 ~~39.0585~~ Information systems.--

5 (1)(a) For the purpose of assisting in law enforcement
6 administration and decisionmaking, such as juvenile diversion
7 from continued involvement with the law enforcement and
8 judicial systems, the sheriff of the county in which juveniles
9 are taken into custody is encouraged to maintain a central
10 identification file on serious habitual juvenile offenders and
11 on juveniles who are at risk of becoming serious habitual
12 juvenile offenders by virtue of having an arrest record.

13 (b) The central identification file shall contain, but
14 not be limited to, pertinent dependency record information
15 maintained by the Department of Children and Family Health and
16 ~~Rehabilitative~~ Services and delinquency record information
17 maintained by the Department of Juvenile Justice; pertinent
18 school records, including information on behavior, attendance,
19 and achievement; pertinent information on delinquency and
20 dependency maintained by law enforcement agencies and the
21 state attorney; and pertinent information on delinquency and
22 dependency maintained by those agencies charged with
23 screening, assessment, planning, and treatment
24 responsibilities. The information obtained shall be used to
25 develop a multiagency information sheet on serious habitual
26 juvenile offenders or juveniles who are at risk of becoming
27 serious habitual juvenile offenders. The agencies and persons
28 specified in this paragraph shall cooperate with the law
29 enforcement agency or county in providing needed information
30 and in developing the multiagency information sheet to the
31 greatest extent possible.

1 (c) As used in this section, "a juvenile who is at
2 risk of becoming a serious habitual juvenile offender" means a
3 juvenile who has been adjudicated delinquent and who meets one
4 or more of the following criteria:

5 1. Is arrested for a capital, life, or first degree
6 felony offense or sexual battery.

7 2. Has five or more arrests, at least three of which
8 are for felony offenses. Three of such arrests must have
9 occurred within the preceding 12-month period.

10 3. Has 10 or more arrests, at least 2 of which are for
11 felony offenses. Three of such arrests must have occurred
12 within the preceding 12-month period.

13 4. Has four or more arrests, at least one of which is
14 for a felony offense and occurred within the preceding
15 12-month period.

16 5. Has 10 or more arrests, at least 8 of which are for
17 any of the following offenses:

18 a. Petit theft;

19 b. Misdemeanor assault;

20 c. Possession of a controlled substance;

21 d. Weapon or firearm violation; or

22 e. Substance abuse.

23
24 Four of such arrests must have occurred within the preceding
25 12-month period.

26 6. Meets at least one of the criteria for youth and
27 street gang membership.

28 (2)(a) Notwithstanding any provision of law to the
29 contrary, confidentiality of records information does not
30 apply to juveniles who have been arrested for an offense that
31 would be a crime if committed by an adult, regarding the

1 sharing of the information on the juvenile with the law
 2 enforcement agency or county and any agency or person
 3 providing information for the development of the multiagency
 4 information sheet as well as the courts, the child, the
 5 parents or legal custodians of the child, their attorneys, or
 6 any other person authorized by the court to have access. A
 7 public or private educational agency shall provide pertinent
 8 records to and cooperate with the law enforcement agency or
 9 county in providing needed information and developing the
 10 multiagency information sheet to the greatest extent possible.
 11 Neither these records provided to the law enforcement agency
 12 or county nor the records developed from these records for
 13 serious habitual juvenile offenders nor the records provided
 14 or developed from records provided to the law enforcement
 15 agency or county on juveniles at risk of becoming serious
 16 habitual juvenile offenders shall be available for public
 17 disclosure and inspection under s. 119.07.

18 (b) The department shall notify the sheriffs of both
 19 the prior county of residence and the new county of residence
 20 immediately upon learning of the move or other relocation of a
 21 juvenile offender who has been adjudicated or had adjudication
 22 withheld for a violent misdemeanor or violent felony.

23 (3) In order to assist in the integration of the
 24 information to be shared, the sharing of information obtained,
 25 the joint planning on diversion and early intervention
 26 strategies for juveniles at risk of becoming serious habitual
 27 juvenile offenders, and the intervention strategies for
 28 serious habitual juvenile offenders, a multiagency task force
 29 should be organized and utilized by the law enforcement agency
 30 or county in conjunction with the initiation of the
 31 information system described in subsections (1) and (2). The

1 multiagency task force shall be composed of representatives of
2 those agencies and persons providing information for the
3 central identification file and the multiagency information
4 sheet.

5 (4) This multiagency task force shall develop a plan
6 for the information system that includes measures which
7 identify and address any disproportionate representation of
8 ethnic or racial minorities in the information systems and
9 shall develop strategies that address the protection of
10 individual constitutional rights.

11 (5) Any law enforcement agency, or county which
12 implements a juvenile offender information system and the
13 multiagency task force which maintain the information system
14 must annually provide any information gathered during the
15 previous year to the delinquency and gang prevention council
16 of the judicial circuit in which the county is located. This
17 information shall include the number, types, and patterns of
18 delinquency tracked by the juvenile offender information
19 system.

20 Section 9. Section 39.022, Florida Statutes, is
21 transferred, renumbered as section 985.201, Florida Statutes,
22 and amended to read:

23 985.201 ~~39.022~~ Jurisdiction.--

24 (1) The circuit court has exclusive original
25 jurisdiction of proceedings in which a child is alleged to
26 have committed a delinquent act or violation of law.

27 (2) During the prosecution of any violation of law
28 against any person who has been presumed to be an adult, if it
29 is shown that the person was a child at the time the offense
30 was committed and that the person does not meet the criteria
31 for prosecution and sentencing as an adult, the court shall

1 immediately transfer the case, together with the physical
 2 custody of the person and all physical evidence, papers,
 3 documents, and testimony, original and duplicate, connected
 4 therewith, to the appropriate court for proceedings under this
 5 chapter. The circuit court is exclusively authorized to assume
 6 jurisdiction over any juvenile offender who is arrested and
 7 charged with violating a federal law or a law of the District
 8 of Columbia, who is found or is living or domiciled in a
 9 county in which the circuit court is established, and who is
 10 surrendered to the circuit court as provided in 18 U.S.C. s.
 11 5001.

12 (3)(a) Petitions filed under this part shall be filed
 13 in the county where the delinquent act or violation of law
 14 occurred, but the circuit court for that county may transfer
 15 the case to the circuit court of the circuit in which the
 16 child resides or will reside at the time of detention or
 17 placement for dispositional purposes. A child who has been
 18 detained shall be transferred to the appropriate detention
 19 center or facility or other placement directed by the
 20 receiving court.

21 (b) The jurisdiction to be exercised by the court when
 22 a child is taken into custody before the filing of a petition
 23 under s. 985.219(7)~~39-049(7)~~ shall be exercised by the
 24 circuit court for the county in which the child is taken into
 25 custody, which court shall have personal jurisdiction of the
 26 child and the child's parent or legal guardian. Upon the
 27 filing of a petition in the appropriate circuit court, the
 28 court that is exercising initial jurisdiction of the person of
 29 the child shall, if the child has been detained, immediately
 30 order the child to be transferred to the detention center or
 31

1 facility or other placement as ordered by the court having
2 subject matter jurisdiction of the case.

3 (4)(a) Notwithstanding ss. 985.229, 985.23, 985.231,
4 ~~39.054(4)~~ and 743.07, and except as provided in ss. 985.31 and
5 985.313 ~~39.058 and 39.0581~~, when the jurisdiction of any child
6 who is alleged to have committed a delinquent act or violation
7 of law is obtained, the court shall retain jurisdiction,
8 unless relinquished by its order, until the child reaches 19
9 years of age, with the same power over the child that the
10 court had prior to the child becoming an adult.

11 (b) The court may retain jurisdiction over a child
12 committed to the department for placement in an intensive
13 residential treatment program for 10-year-old to 13-year-old
14 offenders or in a program for serious or habitual juvenile
15 offenders as provided in s. 985.311 or s. 985.31 ~~s. 39.0582 or~~
16 ~~s. 39.058~~ until the child reaches the age of 21. If the court
17 exercises this jurisdiction retention, it shall do so solely
18 for the purpose of the child completing the intensive
19 residential treatment program for 10-year-old to 13-year-old
20 offenders or the program for serious or habitual juvenile
21 offenders. Such jurisdiction retention does not apply for
22 other programs, other purposes, or new offenses.

23 (c) The court may retain jurisdiction over a child and
24 the child's parent or legal guardian whom the court has
25 ordered to pay restitution until the restitution order is
26 satisfied or until the court orders otherwise. If the court
27 retains such jurisdiction after the date upon which the
28 court's jurisdiction would cease under this section, it shall
29 do so solely for the purpose of enforcing the restitution
30 order. The terms of the restitution order are subject to the
31 provisions of s. 775.089(6).

1 (d) This subsection does not prevent the exercise of
 2 jurisdiction by any court having jurisdiction of the child if
 3 the child, after becoming an adult, commits a violation of
 4 law.

5 Section 10. Section 39.014, Florida Statutes, is
 6 transferred, renumbered as section 985.202, Florida Statutes,
 7 and amended to read:

8 985.202 ~~39.014~~ Legal representation for delinquency
 9 cases ~~under this chapter.~~--For cases arising under ~~part II of~~
 10 this chapter, the state attorney shall represent the state.
 11 ~~For cases arising under parts III, V, and VI of this chapter,~~
 12 ~~an attorney for the Department of Health and Rehabilitative~~
 13 ~~Services shall represent the state. For cases arising under~~
 14 ~~part IV of this chapter, an attorney for the Department of~~
 15 ~~Juvenile Justice shall represent the state. The Department of~~
 16 ~~Health and Rehabilitative Services may contract with outside~~
 17 ~~counsel or the state attorney, pursuant to s. 287.059, for~~
 18 ~~legal representation for cases arising under parts III, V, and~~
 19 ~~VI of this chapter, and the Department of Juvenile Justice may~~
 20 ~~contract with outside counsel or the state attorney, pursuant~~
 21 ~~to s. 287.059, for legal representation for cases arising~~
 22 ~~under part IV of this chapter. The Attorney General shall~~
 23 ~~exercise general oversight of legal services provided to the~~
 24 ~~Department of Juvenile Justice and the Department of Health~~
 25 ~~and Rehabilitative Services under this chapter. This oversight~~
 26 ~~responsibility shall require the Attorney General to assess,~~
 27 ~~on a periodic basis, the extent to which the Department of~~
 28 ~~Juvenile Justice or the Department of Health and~~
 29 ~~Rehabilitative Services, as appropriate, is complying with the~~
 30 ~~mandates of the Florida Supreme Court in cases arising under~~
 31 ~~parts III, IV, V, and VI of this chapter. If at any time the~~

1 ~~Attorney General determines that the Department of Juvenile~~
2 ~~Justice or the Department of Health and Rehabilitative~~
3 ~~Services is not complying with the mandates of the Supreme~~
4 ~~Court, the Attorney General shall notify the Legislature.~~
5 ~~Notwithstanding the provisions of this chapter or chapter 415~~
6 ~~to the contrary, the Attorney General shall have access to~~
7 ~~confidential information necessary to carry out the oversight~~
8 ~~responsibility. However, public disclosure of information by~~
9 ~~the Attorney General may not contain information that~~
10 ~~identifies a client of the Department of Juvenile Justice or~~
11 ~~the Department of Health and Rehabilitative Services.~~

12 Section 11. Section 39.041, Florida Statutes, 1996
13 Supplement, is transferred, renumbered as section 985.203,
14 Florida Statutes, and amended to read:

15 985.203 ~~39.041~~ Right to counsel.--

16 (1) A child is entitled to representation by legal
17 counsel at all stages of any proceedings under this part. If
18 the child and the parents or other legal guardian are indigent
19 and unable to employ counsel for the child, the court shall
20 appoint counsel pursuant to s. 27.52. Determination of
21 indigency and costs of representation shall be as provided by
22 ss. 27.52 and 27.56. Legal counsel representing a child who
23 exercises the right to counsel shall be allowed to provide
24 advice and counsel to the child at any time subsequent to the
25 child's arrest, including prior to a detention hearing while
26 in secure detention care. A child shall be represented by
27 legal counsel at all stages of all court proceedings unless
28 the right to counsel is freely, knowingly, and intelligently
29 waived by the child. If the child appears without counsel,
30 the court shall advise the child of his or her rights with
31 respect to representation of court-appointed counsel.

1 (2) If the parents or legal guardian of an indigent
 2 child are not indigent but refuse to employ counsel, the court
 3 shall appoint counsel pursuant to s. 27.52(2)(~~e~~)(~~d~~)to
 4 represent the child at the detention hearing and until counsel
 5 is provided. Costs of representation shall be assessed as
 6 provided by ss. 27.52(2)(~~e~~)(~~d~~)and 27.56. Thereafter, the
 7 court shall not appoint counsel for an indigent child with
 8 nonindigent parents or legal guardian but shall order the
 9 parents or legal guardian to obtain private counsel. A parent
 10 or legal guardian of an indigent child who has been ordered to
 11 obtain private counsel for the child and who willfully fails
 12 to follow the court order shall be punished by the court in
 13 civil contempt proceedings.

14 (3) An indigent child with nonindigent parents or
 15 legal guardian may have counsel appointed pursuant to s.
 16 27.52(2)(~~e~~)(~~d~~)if the parents or legal guardian have willfully
 17 refused to obey the court order to obtain counsel for the
 18 child and have been punished by civil contempt and then still
 19 have willfully refused to obey the court order. Costs of
 20 representation shall be assessed as provided by ss.
 21 27.52(2)(~~e~~)(~~d~~)and 27.56.

22 (4) Notwithstanding any provision of this section or
 23 any other law to the contrary, if a child is transferred for
 24 criminal prosecution pursuant to this chapter, a nonindigent
 25 or indigent-but-able-to-contribute parent or legal guardian of
 26 the child pursuant to s. 27.52 is liable for necessary legal
 27 fees and costs incident to the criminal prosecution of the
 28 child as an adult.

29 Section 12. Section 39.0476, Florida Statutes, is
 30 transferred and renumbered as section 985.204, Florida
 31 Statutes.

1 Section 13. Section 985.205, Florida Statutes, is
2 created to read:

3 985.205 Opening hearings.--

4 (1) All hearings, except as provided in this section,
5 must be open to the public, and no person may be excluded
6 except on special order of the court. The court, in its
7 discretion, may close any hearing to the public when the
8 public interest and the welfare of the child are best served
9 by so doing. Hearings involving more than one child may be
10 held simultaneously when the children were involved in the
11 same transactions.

12 (2) Except as provided in subsection (1), nothing in
13 this section shall prohibit the publication of proceedings in
14 a hearing.

15 Section 14. Section 39.0515, Florida Statutes, is
16 transferred, renumbered as section 985.206, Florida Statutes,
17 and amended to read:

18 985.206 ~~39.0515~~ Rights of victims; juvenile
19 proceedings.--Nothing in this chapter part prohibits:

20 (1) The victim of the offense;

21 (2) The victim's parent or guardian if the victim is a
22 minor;

23 (3) The lawful representative of the victim or of the
24 victim's parent or guardian if the victim is a minor; or

25 (4) The next of kin if the victim is a homicide
26 victim,

27
28 from the right to be informed of, to be present during, and to
29 be heard when relevant at, all crucial stages of the
30 proceedings involving the juvenile offender, to the extent
31 that such rights do not interfere with the constitutional

1 rights of the juvenile offender. A person enumerated in this
2 section may not reveal to any outside party any confidential
3 information obtained pursuant to this paragraph regarding a
4 case involving a juvenile offense, except as is reasonably
5 necessary to pursue legal remedies.

6 Section 15. Section 39.037, Florida Statutes, is
7 transferred, renumbered as section 985.207, Florida Statutes,
8 and amended to read:

9 985.207 ~~39.037~~ Taking a child into custody.--

10 (1) A child may be taken into custody under the
11 following circumstances:

12 (a) Pursuant to an order of the circuit court issued
13 under this part, based upon sworn testimony, either before or
14 after a petition is filed.

15 (b) For a delinquent act or violation of law, pursuant
16 to Florida law pertaining to a lawful arrest. If such
17 delinquent act or violation of law would be a felony if
18 committed by an adult or involves a crime of violence, the
19 arresting authority shall immediately notify the district
20 school superintendent, or the superintendent's designee, of
21 the school district with educational jurisdiction of the
22 child. Such notification shall include other education
23 providers such as the Florida School for the Deaf and the
24 Blind, university developmental research schools, and private
25 elementary and secondary schools. The information obtained by
26 the superintendent of schools pursuant to this section must be
27 released within 48 hours after receipt to appropriate school
28 personnel, including the principal of the child's school, or
29 as otherwise provided by law. The principal must immediately
30 notify the child's immediate classroom teachers. Information
31 provided by an arresting authority pursuant to this paragraph

1 may not be placed in the student's permanent record and shall
2 be removed from all school records no later than 9 months
3 after the date of the arrest.

4 (c) For failing to appear at a court hearing after
5 being properly noticed.

6 (d) By a law enforcement officer who has probable
7 cause to believe that the child is in violation of the
8 conditions of the child's community control, furlough, or
9 aftercare supervision.

10
11 Nothing in this subsection shall be construed to allow the
12 detention of a child who does not meet the detention criteria
13 in s. 985.215 ~~39.044~~.

14 (2) When a child is taken into custody as provided in
15 this section, the person taking the child into custody shall
16 attempt to notify the parent, guardian, or legal custodian of
17 the child. The person taking the child into custody shall
18 continue such attempt until the parent, guardian, or legal
19 custodian of the child is notified or the child is delivered
20 to an intake counselor pursuant to s. 985.21 ~~39.047~~, whichever
21 occurs first. If the child is delivered to an intake
22 counselor before the parent, guardian, or legal custodian is
23 notified, the intake counselor or case manager shall continue
24 the attempt to notify until the parent, guardian, or legal
25 custodian of the child is notified.

26 (3) Taking a child into custody is not an arrest
27 except for the purpose of determining whether the taking into
28 custody or the obtaining of any evidence in conjunction
29 therewith is lawful.

30
31

1 Section 16. Section 39.064, Florida Statutes, is
2 transferred, renumbered as section 985.208, Florida Statutes,
3 and amended to read:

4 985.208 ~~39.064~~ Detention of furloughed child or
5 escapee on authority of the department.--

6 (1) If an authorized agent of the department has
7 reasonable grounds to believe that any delinquent child
8 committed to the department has escaped from a facility of the
9 department or from being lawfully transported thereto or
10 therefrom, the agent may take the child into active custody
11 and may deliver the child to the facility or, if it is closer,
12 to a detention center for return to the facility. However, a
13 child may not be held in detention longer than 24 hours,
14 excluding Saturdays, Sundays, and legal holidays, unless a
15 special order so directing is made by the judge after a
16 detention hearing resulting in a finding that detention is
17 required based on the criteria in s. 985.215(2) ~~39.044(2)~~. The
18 order shall state the reasons for such finding. The reasons
19 shall be reviewable by appeal or in habeas corpus proceedings
20 in the district court of appeal.

21 (2) Any sheriff or other law enforcement officer, upon
22 the request of the secretary of the department or duly
23 authorized agent, shall take a child who has escaped or
24 absconded from a department facility for committed delinquent
25 children, or from being lawfully transported thereto or
26 therefrom, into custody and deliver the child to the
27 appropriate intake counselor or case manager of the
28 department.

29 Section 17. Section 39.0471, Florida Statutes, is
30 transferred and renumbered as section 985.209, Florida
31 Statutes.

1 Section 18. Section 39.047, Florida Statutes, 1996
2 Supplement, is transferred, renumbered as section 985.21,
3 Florida Statutes, and amended to read:

4 985.21 ~~39.047~~ Intake and case management.--

5 (1)(a) During the intake process, the intake counselor
6 shall screen each child to determine:

7 1. Appropriateness for release, referral to a
8 diversionary program including, but not limited to, a
9 teen-court program, referral for community arbitration, or
10 referral to some other program or agency for the purpose of
11 nonofficial or nonjudicial handling.

12 2. The presence of medical, psychiatric,
13 psychological, substance abuse, educational problems, or other
14 conditions that may have caused the child to come to the
15 attention of law enforcement or the Department of Juvenile
16 Justice. In cases where such conditions are identified, and a
17 nonjudicial handling of the case is chosen, the intake
18 counselor shall attempt to refer the child to a program or
19 agency, together with all available and relevant assessment
20 information concerning the child's precipitating condition.

21 3. The Department of Juvenile Justice shall develop a
22 case management system whereby a child brought into intake is
23 assigned a case manager if the child was not released,
24 referred to a diversionary program, referred for community
25 arbitration, or referred to some other program or agency for
26 the purpose of nonofficial or nonjudicial handling, and shall
27 make every reasonable effort to provide continuity of case
28 management for the child; provided, however, that case
29 management for children committed to residential programs may
30 be transferred as provided in s. 985.316 ~~39.067~~.

31

1 4. In addition to duties specified in other sections
2 and through departmental rules, the assigned case manager
3 shall be responsible for the following:

4 a. Ensuring that a risk assessment instrument
5 establishing the child's eligibility for detention has been
6 accurately completed and that the appropriate recommendation
7 was made to the court.

8 b. Inquiring as to whether the child understands his
9 or her rights to counsel and against self-incrimination.

10 c. Performing the preliminary screening and making
11 referrals for comprehensive assessment regarding the child's
12 need for substance abuse treatment services, mental health
13 services, retardation services, literacy services, or other
14 educational or treatment services.

15 d. Coordinating the multidisciplinary assessment when
16 required, which includes the classification and placement
17 process that determines the child's priority needs, risk
18 classification, and treatment plan. When sufficient evidence
19 exists to warrant a comprehensive assessment and the child
20 fails to voluntarily participate in the assessment efforts, it
21 is the responsibility of the case manager to inform the court
22 of the need for the assessment and the refusal of the child to
23 participate in such assessment. This assessment,
24 classification, and placement process shall develop into the
25 predisposition report.

26 e. Making recommendations for services and
27 facilitating the delivery of those services to the child,
28 including any mental health services, educational services,
29 family counseling services, family assistance services, and
30 substance abuse services. The delinquency case manager shall
31 serve as the primary case manager for the purpose of managing,

1 coordinating, and monitoring the services provided to the
2 child. Each program administrator within the Department of
3 Children and Family ~~Health and Rehabilitative~~ Services shall
4 cooperate with the primary case manager in carrying out the
5 duties and responsibilities described in this section.

6
7 The Department of Juvenile Justice shall annually advise the
8 Legislature and the Executive Office of the Governor of the
9 resources needed in order for the case management system to
10 maintain a staff-to-client ratio that is consistent with
11 accepted standards and allows the necessary supervision and
12 services for each child. The intake process and case
13 management system shall provide a comprehensive approach to
14 assessing the child's needs, relative risks, and most
15 appropriate handling, and shall be based on an individualized
16 treatment plan.

17 (b) The intake and case management system shall
18 facilitate consistency in the recommended placement of each
19 child, and in the assessment, classification, and placement
20 process, with the following purposes:

21 1. An individualized, multidisciplinary assessment
22 process that identifies the priority needs of each individual
23 child for rehabilitation and treatment and identifies any
24 needs of the child's parents or guardians for services that
25 would enhance their ability to provide adequate support,
26 guidance, and supervision for the child. This process shall
27 begin with the detention risk assessment instrument and
28 decision, shall include the intake preliminary screening and
29 comprehensive assessment for substance abuse treatment
30 services, mental health services, retardation services,
31 literacy services, and other educational and treatment

1 services as components, additional assessment of the child's
2 treatment needs, and classification regarding the child's
3 risks to the community and, for a serious or habitual
4 delinquent child, shall include the assessment for placement
5 in a serious or habitual delinquent children program pursuant
6 to s. 985.31 ~~39.058~~. The completed multidisciplinary
7 assessment process shall result in the predisposition report.

8 2. A classification system that assigns a relative
9 risk to the child and the community based upon assessments
10 including the detention risk assessment results when available
11 to classify the child's risk as it relates to placement and
12 supervision alternatives.

13 3. An admissions process that facilitates for each
14 child the utilization of the treatment plan and setting most
15 appropriate to meet the child's programmatic needs and provide
16 the minimum program security needed to ensure public safety.

17 (2) The intake process shall be performed by the
18 department through a case management system. The purpose of
19 the intake process is to assess the child's needs and risks
20 and to determine the most appropriate treatment plan and
21 setting for the child's programmatic needs and risks. The
22 intake process shall result in choosing the most appropriate
23 services through a balancing of the interests and needs of the
24 child with those of the family and the public. The intake
25 counselor or case manager is responsible for making informed
26 decisions and recommendations to other agencies, the state
27 attorney, and the courts so that the child and family may
28 receive the least intrusive service alternative throughout the
29 judicial process. The department shall establish uniform
30 procedures for the intake counselor or case manager to
31 provide, prior to the filing of a petition or as soon as

1 possible thereafter and prior to a disposition hearing, a
2 preliminary screening of the child and family for substance
3 abuse and mental health services.

4 (3) A report, affidavit, or complaint alleging that a
5 child has committed a delinquent act or violation of law shall
6 be made to the intake office operating in the county in which
7 the child is found or in which the delinquent act or violation
8 of law occurred. Any person or agency having knowledge of the
9 facts may make such a written report, affidavit, or complaint
10 and shall furnish to the intake office facts sufficient to
11 establish the jurisdiction of the court and to support a
12 finding by the court that the child has committed a delinquent
13 act or violation of law.

14 (4) The intake counselor or case manager shall make a
15 preliminary determination as to whether the report, affidavit,
16 or complaint is complete, consulting with the state attorney
17 as may be necessary. In any case where the intake counselor or
18 case manager or the state attorney finds that the report,
19 affidavit, or complaint is insufficient by the standards for a
20 probable cause affidavit, the intake counselor or case manager
21 or state attorney shall return the report, affidavit, or
22 complaint, without delay, to the person or agency originating
23 the report, affidavit, or complaint or having knowledge of the
24 facts or to the appropriate law enforcement agency having
25 investigative jurisdiction of the offense, and shall request,
26 and the person or agency shall promptly furnish, additional
27 information in order to comply with the standards for a
28 probable cause affidavit.

29 (a) The intake counselor or case manager, upon
30 determining that the report, affidavit, or complaint is
31 complete, may, in the case of a child who is alleged to have

1 committed a delinquent act or violation of law, recommend that
2 the state attorney file a petition of delinquency or an
3 information or seek an indictment by the grand jury. However,
4 such a recommendation is not a prerequisite for any action
5 taken by the state attorney.

6 (b) The intake counselor or case manager, upon
7 determining that the report, affidavit, or complaint is
8 complete, pursuant to uniform procedures established by the
9 department, shall:

10 1. When indicated by the preliminary screening,
11 provide for a comprehensive assessment of the child and family
12 for substance abuse problems, using community-based licensed
13 programs with clinical expertise and experience in the
14 assessment of substance abuse problems.

15 2. When indicated by the preliminary screening,
16 provide for a comprehensive assessment of the child and family
17 for mental health problems, using community-based
18 psychologists, psychiatrists, or other licensed mental health
19 professionals with clinical expertise and experience in the
20 assessment of mental health problems.

21
22 When indicated by the comprehensive assessment, the department
23 is authorized to contract within appropriated funds for
24 services with a local nonprofit community mental health or
25 substance abuse agency licensed or authorized under chapter
26 394, or chapter 397, or other authorized nonprofit social
27 service agency providing related services. The determination
28 of mental health or substance abuse services shall be
29 conducted in coordination with existing programs providing
30 mental health or substance abuse services in conjunction with
31 the intake office. Client information resulting from the

1 screening and evaluation shall be documented pursuant to rules
2 established by the department and shall serve to assist the
3 intake counselor or case manager in providing the most
4 appropriate services and recommendations in the least
5 intrusive manner. Such client information shall be used in the
6 multidisciplinary assessment and classification of the child,
7 but such information, and any information obtained directly or
8 indirectly through the assessment process, is inadmissible in
9 court prior to the disposition hearing, unless the child's
10 written consent is obtained. At the disposition hearing,
11 documented client information shall serve to assist the court
12 in making the most appropriate custody, adjudicatory, and
13 dispositional decision. If the screening and assessment
14 indicate that the interest of the child and the public will be
15 best served thereby, the intake counselor or case manager,
16 with the approval of the state attorney, may refer the child
17 for care, diagnostic and evaluation services, substance abuse
18 treatment services, mental health services, retardation
19 services, a diversionary or arbitration or mediation program,
20 community service work, or other programs or treatment
21 services voluntarily accepted by the child and the child's
22 parents or legal guardians. The victim, if any, and the law
23 enforcement agency which investigated the offense shall be
24 notified immediately by the state attorney of the action taken
25 under this paragraph. Whenever a child volunteers to
26 participate in any work program under this chapter or
27 volunteers to work in a specified state, county, municipal, or
28 community service organization supervised work program or to
29 work for the victim, the child shall be considered an employee
30 of the state for the purposes of liability. In determining the
31 child's average weekly wage, unless otherwise determined by a

1 specific funding program, all remuneration received from the
 2 employer is considered a gratuity, and the child is not
 3 entitled to any benefits otherwise payable under s. 440.15,
 4 regardless of whether the child may be receiving wages and
 5 remuneration from other employment with another employer and
 6 regardless of the child's future wage-earning capacity.

7 (c) The intake counselor or case manager, upon
 8 determining that the report, affidavit, or complaint complies
 9 with the standards of a probable cause affidavit and that the
 10 interest of the child and the public will be best served, may
 11 recommend that a delinquency petition not be filed. If such a
 12 recommendation is made, the intake counselor or case manager
 13 shall advise in writing the person or agency making the
 14 report, affidavit, or complaint, the victim, if any, and the
 15 law enforcement agency having investigative jurisdiction of
 16 the offense of the recommendation and the reasons therefor;
 17 and that the person or agency may submit, within 10 days after
 18 the receipt of such notice, the report, affidavit, or
 19 complaint to the state attorney for special review. The state
 20 attorney, upon receiving a request for special review, shall
 21 consider the facts presented by the report, affidavit, or
 22 complaint, and by the intake counselor or case manager who
 23 made the recommendation that no petition be filed, before
 24 making a final decision as to whether a petition or
 25 information should or should not be filed.

26 (d) In all cases in which the child is alleged to have
 27 committed a violation of law or delinquent act and is not
 28 detained, the intake counselor or case manager shall submit a
 29 written report to the state attorney, including the original
 30 report, complaint, or affidavit, or a copy thereof, including
 31 a copy of the child's prior juvenile record, within 20 days

1 after the date the child is taken into custody. In cases in
 2 which the child is in detention, the intake office report must
 3 be submitted within 24 hours after the child is placed into
 4 detention. The intake office report must recommend either that
 5 a petition or information be filed or that no petition or
 6 information be filed, and must set forth reasons for the
 7 recommendation.

8 (e) The state attorney may in all cases take action
 9 independent of the action or lack of action of the intake
 10 counselor or case manager, and shall determine the action
 11 which is in the best interest of the public and the child. If
 12 the child meets the criteria requiring prosecution as an adult
 13 pursuant to s. 985.226 ~~39.052~~, the state attorney shall
 14 request the court to transfer and certify the child for
 15 prosecution as an adult or shall provide written reasons to
 16 the court for not making such request. In all other cases, the
 17 state attorney may:

- 18 1. File a petition for dependency;
- 19 2. File a petition pursuant to chapter 984 ~~part IV~~;
- 20 3. File a petition for delinquency;
- 21 4. File a petition for delinquency with a motion to
 22 transfer and certify the child for prosecution as an adult;
- 23 5. File an information pursuant to s. 985.227
 24 ~~39.052(3)~~;
- 25 6. Refer the case to a grand jury;
- 26 7. Refer the child to a diversionary, pretrial
 27 intervention, arbitration, or mediation program, or to some
 28 other treatment or care program if such program commitment is
 29 voluntarily accepted by the child or the child's parents or
 30 legal guardians; or
- 31 8. Decline to file.

1 (f) In cases in which a delinquency report, affidavit,
2 or complaint is filed by a law enforcement agency and the
3 state attorney determines not to file a petition, the state
4 attorney shall advise the clerk of the circuit court in
5 writing that no petition will be filed thereon.

6 (5) Prior to requesting that a delinquency petition be
7 filed or prior to filing a dependency petition, the intake
8 officer may request the parent or legal guardian of the child
9 to attend a course of instruction in parenting skills,
10 training in conflict resolution, and the practice of
11 nonviolence; to accept counseling; or to receive other
12 assistance from any agency in the community which notifies the
13 clerk of the court of the availability of its services. Where
14 appropriate, the intake officer shall request both parents or
15 guardians to receive such parental assistance. The intake
16 officer may, in determining whether to request that a
17 delinquency petition be filed, take into consideration the
18 willingness of the parent or legal guardian to comply with
19 such request.

20 Section 19. Section 39.038, Florida Statutes, is
21 transferred, renumbered as section 985.211, Florida Statutes,
22 and amended to read:

23 985.211 ~~39.038~~ Release or delivery from custody.--

24 (1) A child taken into custody shall be released from
25 custody as soon as is reasonably possible.

26 (2) Unless otherwise ordered by the court pursuant to
27 s. 985.215 ~~39.044~~, and unless there is a need to hold the
28 child, a person taking a child into custody shall attempt to
29 release the child as follows:

30 (a) To the child's parent, guardian, or legal
31 custodian or, if the child's parent, guardian, or legal

1 custodian is unavailable, unwilling, or unable to provide
 2 supervision for the child, to any responsible adult. Prior to
 3 releasing the child to a responsible adult, other than the
 4 parent, guardian, or legal custodian, the person taking the
 5 child into custody may conduct a criminal history background
 6 check of the person to whom the child is to be released. If
 7 the person has a prior felony conviction, or a conviction for
 8 child abuse, drug trafficking, or prostitution, that person is
 9 not a responsible adult for the purposes of this section. The
 10 person to whom the child is released shall agree to inform the
 11 department or the person releasing the child of the child's
 12 subsequent change of address and to produce the child in court
 13 at such time as the court may direct, and the child shall join
 14 in the agreement.

15 (b) Contingent upon specific appropriation, to a
 16 shelter approved by the department or to an authorized agent a
 17 ~~protective investigator~~ pursuant to s. 39.401(2)(b).

18 (c) If the child is believed to be suffering from a
 19 serious physical condition which requires either prompt
 20 diagnosis or prompt treatment, to a law enforcement officer
 21 who shall deliver the child to a hospital for necessary
 22 evaluation and treatment.

23 (d) If the child is believed to be mentally ill as
 24 defined in s. 394.463(1), to a law enforcement officer who
 25 shall take the child to a designated public receiving facility
 26 as defined in s. 394.455 for examination pursuant to the
 27 provisions of s. 394.463.

28 (e) If the child appears to be intoxicated and has
 29 threatened, attempted, or inflicted physical harm on himself
 30 or herself or another, or is incapacitated by substance abuse,
 31 to a law enforcement officer who shall deliver the child to a

1 hospital, addictions receiving facility, or treatment
2 resource.

3 (f) If available, to a juvenile assessment center
4 equipped and staffed to assume custody of the child for the
5 purpose of assessing the needs of the child in custody. The
6 center may then release or deliver the child pursuant to this
7 section with a copy of the assessment.

8 (3) If the child is released, the person taking the
9 child into custody shall make a written report or probable
10 cause affidavit to the appropriate intake counselor or case
11 manager within 3 days, stating the facts and the reason for
12 taking the child into custody. Such written report or
13 probable cause affidavit shall:

14 (a) Identify the child, the parents, guardian, or
15 legal custodian, and the person to whom the child was
16 released.

17 (b) Contain sufficient information to establish the
18 jurisdiction of the court and to make a prima facie showing
19 that the child has committed a violation of law or a
20 delinquent act.

21 (4) A person taking a child into custody who
22 determines, pursuant to s. 985.215 ~~39.044~~, that the child
23 should be detained or released to a shelter designated by the
24 department, shall make a reasonable effort to immediately
25 notify the parent, guardian, or legal custodian of the child
26 and shall, without unreasonable delay, deliver the child to
27 the appropriate intake counselor or case manager or, if the
28 court has so ordered pursuant to s. 985.215 ~~39.044~~, to a
29 detention center or facility. Upon delivery of the child, the
30 person taking the child into custody shall make a written
31 report or probable cause affidavit to the appropriate intake

1 counselor or case manager. Such written report or probable
2 cause affidavit must:

3 (a) Identify the child and, if known, the parents,
4 guardian, or legal custodian.

5 (b) Establish that the child was legally taken into
6 custody, with sufficient information to establish the
7 jurisdiction of the court and to make a prima facie showing
8 that the child has committed a violation of law.

9 (5) Upon taking a child into custody, a law
10 enforcement officer may deliver the child, for temporary
11 custody not to exceed 6 hours, to a secure booking area of a
12 jail or other facility intended or used for the detention of
13 adults, for the purpose of fingerprinting or photographing the
14 child or awaiting appropriate transport to the department or
15 as provided in subsection (4), provided no regular sight and
16 sound contact between the child and adult inmates or trustees
17 is permitted and the receiving facility has adequate staff to
18 supervise and monitor the child's activities at all times.

19 (6)(a) A copy of the probable cause affidavit or
20 written report by a law enforcement agency shall be filed, by
21 the law enforcement agency making such affidavit or written
22 report, with the clerk of the circuit court for the county in
23 which the child is taken into custody or in which the
24 affidavit or report is made within 24 hours after the child is
25 taken into custody and detained, within 1 week after the child
26 is taken into custody and released, or within 1 week after the
27 affidavit or report is made, excluding Saturdays, Sundays, and
28 legal holidays. Such affidavit or report is a case for the
29 purpose of assigning a uniform case number pursuant to this
30 subsection.

31

1 (b) Upon the filing of a copy of a probable cause
2 affidavit or written report by a law enforcement agency with
3 the clerk of the circuit court, the clerk shall immediately
4 assign a uniform case number to the affidavit or report,
5 forward a copy to the state attorney, and forward a copy to
6 the intake office of the department which serves the county in
7 which the case arose.

8 (c) Each letter of recommendation, written notice,
9 report, or other paper required by law pertaining to the case
10 shall bear the uniform case number of the case, and a copy
11 shall be filed with the clerk of the circuit court by the
12 issuing agency. The issuing agency shall furnish copies to
13 the intake counselor or case manager and the state attorney.

14 (d) Upon the filing of a petition based on the
15 allegations of a previously filed probable cause affidavit or
16 written report, the agency filing the petition shall include
17 the appropriate uniform case number on the petition.

18 (7) Nothing in this section shall prohibit the proper
19 use of law enforcement diversion programs. Law enforcement
20 agencies may initiate and conduct diversion programs designed
21 to divert a child from the need for department custody or
22 judicial handling. Such programs may be cooperative projects
23 with local community service agencies.

24 Section 20. Section 39.039, Florida Statutes, 1996
25 Supplement, is transferred, renumbered as section 985.212,
26 Florida Statutes, and amended to read:

27 985.212 ~~39.039~~ Fingerprinting and photographing.--

28 (1)(a) A child who is charged with or found to have
29 committed an offense that would be a felony if committed by an
30 adult shall be fingerprinted and the fingerprints must be
31

1 submitted to the Department of Law Enforcement as provided in
2 s. 943.051(3)(a).

3 (b) A child who is charged with or found to have
4 committed one of the following misdemeanors shall be
5 fingerprinted and the fingerprints shall be submitted to the
6 Department of Law Enforcement as provided in s. 943.051(3)(b):

7 1. Assault, as defined in s. 784.011.

8 2. Battery, as defined in s. 784.03.

9 3. Carrying a concealed weapon, as defined in s.
10 790.01(1).

11 4. Unlawful use of destructive devices or bombs, as
12 defined in s. 790.1615(1).

13 5. Negligent treatment of children, as defined in
14 former s. 827.05.

15 6. Assault on a law enforcement officer, a
16 firefighter, or other specified officers, as defined in s.
17 784.07(2)(a).

18 7. Open carrying of a weapon, as defined in s.
19 790.053.

20 8. Exposure of sexual organs, as defined in s. 800.03.

21 9. Unlawful possession of a firearm, as defined in s.
22 790.22(5).

23 10. Petit theft, as defined in s. 812.014.

24 11. Cruelty to animals, as defined in s. 828.12(1).

25 12. Arson, resulting in bodily harm to a firefighter,
26 as defined in s. 806.031(1).

27

28 A law enforcement agency may fingerprint and photograph a
29 child taken into custody upon probable cause that such child
30 has committed any other violation of law, as the agency deems
31 appropriate. Such fingerprint records and photographs shall be

1 retained by the law enforcement agency in a separate file, and
2 these records and all copies thereof must be marked "Juvenile
3 Confidential." These records shall not be available for public
4 disclosure and inspection under s. 119.07(1) except as
5 provided in ss. ~~39.045(9)~~ and 943.053 and 985.04(5), but shall
6 be available to other law enforcement agencies, criminal
7 justice agencies, state attorneys, the courts, the child, the
8 parents or legal custodians of the child, their attorneys, and
9 any other person authorized by the court to have access to
10 such records. These records may, in the discretion of the
11 court, be open to inspection by anyone upon a showing of
12 cause. The fingerprint and photograph records shall be
13 produced in the court whenever directed by the court. Any
14 photograph taken pursuant to this section may be shown by a
15 law enforcement officer to any victim or witness of a crime
16 for the purpose of identifying the person who committed such
17 crime.

18 (c) The court shall be responsible for the
19 fingerprinting of any child at the disposition hearing if the
20 child has been adjudicated or had adjudication withheld for
21 any felony in the case currently before the court.

22 (2) If the child is not referred to the court, or if
23 the child is found not to have committed a violation of law,
24 the court may, after notice to the law enforcement agency
25 involved, order the originals and copies of the fingerprints
26 and photographs destroyed. Unless otherwise ordered by the
27 court, if the child is found to have committed an offense
28 which would be a felony if it had been committed by an adult,
29 then the law enforcement agency having custody of the
30 fingerprint and photograph records shall retain the originals
31 and immediately thereafter forward adequate duplicate copies

1 to the court along with the written offense report relating to
2 the matter for which the child was taken into custody. Except
3 as otherwise provided by this subsection, the clerk of the
4 court, after the disposition hearing on the case, shall
5 forward duplicate copies of the fingerprints and photographs,
6 together with the child's name, address, date of birth, age,
7 and sex, to:

8 (a) The sheriff of the county in which the child was
9 taken into custody, in order to maintain a central child
10 identification file in that county.

11 (b) The law enforcement agency of each municipality
12 having a population in excess of 50,000 persons and located in
13 the county of arrest, if so requested specifically or by a
14 general request by that agency.

15 (3) This section does not prohibit the fingerprinting
16 or photographing of child traffic violators. All records of
17 such traffic violations shall be kept in the full name of the
18 violator and shall be open to inspection and publication in
19 the same manner as adult traffic violations. This section does
20 not apply to the photographing of children by the Department
21 of Juvenile Justice or the Department of Children and Family
22 ~~Health and Rehabilitative~~ Services.

23 Section 21. Section 39.042, Florida Statutes, is
24 transferred, renumbered as section 985.213, Florida Statutes,
25 and amended to read:

26 985.213 ~~39.042~~ Use of detention.--

27 (1) All determinations and court orders regarding the
28 use of secure, nonsecure, or home detention shall be based
29 primarily upon findings that the child:

30 (a) Presents a substantial risk of not appearing at a
31 subsequent hearing;

1 (b) Presents a substantial risk of inflicting bodily
2 harm on others as evidenced by recent behavior;

3 (c) Presents a history of committing a property
4 offense prior to adjudication, disposition, or placement;

5 (d) Has committed contempt of court by:

6 1. Intentionally disrupting the administration of the
7 court;

8 2. Intentionally disobeying a court order; or

9 3. Engaging in a punishable act or speech in the
10 court's presence which shows disrespect for the authority and
11 dignity of the court; or

12 (e) Requests protection from imminent bodily harm.

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

18 (b)1. The risk assessment instrument for detention
19 care placement determinations and orders shall be developed by
20 the Department of Juvenile Justice in agreement with
21 representatives appointed by the following associations: the
22 Conference of Circuit Judges of Florida, the Prosecuting
23 Attorneys Association, and the Public Defenders Association.
24 Each association shall appoint two individuals, one
25 representing an urban area and one representing a rural area.
26 The parties involved shall evaluate and revise the risk
27 assessment instrument as is considered necessary using the
28 method for revision as agreed by the parties. The risk
29 assessment instrument shall take into consideration, but need
30 not be limited to, prior history of failure to appear, prior
31 offenses, offenses committed pending adjudication, any

1 unlawful possession of a firearm, theft of a motor vehicle or
 2 possession of a stolen motor vehicle, and community control
 3 status at the time the child is taken into custody. The risk
 4 assessment instrument shall also take into consideration
 5 appropriate aggravating and mitigating circumstances, and
 6 shall be designed to target a narrower population of children
 7 than s. 985.215(2)~~39.044(2)~~. The risk assessment instrument
 8 shall also include any information concerning the child's
 9 history of abuse and neglect. The risk assessment shall
 10 indicate whether detention care is warranted, and, if
 11 detention care is warranted, whether the child should be
 12 placed into secure, nonsecure, or home detention care.

13 2. If, at the detention hearing, the court finds a
 14 material error in the scoring of the risk assessment
 15 instrument, the court may amend the score to reflect factual
 16 accuracy.

17 3. A child who is charged with committing an offense
 18 of domestic violence as defined in s. 741.28(1) and who does
 19 not meet detention criteria may be held in secure detention if
 20 the court makes specific written findings that:

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

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

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

26 ~~for up to 48 hours if a respite home or similar authorized~~
 27 ~~residential facility is not available. The court may order~~
 28 ~~that the child continue to be held in secure detention~~
 29 ~~provided that a hearing is held at the end of each 48-hour~~
 30 ~~period, excluding Saturdays, Sundays, and legal holidays, in~~
 31 ~~which the state attorney and the department may recommend to~~

1 ~~the court that the child continue to be held in secure~~
2 ~~detention.~~

3
4 The child may not be held in secure detention under this
5 subparagraph for more than 48 hours unless ordered by the
6 court. After 48 hours, the court shall hold a hearing if the
7 state attorney or victim requests that secure detention be
8 continued. The child may continue to be held in secure
9 detention if the court makes a specific, written finding that
10 secure detention is necessary to protect the victim from
11 further injury. However, the child may not be held in secure
12 detention beyond the time limits set forth in s. 39.044.

13 (3)(a) While a child who is currently enrolled in
14 school is in nonsecure or home detention care, the child shall
15 continue to attend school unless otherwise ordered by the
16 court.

17 (b) While a child is in secure detention care, the
18 child shall receive education commensurate with his or her
19 grade level and educational ability.

20 (4) The Department of Juvenile Justice shall continue
21 to identify alternatives to secure detention care and shall
22 develop such alternatives and annually submit them to the
23 Legislature for authorization and appropriation.

24 Section 22. Section 39.043, Florida Statutes, is
25 transferred and renumbered as section 985.214, Florida
26 Statutes.

27 Section 23. Section 39.044, Florida Statutes, 1996
28 Supplement, is transferred, renumbered as section 985.215,
29 Florida Statutes, and amended to read:

30 985.215 ~~39.044~~ Detention.--

31

1 (1) The intake counselor or case manager shall receive
2 custody of a child who has been taken into custody from the
3 law enforcement agency and shall review the facts in the law
4 enforcement report or probable cause affidavit and make such
5 further inquiry as may be necessary to determine whether
6 detention care is required.

7 (a) During the period of time from the taking of the
8 child into custody to the date of the detention hearing, the
9 initial decision as to the child's placement into secure
10 detention care, nonsecure detention care, or home detention
11 care shall be made by the intake counselor or case manager
12 pursuant to ss. 985.213 and 985.214 ~~39.042~~ and ~~39.043~~.

13 (b) The intake counselor or case manager shall base
14 the decision whether or not to place the child into secure
15 detention care, home detention care, or nonsecure detention
16 care on an assessment of risk in accordance with the risk
17 assessment instrument and procedures developed by the
18 Department of Juvenile Justice under s. 985.213 ~~39.042~~.

19 (c) If the intake counselor or case manager determines
20 that a child who is eligible for detention based upon the
21 results of the risk assessment instrument should be released,
22 the intake counselor or case manager shall contact the state
23 attorney, who may authorize release. If detention is not
24 authorized, the child may be released by the intake counselor
25 or case manager in accordance with s. 985.211 ~~39.038~~.

26
27 Under no circumstances shall the intake counselor or case
28 manager or the state attorney or law enforcement officer
29 authorize the detention of any child in a jail or other
30 facility intended or used for the detention of adults, without
31 an order of the court.

1 (2) Subject to the provisions of subsection (1), a
2 child taken into custody and placed into nonsecure or home
3 detention care or detained in secure detention care prior to a
4 detention hearing may continue to be detained by the court if:

5 (a) The child is alleged to be an escapee or an
6 absconder from a commitment program, a community control
7 program, furlough, or aftercare supervision, or is alleged to
8 have escaped while being lawfully transported to or from such
9 program or supervision.†

10 (b) The child is wanted in another jurisdiction for an
11 offense which, if committed by an adult, would be a felony.†

12 (c) The child is charged with a delinquent act or
13 violation of law and requests in writing through legal counsel
14 to be detained for protection from an imminent physical threat
15 to his or her personal safety.†

16 (d) The child is charged with committing an offense of
17 domestic violence as defined in s. 741.28(1) and is detained
18 as provided in s. 985.213(2)(b)3.~~39.042(2)(b)3.~~†

19 (e) The child is charged with a capital felony, a life
20 felony, a felony of the first degree, a felony of the second
21 degree that does not involve a violation of chapter 893, or a
22 felony of the third degree that is also a crime of violence,
23 including any such offense involving the use or possession of
24 a firearm.†~~or~~

25 (f) The child is charged with any second degree or
26 third degree felony involving a violation of chapter 893 or
27 any third degree felony that is not also a crime of violence,
28 and the child:

- 29 1. Has a record of failure to appear at court hearings
30 after being properly notified in accordance with the Rules of
31 Juvenile Procedure;

1 2. Has a record of law violations prior to court
2 hearings;

3 3. Has already been detained or has been released and
4 is awaiting final disposition of the case;

5 4. Has a record of violent conduct resulting in
6 physical injury to others; or

7 5. Is found to have been in possession of a firearm.

8 (g) The child is alleged to have violated the
9 conditions of the child's community control or aftercare
10 supervision. However, a child detained under this paragraph
11 may be held only in a consequence unit as provided in s.
12 985.231(1)(a)1.c. If a consequence unit is not available, the
13 child shall be placed on home detention with electronic
14 monitoring.

15
16 A child who meets any of these criteria and who is ordered to
17 be detained pursuant to this subsection shall be given a
18 hearing within 24 hours after being taken into custody. The
19 purpose of the detention hearing is to determine the existence
20 of probable cause that the child has committed the delinquent
21 act or violation of law with which he or she is charged and
22 the need for continued detention. Unless a child is detained
23 under paragraph (d), the court shall utilize the results of
24 the risk assessment performed by the intake counselor or case
25 manager and, based on the criteria in this subsection, shall
26 determine the need for continued detention. A child placed
27 into secure, nonsecure, or home detention care may continue to
28 be so detained by the court pursuant to this subsection. If
29 the court orders a placement more restrictive than indicated
30 by the results of the risk assessment instrument, the court
31 shall state, in writing, clear and convincing reasons for such

1 placement. Except as provided in s. 790.22(8) or in
 2 subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c),
 3 or paragraph (10)(d), when a child is placed into secure or
 4 nonsecure detention care, or into a respite home or other
 5 placement pursuant to a court order following a hearing, the
 6 court order must include specific instructions that direct the
 7 release of the child from such placement no later than 5 p.m.
 8 on the last day of the detention period specified in paragraph
 9 (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1.,
 10 whichever is applicable, unless the requirements of such
 11 applicable provision have been met or an order of continuance
 12 has been granted pursuant to paragraph (5)(d).

13 (3) Except in emergency situations, a child may not be
 14 placed into or transported in any police car or similar
 15 vehicle that at the same time contains an adult under arrest,
 16 unless the adult is alleged or believed to be involved in the
 17 same offense or transaction as the child.

18 (4) The court shall order the delivery of a child to a
 19 jail or other facility intended or used for the detention of
 20 adults:

21 (a) When the child has been transferred or indicted
 22 for criminal prosecution as an adult pursuant to this part,
 23 except that the court may not order or allow a child alleged
 24 to have committed a misdemeanor who is being transferred for
 25 criminal prosecution pursuant to either s. 985.226 or s.
 26 985.227 ~~s. 39.059~~ to be detained or held in a jail or other
 27 facility intended or used for the detention of adults;
 28 however, such child may be held temporarily in a detention
 29 facility; or

30 (b) When a child taken into custody in this state is
 31 wanted by another jurisdiction for prosecution as an adult.

1
2 The child shall be housed separately from adult inmates to
3 prohibit a child from having regular contact with incarcerated
4 adults, including trustees. "Regular contact" means sight and
5 sound contact. Separation of children from adults shall permit
6 no more than haphazard or accidental contact. The receiving
7 jail or other facility shall contain a separate section for
8 children and shall have an adequate staff to supervise and
9 monitor the child's activities at all times. Supervision and
10 monitoring of children includes physical observation and
11 documented checks by jail or receiving facility supervisory
12 personnel at intervals not to exceed 15 minutes. This
13 paragraph does not prohibit placing two or more children in
14 the same cell. Under no circumstances shall a child be placed
15 in the same cell with an adult.

16 (5)(a) A child may not be placed into or held in
17 secure, nonsecure, or home detention care for longer than 24
18 hours unless the court orders such detention care, and the
19 order includes specific instructions that direct the release
20 of the child from such detention care, in accordance with
21 subsection (2). The order shall be a final order, reviewable
22 by appeal pursuant to s. 985.234 ~~39.069~~ and the Florida Rules
23 of Appellate Procedure. Appeals of such orders shall take
24 precedence over other appeals and other pending matters.

25 (b) A child may not be held in secure, nonsecure, or
26 home detention care under a special detention order for more
27 than 21 days unless an adjudicatory hearing for the case has
28 been commenced by the court.

29 (c) A child may not be held in secure, nonsecure, or
30 home detention care for more than 15 days following the entry
31 of an order of adjudication.

1 (d) The time limits in paragraphs (b) and (c) do not
 2 include periods of delay resulting from a continuance granted
 3 by the court for cause on motion of the child or his or her
 4 counsel or of the state. Upon the issuance of an order
 5 granting a continuance for cause on a motion by either the
 6 child, the child's counsel, or the state, the court shall
 7 conduct a hearing at the end of each 72-hour period, excluding
 8 Saturdays, Sundays, and legal holidays, to determine the need
 9 for continued detention of the child and the need for further
 10 continuance of proceedings for the child or the state.

11 (6) When any child is placed into secure, nonsecure,
 12 or home detention care or into other placement pursuant to a
 13 court order following a detention hearing, the court shall
 14 order the natural or adoptive parents of such child, the
 15 natural father of such child born out of wedlock who has
 16 acknowledged his paternity in writing before the court, or the
 17 guardian of such child's estate, if possessed of assets which
 18 under law may be disbursed for the care, support, and
 19 maintenance of the child, to pay to the Department of Juvenile
 20 Justice, or institution having custody of the child, fees
 21 equal to the actual cost of the care, support, and maintenance
 22 of the child, as established by the Department of Juvenile
 23 Justice, unless the court determines that the parent or
 24 guardian of the child is indigent. The court may reduce the
 25 fees or waive the fees upon a showing by the parent or
 26 guardian of an inability to pay the full cost of the care,
 27 support, and maintenance of the child. In addition, the court
 28 may waive the fees if it finds that the child's parent or
 29 guardian was the victim of the child's delinquent act or
 30 violation of law or if the court finds that the parent or
 31 guardian has made a diligent and good faith effort to prevent

1 the child from engaging in the delinquent act or violation of
 2 law. With respect to a child who has been found to have
 3 committed a delinquent act or violation of law, whether or not
 4 adjudication is withheld, and whose parent or guardian
 5 receives public assistance for any portion of that child's
 6 care, the department must seek a federal waiver to garnish or
 7 otherwise order the payments of the portion of the public
 8 assistance relating to that child to offset the costs of
 9 providing care, custody, maintenance, rehabilitation,
 10 intervention, or corrective services to the child. When the
 11 order affects the guardianship estate, a certified copy of the
 12 order shall be delivered to the judge having jurisdiction of
 13 the guardianship estate.

14 (7) If a child is detained and a petition for
 15 delinquency is filed, the child shall be arraigned in
 16 accordance with the Florida Rules of Juvenile Procedure within
 17 48 hours after the filing of the petition for delinquency.

18 (8) If a child is detained pursuant to this section,
 19 the Department of Juvenile Justice may transfer the child from
 20 nonsecure or home detention care to secure detention care only
 21 if significantly changed circumstances warrant such transfer.

22 (9) If a child is on release status and not detained
 23 pursuant to this section, the child may be placed into secure,
 24 nonsecure, or home detention care only pursuant to a court
 25 hearing in which the original risk assessment instrument,
 26 rescored based on newly discovered evidence or changed
 27 circumstances with the results recommending detention, is
 28 introduced into evidence.

29 (10)(a)1. When a child is committed to the Department
 30 of Juvenile Justice awaiting dispositional placement, removal
 31 of the child from detention care shall occur within 5 days,

1 excluding Saturdays, Sundays, and legal holidays. If the child
 2 is committed to a low-risk residential program or a
 3 moderate-risk residential program, the department may seek an
 4 order from the court authorizing continued detention for a
 5 specific period of time necessary for the appropriate
 6 residential placement of the child. However, such continued
 7 detention in secure detention care may not exceed 15 days
 8 after commitment, excluding Saturdays, Sundays, and legal
 9 holidays, and except as otherwise provided in this subsection.

10 2. The court must place all children who are
 11 adjudicated and awaiting placement in a residential commitment
 12 program in detention care. Children who are in home detention
 13 care or nonsecure detention care may be placed on electronic
 14 monitoring. A child committed to a moderate-risk residential
 15 program may be held in a juvenile assignment center pursuant
 16 to s. 985.307 ~~39-0551~~ until placement or commitment is
 17 accomplished.

18 (b) A child who is placed in home detention care,
 19 nonsecure detention care, or home or nonsecure detention care
 20 with electronic monitoring, while awaiting placement in a
 21 low-risk or moderate-risk program, may be held in secure
 22 detention care for 5 days, if the child violates the
 23 conditions of the home detention care, the nonsecure detention
 24 care, or the electronic monitoring agreement. For any
 25 subsequent violation, the court may impose an additional 5
 26 days in secure detention care.

27 (c) If the child is committed to a high-risk
 28 residential program, the child must be held in detention care
 29 or in a juvenile assignment center pursuant to s. 985.307
 30 ~~39-0551~~ until placement or commitment is accomplished.

31

1 (d) If the child is committed to a maximum-risk
2 residential program, the child must be held in detention care
3 or in an assignment center pursuant to s. 985.307 ~~39.0551~~
4 until placement or commitment is accomplished.

5 (e) Upon specific appropriation, the department may
6 obtain comprehensive evaluations, including, but not limited
7 to, medical, academic, psychological, behavioral,
8 sociological, and vocational needs of a youth with multiple
9 arrests for all level criminal acts or a youth committed to a
10 minimum-risk or low-risk commitment program.

11 (11)(a) When a juvenile sexual offender is placed in
12 detention, detention staff shall provide appropriate
13 monitoring and supervision to ensure the safety of other
14 children in the facility.

15 (b) When a juvenile sexual offender, pursuant to this
16 subsection, is released from detention or transferred to home
17 detention or nonsecure detention, detention staff shall
18 immediately notify the appropriate law enforcement agency and
19 school personnel.

20 Section 24. Section 39.0145, Florida Statutes, is
21 transferred, renumbered as section 985.216, Florida Statutes,
22 and amended to read:

23 985.216 ~~39.0145~~ Punishment for contempt of court;
24 alternative sanctions.--

25 (1) CONTEMPT OF COURT; LEGISLATIVE INTENT.--The court
26 may punish any child for contempt for interfering with the
27 court or with court administration, or for violating any
28 provision of this chapter or order of the court relative
29 thereto. It is the intent of the Legislature that the court
30 restrict and limit the use of contempt powers with respect to
31 commitment of a child to a secure facility. A child who

1 commits direct contempt of court or indirect contempt of a
2 valid court order may be taken into custody and ordered to
3 serve an alternative sanction or placed in a secure facility,
4 as authorized in this section, by order of the court.

5 (2) PLACEMENT IN A SECURE FACILITY.--A child may be
6 placed in a secure facility for purposes of punishment for
7 contempt of court if alternative sanctions are unavailable or
8 inappropriate, or if the child has already been ordered to
9 serve an alternative sanction but failed to comply with the
10 sanction.

11 (a) A delinquent child who has been held in direct or
12 indirect contempt may be placed in a secure detention facility
13 for 5 days for a first offense or 15 days for a second or
14 subsequent offense, or in a secure residential commitment
15 facility.

16 (b) A child in need of services who has been held in
17 direct contempt or indirect contempt may be placed, for 5 days
18 for a first offense or 15 days for a second or subsequent
19 offense, in a staff-secure shelter or a staff-secure
20 residential facility solely for children in need of services
21 if such placement is available, or, if such placement is not
22 available, the child may be placed in an appropriate mental
23 health facility or substance abuse facility for assessment.

24 (3) ALTERNATIVE SANCTIONS.--Each judicial circuit
25 shall have an alternative sanctions coordinator who shall
26 serve under the chief administrative judge of the juvenile
27 division of the circuit court, and who shall coordinate and
28 maintain a spectrum of contempt sanction alternatives in
29 conjunction with the circuit plan implemented in accordance
30 with s. 790.22(4)(c). Upon determining that a child has
31 committed direct contempt of court or indirect contempt of a

1 valid court order, the court may immediately request the
2 alternative sanctions coordinator to recommend the most
3 appropriate available alternative sanction and shall order the
4 child to perform up to 50 hours of community-service manual
5 labor or a similar alternative sanction, unless an alternative
6 sanction is unavailable or inappropriate, or unless the child
7 has failed to comply with a prior alternative sanction.
8 Alternative contempt sanctions may be provided by local
9 industry or by any nonprofit organization or any public or
10 private business or service entity that has entered into a
11 contract with the Department of Juvenile Justice to act as an
12 agent of the state to provide voluntary supervision of
13 children on behalf of the state in exchange for the manual
14 labor of children and limited immunity in accordance with s.
15 768.28(11).

16 (4) CONTEMPT OF COURT SANCTIONS; PROCEDURE AND DUE
17 PROCESS.--

18 (a) If a child is charged with direct contempt of
19 court, including traffic court, the court may impose an
20 authorized sanction immediately.

21 (b) If a child is charged with indirect contempt of
22 court, the court must hold a hearing within 24 hours to
23 determine whether the child committed indirect contempt of a
24 valid court order. At the hearing, the following due process
25 rights must be provided to the child:

26 1. Right to a copy of the order to show cause alleging
27 facts supporting the contempt charge.

28 2. Right to an explanation of the nature and the
29 consequences of the proceedings.
30
31

1 3. Right to legal counsel and the right to have legal
2 counsel appointed by the court if the juvenile is indigent,
3 pursuant to s. 985.203 ~~39-041~~.

4 4. Right to confront witnesses.

5 5. Right to present witnesses.

6 6. Right to have a transcript or record of the
7 proceeding.

8 7. Right to appeal to an appropriate court.

9
10 The child's parent or guardian may address the court regarding
11 the due process rights of the child. The court shall review
12 the placement of the child every 72 hours to determine whether
13 it is appropriate for the child to remain in the facility.

14 (c) The court may not order that a child be placed in
15 a secure facility for punishment for contempt unless the court
16 determines that an alternative sanction is inappropriate or
17 unavailable or that the child was initially ordered to an
18 alternative sanction and did not comply with the alternative
19 sanction. The court is encouraged to order a child to perform
20 community service, up to the maximum number of hours, where
21 appropriate before ordering that the child be placed in a
22 secure facility as punishment for contempt of court.

23 (5) ALTERNATIVE SANCTIONS COORDINATOR.--Effective July
24 1, 1995, there is created the position of alternative
25 sanctions coordinator within each judicial circuit, pursuant
26 to subsection (3). Each alternative sanctions coordinator
27 shall serve under the direction of the chief administrative
28 judge of the juvenile division as directed by the chief judge
29 of the circuit. The alternative sanctions coordinator shall
30 act as the liaison between the judiciary and county juvenile
31 justice councils, the local department officials, district

1 school board employees, and local law enforcement agencies.
2 The alternative sanctions coordinator shall coordinate within
3 the circuit community-based alternative sanctions, including
4 nonsecure detention programs, community service projects, and
5 other juvenile sanctions, in conjunction with the circuit plan
6 implemented in accordance with s. 790.22(4)(c).

7 Section 25. Section 39.0445, Florida Statutes, is
8 repealed.

9 Section 26. Section 39.048, Florida Statutes, is
10 transferred and renumbered as section 985.218, Florida
11 Statutes.

12 Section 27. Section 39.049, Florida Statutes, is
13 transferred, renumbered as section 985.219, Florida Statutes,
14 and amended to read:

15 985.219 ~~39.049~~ Process and service.--

16 (1) Personal appearance of any person in a hearing
17 before the court obviates the necessity of serving process on
18 that person.

19 (2) Upon the filing of a petition containing
20 allegations of facts which, if true, would establish that the
21 child committed a delinquent act or violation of law, and upon
22 the request of the petitioner, the clerk or deputy clerk shall
23 issue a summons.

24 (3) The summons shall have a copy of the petition
25 attached and shall require the person on whom it is served to
26 appear for a hearing at a time and place specified. Except in
27 cases of medical emergency, the time may not be less than 24
28 hours after service of the summons. If the child is not
29 detained by an order of the court, the summons shall require
30 the custodian of the child to produce the child at the said
31 time and place.

1 (4) The summons shall be directed to, and shall be
2 served upon, the following persons:

3 (a) The child, in the same manner as an adult;

4 (b) The parents of the child; and

5 (c) Any legal custodians, actual custodians,
6 guardians, and guardians ad litem of the child.

7 (5) If the petition alleges that the child has
8 committed a delinquent act or violation of law and the judge
9 deems it advisable to do so, pursuant to the criteria of s.
10 985.215 ~~39.044~~, the judge may, by endorsement upon the summons
11 and after the entry of an order in which valid reasons are
12 specified, order the child to be taken into custody
13 immediately, and in such case the person serving the summons
14 shall immediately take the child into custody.

15 (6) If the identity or residence of the parents,
16 custodians, or guardians of the child is unknown after a
17 diligent search and inquiry, if the parents, custodians, or
18 guardians are residents of a state other than Florida, or if
19 the parents, custodians, or guardians evade service, the
20 person who made the search and inquiry shall file in the case
21 a certificate of those facts, and the court shall appoint a
22 guardian ad litem for the child, if appropriate. If the
23 parent, custodian, or guardian of the child fails to obey a
24 summons, the court may, by endorsement upon the summons and
25 after the entry of an order in which valid reasons are
26 specified, order the parent, custodian, or guardian to be
27 taken into custody immediately to show cause why the parent,
28 guardian, or custodian should not be held in contempt for
29 failing to obey the summons. The court may appoint a guardian
30 ad litem for the child, if appropriate.

31

1 (7) The jurisdiction of the court shall attach to the
2 child and the case when the summons is served upon the child
3 and a parent or legal or actual custodian or guardian of the
4 child, or when the child is taken into custody with or without
5 service of summons and before or after the filing of a
6 petition, whichever first occurs, and thereafter the court may
7 control the child and the case in accordance with this part.

8 (8) Upon the application of the child or the state
9 attorney, the clerk or deputy clerk shall issue, and the court
10 on its own motion may issue, subpoenas requiring attendance
11 and testimony of witnesses and production of records,
12 documents, or other tangible objects at any hearing.

13 (9) All process and orders issued by the court shall
14 be served or executed as other process and orders of the
15 circuit court and, in addition, may be served or executed by
16 authorized agents of the Department of Juvenile Justice at the
17 department's discretion.

18 (10) Subpoenas may be served within the state by any
19 person over 18 years of age who is not a party to the
20 proceeding.

21 (11) No fee shall be paid for service of any process
22 or other papers by an agent of the department. If any process,
23 orders, or other papers are served or executed by any sheriff,
24 the sheriff's fees shall be paid by the county.

25 Section 28. Section 39.0495, Florida Statutes, is
26 transferred, renumbered as section 985.22, Florida Statutes,
27 and amended to read:

28 985.22 ~~39.0495~~ Threatening or dismissing an employee
29 prohibited.--

30 (1) An employer, or the employer's agent, may not
31 dismiss from employment an employee who is summoned to appear

1 before the court under s. 985.219 ~~39.049~~ solely because of the
2 nature of the summons or because the employee complies with
3 the summons.

4 (2) If an employer, or the employer's agent, threatens
5 an employee with dismissal, or dismisses an employee, who is
6 summoned to appear under s. 985.219 ~~39.049~~, the court may hold
7 the employer in contempt.

8 Section 29. Section 39.073, Florida Statutes, is
9 transferred and renumbered as section 985.221, Florida
10 Statutes.

11 Section 30. Section 39.051, Florida Statutes, is
12 transferred and renumbered as section 985.222, Florida
13 Statutes.

14 Section 31. Section 39.0517, Florida Statutes, 1996
15 Supplement, is transferred, renumbered as section 985.223,
16 Florida Statutes, and amended to read:

17 985.223 ~~39.0517~~ Incompetency in juvenile delinquency
18 cases.--

19 (1) If, at any time prior to or during a delinquency
20 case involving a delinquent act or violation of law that would
21 be a felony if committed by an adult, the court has reason to
22 believe that the child named in the petition may be
23 incompetent to proceed with the hearing, the court on its own
24 motion may, or on the motion of the child's attorney or state
25 attorney must, stay all proceedings and order an evaluation of
26 the child's mental condition.

27 (a) All determinations of competency shall be made at
28 a hearing, with findings of fact based on an evaluation of the
29 child's mental condition by not less than two nor more than
30 three experts appointed by the court. If the determination of
31 incompetency is based on the presence of a mental illness or

1 mental retardation, this must be stated in the evaluation. In
2 addition, a recommendation as to whether residential or
3 nonresidential treatment or training is required must be
4 included in the evaluation. All court orders determining
5 incompetency must include specific findings by the court as to
6 the nature of the incompetency.

7 (b) For incompetency evaluations related to mental
8 illness, the Department of Children and Family ~~Health and~~
9 ~~Rehabilitative~~ Services shall annually provide the courts with
10 a list of mental health professionals who have completed a
11 training program approved by the Department of Children and
12 Family ~~Health and Rehabilitative~~ Services to perform the
13 evaluations.

14 (c) For incompetency evaluations related to mental
15 retardation, the court shall order the Developmental Services
16 Program Office within the Department of Children and Family
17 ~~Health and Rehabilitative~~ Services to examine the child to
18 determine if the child meets the definition of "retardation"
19 in s. 393.063 and, if so, whether the child is competent to
20 proceed with delinquency proceedings.

21 (d) A child is competent to proceed if the child has
22 sufficient present ability to consult with counsel with a
23 reasonable degree of rational understanding and the child has
24 a rational and factual understanding of the present
25 proceedings. The report must address the child's capacity to:

26 1. Appreciate the charges or allegations against the
27 child.

28 2. Appreciate the range and nature of possible
29 penalties that may be imposed in the proceedings against the
30 child, if applicable.

31

1 3. Understand the adversarial nature of the legal
2 process.

3 4. Disclose to counsel facts pertinent to the
4 proceedings at issue.

5 5. Display appropriate courtroom behavior.

6 6. Testify relevantly.

7 (2) Every child who is adjudicated incompetent to
8 proceed may be involuntarily committed to the Department of
9 Children and Family ~~Health and Rehabilitative~~ Services for
10 treatment upon a finding by the court of clear and convincing
11 evidence that:

12 (a) The child is mentally ill and because of the
13 mental illness; or the child is mentally retarded and because
14 of the mental retardation:

15 1. The child is manifestly incapable of surviving with
16 the help of willing and responsible family or friends,
17 including available alternative services, and without
18 treatment the child is likely to either suffer from neglect or
19 refuse to care for self, and such neglect or refusal poses a
20 real and present threat of substantial harm to the child's
21 well-being; or

22 2. There is a substantial likelihood that in the near
23 future the child will inflict serious bodily harm on self or
24 others, as evidenced by recent behavior causing, attempting,
25 or threatening such harm; and

26 (b) All available less restrictive alternatives,
27 including treatment in community residential facilities or
28 community inpatient or outpatient settings which would offer
29 an opportunity for improvement of the child's condition, are
30 inappropriate.

31

1 (3) Each child who has been adjudicated incompetent to
 2 proceed and who meets the criteria for commitment in
 3 subsection (2), must be committed to the Department of
 4 Children and Family ~~Health and Rehabilitative~~ Services, and
 5 that department may retain, and if it retains must treat, the
 6 child in the least restrictive alternative consistent with
 7 public safety. Any commitment of a child to a residential
 8 program must be separate from adult forensic programs. If the
 9 child attains competency, case management and supervision of
 10 the child will be transferred to the department in order to
 11 continue delinquency proceedings; however, the court retains
 12 authority to order the Department of Children and Family
 13 ~~Health and Rehabilitative~~ Services to provide continued
 14 treatment to maintain competency.

15 (a) A child adjudicated incompetent due to mental
 16 retardation may be ordered into a program designated by the
 17 Department of Children and Family ~~Health and Rehabilitative~~
 18 Services for retarded children.

19 (b) A child adjudicated incompetent due to mental
 20 illness may be ordered into a program designated by the
 21 Department of Children and Family ~~Health and Rehabilitative~~
 22 Services for mentally ill children.

23 (c) Not later than 6 months after the date of
 24 commitment, or at the end of any period of extended treatment
 25 or training, or at any time the service provider determines
 26 the child has attained competency or no longer meets the
 27 criteria for commitment, the service provider must file a
 28 report with the court pursuant to the applicable Rules of
 29 Juvenile Procedure.

30 (4) If a child is determined to be incompetent to
 31 proceed, the court shall retain jurisdiction of the child for

1 up to 2 years after the date of the order of incompetency,
2 with reviews at least every 6 months to determine competency.
3 If the court determines at any time that the child will never
4 become competent to proceed, the court may dismiss the
5 delinquency petition. If, at the end of the 2-year period
6 following the date of the order of incompetency, the child has
7 not attained competency and there is no evidence that the
8 child will attain competency within a year, the court must
9 dismiss the delinquency petition. If necessary, the court may
10 order that proceedings under chapter 393 or chapter 394 be
11 instituted. Such proceedings must be instituted not less than
12 60 days prior to the dismissal of the delinquency petition.

13 (5) If a child who is found to be incompetent does not
14 meet the commitment criteria of subsection (2), the court may
15 order the Department of Children and Family ~~Health and~~
16 ~~Rehabilitative~~ Services to provide appropriate treatment and
17 training in the community. All court-ordered treatment or
18 training must be the least restrictive alternative that is
19 consistent with public safety. Any commitment to a
20 residential program must be separate from adult forensic
21 programs. If a child is ordered to receive such services, the
22 services shall be provided by the Department of Children and
23 Family ~~Health and Rehabilitative~~ Services. The department
24 shall continue to provide case management services to the
25 child and receive notice of the competency status of the
26 child. The competency determination must be reviewed at least
27 every 6 months by the service provider, and a copy of a
28 written report evaluating the child's competency must be filed
29 by the provider with the court and with the Department of
30 Children and Family ~~Health and Rehabilitative~~ Services and the
31 department.

1 (6) The provisions of this section shall be
2 implemented only subject to specific appropriation.

3 ~~(7) The Department of Health and Rehabilitative~~
4 ~~Services and the department must report to the Governor, the~~
5 ~~President of the Senate, and the Speaker of the House of~~
6 ~~Representatives by December 15, 1996, on the issue of children~~
7 ~~who are incompetent for the purposes of juvenile delinquency~~
8 ~~proceedings. The report must contain the findings of a study~~
9 ~~group that includes five representatives, one each appointed~~
10 ~~by the President of the Senate, the Speaker of the House of~~
11 ~~Representatives, the Florida Conference of Circuit Court~~
12 ~~Judges, the Florida Prosecuting Attorneys Association, and the~~
13 ~~Florida Public Defenders Association. The report shall include~~
14 ~~recommendations concerning the implementation of this act and~~
15 ~~recommendations for changes to this act.~~

16 Section 32. Section 39.046, Florida Statutes, is
17 transferred, renumbered as section 985.224, Florida Statutes,
18 and amended to read:

19 985.224 ~~39.046~~ Medical, psychiatric, psychological,
20 substance abuse, and educational examination and treatment.--

21 (1) After a detention petition or a petition for
22 delinquency has been filed, the court may order the child
23 named in the petition to be examined by a physician. The court
24 may also order the child to be evaluated by a psychiatrist or
25 a psychologist, by a district school board educational needs
26 assessment team, or, if a developmental disability is
27 suspected or alleged, by the developmental disabilities
28 diagnostic and evaluation team of the Department of Children
29 and Family ~~Health and Rehabilitative~~ Services. If it is
30 necessary to place a child in a residential facility for such
31 evaluation, the criteria and procedures established in chapter

1 393, chapter 394, or chapter 397, whichever is applicable,
2 shall be used.

3 (2) Whenever a child has been found to have committed
4 a delinquent act, or before such finding with the consent of
5 any parent or legal custodian of the child, the court may
6 order the child to be treated by a physician. The court may
7 also order the child to receive mental health, substance
8 abuse, or retardation services from a psychiatrist,
9 psychologist, or other appropriate service provider. If it is
10 necessary to place the child in a residential facility for
11 such services, the procedures and criteria established in
12 chapter 393, chapter 394, or chapter 397, whichever is
13 applicable, shall be used. After a child has been adjudicated
14 delinquent, if an educational needs assessment by the district
15 school board or the Department of Children and Family Health
16 ~~and Rehabilitative~~ Services has been previously conducted, the
17 court shall order the report of such needs assessment included
18 in the child's court record in lieu of a new assessment. For
19 purposes of this section, an educational needs assessment
20 includes, but is not limited to, reports of intelligence and
21 achievement tests, screening for learning disabilities and
22 other handicaps, and screening for the need for alternative
23 education.

24 (3) When any child is detained pending a hearing, the
25 person in charge of the detention center or facility or his or
26 her designated representative may authorize a triage
27 examination as a preliminary screening device to determine if
28 the child is in need of medical care or isolation or provide
29 or cause to be provided such medical or surgical services as
30 may be deemed necessary by a physician.

31

1 (4) Whenever a child found to have committed a
 2 delinquent act is placed by order of the court within the care
 3 and custody or under the supervision of the Department of
 4 Juvenile Justice and it appears to the court that there is no
 5 parent, guardian, or person standing in loco parentis who is
 6 capable of authorizing or willing to authorize medical,
 7 surgical, dental, or other remedial care or treatment for the
 8 child, the court may, after due notice to the parent,
 9 guardian, or person standing in loco parentis, if any, order
 10 that a representative of the Department of Juvenile Justice
 11 may authorize such medical, surgical, dental, or other
 12 remedial care for the child by licensed practitioners as may
 13 from time to time appear necessary.

14 (5) A physician shall be immediately notified by the
 15 person taking the child into custody or the person having
 16 custody if there are indications of physical injury or
 17 illness, or the child shall be taken to the nearest available
 18 hospital for emergency care. A child may be provided mental
 19 health, substance abuse, or retardation services, in emergency
 20 situations, pursuant to chapter 393, chapter 394, or chapter
 21 397, whichever is applicable. After a hearing, the court may
 22 order the custodial parent or parents, guardian, or other
 23 custodian, if found able to do so, to reimburse the county or
 24 state for the expense involved in such emergency treatment or
 25 care.

26 (6) Nothing in this section shall be deemed to
 27 eliminate the right of the parents or the child to consent to
 28 examination or treatment for the child, except that consent of
 29 a parent shall not be required if the physician determines
 30 there is an injury or illness requiring immediate treatment
 31

1 and the child consents to such treatment or an ex parte court
2 order is obtained authorizing treatment.

3 (7) Nothing in this section shall be construed to
4 authorize the permanent sterilization of any child unless such
5 sterilization is the result of or incidental to medically
6 necessary treatment to protect or preserve the life of the
7 child.

8 (8) Except as provided in this section, nothing in
9 this section shall be deemed to preclude a court from ordering
10 services or treatment to be provided to a child by a duly
11 accredited practitioner who relies solely on spiritual means
12 for healing in accordance with the tenets and practices of a
13 church or religious organization, when requested by the child.

14 Section 33. Section 985.225, Florida Statutes, is
15 created to read:

16 985.225 Indictment of a juvenile.--

17 (1) A child of any age who is charged with a violation
18 of state law punishable by death or by life imprisonment is
19 subject to the jurisdiction of the court as set forth in s.
20 985.219(7) unless and until an indictment on the charge is
21 returned by the grand jury. When such indictment is returned,
22 the petition for delinquency, if any, must be dismissed and
23 the child must be tried and handled in every respect as an
24 adult:

25 (a) On the offense punishable by death or by life
26 imprisonment; and

27 (b) On all other felonies or misdemeanors charged in
28 the indictment which are based on the same act or transaction
29 as the offense punishable by death or by life imprisonment or
30 on one or more acts or transactions connected with the offense
31 punishable by death or by life imprisonment.

1 (2) An adjudicatory hearing may not be held until 21
2 days after the child is taken into custody and charged with
3 having committed an offense punishable by death or by life
4 imprisonment, unless the state attorney advises the court in
5 writing that he or she does not intend to present the case to
6 the grand jury, or has presented the case to the grand jury
7 and the grand jury has not returned an indictment. If the
8 court receives such a notice from the state attorney, or if
9 the grand jury fails to act within the 21-day period, the
10 court may proceed as otherwise authorized under this part.

11 (3) If the child is found to have committed the
12 offense punishable by death or by life imprisonment, the child
13 shall be sentenced as an adult. If the juvenile is not found
14 to have committed the indictable offense but is found to have
15 committed a lesser included offense or any other offense for
16 which he or she was indicted as a part of the criminal
17 episode, the court may sentence pursuant to s. 985.233.

18 (4) Once a child has been indicted pursuant to this
19 subsection and has been found to have committed any offense
20 for which he or she was indicted as a part of the criminal
21 episode, the child shall be handled thereafter in every
22 respect as if an adult for any subsequent violation of state
23 law, unless the court imposes juvenile sanctions under s.
24 985.233.

25 Section 34. Section 985.226, Florida Statutes, is
26 created to read:

27 985.226 Criteria for waiver of juvenile court
28 jurisdiction; hearing on motion to transfer for prosecution as
29 an adult.--

30 (1) VOLUNTARY WAIVER.--The court shall transfer and
31 certify a child's criminal case for trial as an adult if the

1 child is alleged to have committed a violation of law and,
 2 prior to the commencement of an adjudicatory hearing, the
 3 child, joined by a parent or, in the absence of a parent, by
 4 the guardian or guardian ad litem, demands in writing to be
 5 tried as an adult. Once a child has been transferred for
 6 criminal prosecution pursuant to a voluntary waiver hearing
 7 and has been found to have committed the presenting offense or
 8 a lesser included offense, the child shall be handled
 9 thereafter in every respect as an adult for any subsequent
 10 violation of state law, unless the court imposes juvenile
 11 sanctions under s. 985.233(4)(b).

12 (2) INVOLUNTARY WAIVER.--

13 (a) Discretionary involuntary waiver.--The state
 14 attorney may file a motion requesting the court to transfer
 15 the child for criminal prosecution if the child was 14 years
 16 of age or older at the time the alleged delinquent act or
 17 violation of law was committed. If the child has been
 18 previously adjudicated delinquent for murder, sexual battery,
 19 armed or strong-armed robbery, carjacking, home-invasion
 20 robbery, aggravated battery, or aggravated assault, and is
 21 currently charged with a second or subsequent violent crime
 22 against a person, the state attorney shall file a motion
 23 requesting the court to transfer and certify the juvenile for
 24 prosecution as an adult, or proceed pursuant to s. 985.227(1).

25 (b) Mandatory involuntary waiver.--If the child was 14
 26 years of age or older at the time of commission of a fourth or
 27 subsequent alleged felony offense and the child was previously
 28 adjudicated delinquent or had adjudication withheld for or was
 29 found to have committed, or to have attempted or conspired to
 30 commit, three offenses that are felony offenses if committed
 31 by an adult, and one or more of such felony offenses involved

1 the use or possession of a firearm or violence against a
 2 person, the state attorney shall request the court to transfer
 3 and certify the child for prosecution as an adult or shall
 4 provide written reasons to the court for not making such
 5 request, or proceed pursuant to s. 985.227(1). Upon the state
 6 attorney's request, the court shall either enter an order
 7 transferring the case and certifying the case for trial as if
 8 the child were an adult or provide written reasons for not
 9 issuing such an order.

10 (3) WAIVER HEARING.--

11 (a) Within 7 days, excluding Saturdays, Sundays, and
 12 legal holidays, after the date a petition alleging that a
 13 child has committed a delinquent act or violation of law has
 14 been filed, or later with the approval of the court, but
 15 before an adjudicatory hearing and after considering the
 16 recommendation of the intake counselor or case manager, the
 17 state attorney may file a motion requesting the court to
 18 transfer the child for criminal prosecution.

19 (b) After the filing of the motion of the state
 20 attorney, summonses must be issued and served in conformity
 21 with s. 985.219. A copy of the motion and a copy of the
 22 delinquency petition, if not already served, must be attached
 23 to each summons.

24 (c) The court shall conduct a hearing on all transfer
 25 request motions for the purpose of determining whether a child
 26 should be transferred. In making its determination, the court
 27 shall consider:

28 1. The seriousness of the alleged offense to the
 29 community and whether the protection of the community is best
 30 served by transferring the child for adult sanctions.

31

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

3 3. Whether the alleged offense was against persons or
4 against property, greater weight being given to offenses
5 against persons, especially if personal injury resulted.

6 4. The probable cause as found in the report,
7 affidavit, or complaint.

8 5. The desirability of trial and disposition of the
9 entire offense in one court when the child's associates in the
10 alleged crime are adults or children who are to be tried as
11 adults.

12 6. The sophistication and maturity of the child.

13 7. The record and previous history of the child,
14 including:

15 a. Previous contacts with the department, the
16 Department of Corrections, the former Department of Health and
17 Rehabilitative Services, the Department of Children and Family
18 Services, other law enforcement agencies, and courts;

19 b. Prior periods of probation or community control;

20 c. Prior adjudications that the child committed a
21 delinquent act or violation of law, greater weight being given
22 if the child has previously been found by a court to have
23 committed a delinquent act or violation of law involving an
24 offense classified as a felony or has twice previously been
25 found to have committed a delinquent act or violation of law
26 involving an offense classified as a misdemeanor; and

27 d. Prior commitments to institutions.

28 8. The prospects for adequate protection of the public
29 and the likelihood of reasonable rehabilitation of the child,
30 if the child is found to have committed the alleged offense,
31

1 by the use of procedures, services, and facilities currently
2 available to the court.

3 (d) Prior to a hearing on the transfer request motion
4 by the state attorney, a study and report to the court
5 relevant to the factors in paragraph (c) must be made in
6 writing by an authorized agent of the department. The child
7 and the child's parents or legal guardians and counsel and the
8 state attorney shall have the right to examine these reports
9 and to question the parties responsible for them at the
10 hearing.

11 (e) Any decision to transfer a child for criminal
12 prosecution must be in writing and include consideration of,
13 and findings of fact with respect to, all criteria in
14 paragraph (c). The court shall render an order including a
15 specific finding of fact and the reasons for a decision to
16 impose adult sanctions. The order shall be reviewable on
17 appeal under s. 985.234 and the Florida Rules of Appellate
18 Procedure.

19 (4) EFFECT OF ORDER WAIVING JURISDICTION.--If the
20 court finds, after a waiver hearing under subsection (3), that
21 a juvenile who was 14 years of age or older at the time the
22 alleged violation of state law was committed should be charged
23 and tried as an adult, the court shall enter an order
24 transferring the case and certifying the case for trial as if
25 the child were an adult. The child shall thereafter be subject
26 to prosecution, trial, and sentencing as if the child were an
27 adult but subject to the provisions of s. 985.233. Once a
28 child has been transferred for criminal prosecution pursuant
29 to an involuntary waiver hearing and has been found to have
30 committed the presenting offense or a lesser included offense,
31 the child shall thereafter be handled in every respect as an

1 adult for any subsequent violation of state law, unless the
2 court imposes juvenile sanctions under s. 985.233.

3 Section 35. Section 985.227, Florida Statutes, is
4 created to read:

5 985.227 Prosecution of juveniles as adults by the
6 direct filing of an information in the criminal division of
7 the circuit court; discretionary criteria; mandatory
8 criteria.--

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

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

16 1. Arson;

17 2. Sexual battery;

18 3. Robbery;

19 4. Kidnapping;

20 5. Aggravated child abuse;

21 6. Aggravated assault;

22 7. Aggravated stalking;

23 8. Murder;

24 9. Manslaughter;

25 10. Unlawful throwing, placing, or discharging of a
26 destructive device or bomb;

27 11. Armed burglary in violation of s. 810.02(2)(b) or
28 specified burglary of a dwelling or structure in violation of
29 s. 810.02(2)(c);

30 12. Aggravated battery;

31

1 13. Lewd or lascivious assault or act in the presence
2 of a child;

3 14. Carrying, displaying, using, threatening, or
4 attempting to use a weapon or firearm during the commission of
5 a felony; or

6 15. Grand theft in violation of s. 812.014(2)(a).

7 (b) With respect to any child who was 16 or 17 years
8 of age at the time the alleged offense was committed, the
9 state attorney may file an information when in the state
10 attorney's judgment and discretion the public interest
11 requires that adult sanctions be considered or imposed.
12 However, the state attorney may not file an information on a
13 child charged with a misdemeanor, unless the child has had at
14 least two previous adjudications or adjudications withheld for
15 delinquent acts, one of which involved an offense classified
16 as a felony under state law.

17 (2) MANDATORY DIRECT FILE.--

18 (a) With respect to any child who was 16 or 17 years
19 of age at the time the alleged offense was committed, the
20 state attorney shall file an information if the child has been
21 previously adjudicated delinquent for murder, sexual battery,
22 armed or strong-armed robbery, carjacking, home-invasion
23 robbery, aggravated battery, or aggravated assault, and is
24 currently charged with a second or subsequent violent crime
25 against a person.

26 (b) Notwithstanding subsection (1), regardless of the
27 child's age at the time the alleged offense was committed, the
28 state attorney must file an information with respect to any
29 child who previously has been adjudicated for offenses which,
30 if committed by an adult, would be felonies and such
31 adjudications occurred at three or more separate delinquency

1 adjudicatory hearings, and three of which resulted in
2 residential commitments as defined in s. 985.03(45).

3 (c) The state attorney must file an information if a
4 child, regardless of the child's age at the time the alleged
5 offense was committed, is alleged to have committed an act
6 that would be a violation of law if the child were an adult,
7 that involves stealing a motor vehicle, including, but not
8 limited to, a violation of s. 812.133, relating to carjacking,
9 or s. 812.014(2)(c)6., relating to grand theft of a motor
10 vehicle, and while the child was in possession of the stolen
11 motor vehicle the child caused serious bodily injury to or the
12 death of a person who was not involved in the underlying
13 offense. For purposes of this section, the driver and all
14 willing passengers in the stolen motor vehicle at the time
15 such serious bodily injury or death is inflicted shall also be
16 subject to mandatory transfer to adult court. "Stolen motor
17 vehicle," for the purposes of this section, means a motor
18 vehicle that has been the subject of any criminal wrongful
19 taking. For purposes of this section, "willing passengers"
20 means all willing passengers who have participated in the
21 underlying offense.

22 (3) EFFECT OF DIRECT FILE.--

23 (a) Once a child has been transferred for criminal
24 prosecution pursuant to information and has been found to have
25 committed the presenting offense or a lesser included offense,
26 the child shall be handled thereafter in every respect as if
27 an adult for any subsequent violation of state law, unless the
28 court imposes juvenile sanctions under s. 985.233.

29 (b) When a child is transferred for criminal
30 prosecution as an adult, the court shall immediately transfer
31 and certify to the appropriate court all preadjudicatory cases

1 that pertain to that child which are pending in juvenile
2 court, including, but not limited to, all cases involving
3 offenses that occur or are referred between the date of
4 transfer and sentencing in adult court and all outstanding
5 juvenile disposition orders. The juvenile court shall make
6 every effort to dispose of all predispositional cases and
7 transfer those cases to the adult court prior to adult
8 sentencing. It is the intent of the Legislature to require all
9 cases occurring prior to the sentencing hearing in adult court
10 to be handled by the adult court for final resolution with the
11 original transfer case.

12 (c) When a child has been transferred for criminal
13 prosecution as an adult and has been found to have committed a
14 violation of state law, the disposition of the case may be
15 made under s. 985.233 and may include the enforcement of any
16 restitution ordered in any juvenile proceeding.

17 (4) DIRECT-FILE POLICIES AND GUIDELINES.--Each state
18 attorney shall develop and annually update written policies
19 and guidelines to govern determinations for filing an
20 information on a juvenile, to be submitted to the Executive
21 Office of the Governor, the President of the Senate, the
22 Speaker of the House of Representatives, and the Juvenile
23 Justice Advisory Board not later than January 1 of each year.

24 Section 36. Section 985.228, Florida Statutes, is
25 created to read:

26 985.228 Adjudicatory hearings; withheld adjudications;
27 orders of adjudication.--

28 (1) The adjudicatory hearing must be held as soon as
29 practicable after the petition alleging that a child has
30 committed a delinquent act or violation of law is filed and in
31 accordance with the Florida Rules of Juvenile Procedure; but

1 reasonable delay for the purpose of investigation, discovery,
2 or procuring counsel or witnesses shall be granted. If the
3 child is being detained, the time limitations provided for in
4 s. 985.215(5)(b) and (c) apply.

5 (2) Adjudicatory hearings shall be conducted without a
6 jury by the court, applying in delinquency cases the rules of
7 evidence in use in criminal cases; adjourning the hearings
8 from time to time as necessary; and conducting a fundamentally
9 fair hearing in language understandable, to the fullest extent
10 practicable, to the child before the court.

11 (a) In a hearing on a petition alleging that a child
12 has committed a delinquent act or violation of law, the
13 evidence must establish the findings beyond a reasonable
14 doubt.

15 (b) The child is entitled to the opportunity to
16 introduce evidence and otherwise be heard in the child's own
17 behalf and to cross-examine witnesses.

18 (c) A child charged with a delinquent act or violation
19 of law must be afforded all rights against self-incrimination.
20 Evidence illegally seized or obtained may not be received to
21 establish the allegations against the child.

22 (3) If the court finds that the child named in a
23 petition has not committed a delinquent act or violation of
24 law, it shall enter an order so finding and dismissing the
25 case.

26 (4) If the court finds that the child named in the
27 petition has committed a delinquent act or violation of law,
28 it may, in its discretion, enter an order stating the facts
29 upon which its finding is based but withholding adjudication
30 of delinquency and placing the child in a community control
31 program under the supervision of the department or under the

1 supervision of any other person or agency specifically
2 authorized and appointed by the court. The court may, as a
3 condition of the program, impose as a penalty component
4 restitution in money or in kind, community service, a curfew,
5 urine monitoring, revocation or suspension of the driver's
6 license of the child, or other nonresidential punishment
7 appropriate to the offense, and may impose as a rehabilitative
8 component a requirement of participation in substance abuse
9 treatment, or school or other educational program attendance.
10 If the court later finds that the child has not complied with
11 the rules, restrictions, or conditions of the community-based
12 program, the court may, after a hearing to establish the lack
13 of compliance, but without further evidence of the state of
14 delinquency, enter an adjudication of delinquency and shall
15 thereafter have full authority under this chapter to deal with
16 the child as adjudicated.

17 (5) If the court finds that the child named in a
18 petition has committed a delinquent act or violation of law,
19 but elects not to proceed under subsection (4), it shall
20 incorporate that finding in an order of adjudication of
21 delinquency entered in the case, briefly stating the facts
22 upon which the finding is made, and the court shall thereafter
23 have full authority under this chapter to deal with the child
24 as adjudicated.

25 (6) Except as the term "conviction" is used in chapter
26 322, and except for use in a subsequent proceeding under this
27 chapter, an adjudication of delinquency by a court with
28 respect to any child who has committed a delinquent act or
29 violation of law shall not be deemed a conviction; nor shall
30 the child be deemed to have been found guilty or to be a
31 criminal by reason of that adjudication; nor shall that

1 adjudication operate to impose upon the child any of the civil
2 disabilities ordinarily imposed by or resulting from
3 conviction or to disqualify or prejudice the child in any
4 civil service application or appointment, with the exception
5 of the use of records of proceedings under this part as
6 provided in s. 985.05(4).

7 Section 37. Section 985.229, Florida Statutes, is
8 created to read:

9 985.229 Predisposition report; other evaluations.--

10 (1) At the disposition hearing, the court shall order
11 a predisposition report regarding the eligibility of the child
12 for disposition other than by adjudication and commitment to
13 the department. The predisposition report shall be the result
14 of the multidisciplinary assessment when such assessment is
15 needed, and of the classification and placement process, and
16 it shall indicate and report the child's priority needs,
17 recommendations as to a classification of risk for the child
18 in the context of his or her program and supervision needs,
19 and a plan for treatment that recommends the most appropriate
20 placement setting to meet the child's needs with the minimum
21 program security that reasonably ensures public safety. The
22 report shall be submitted to the court prior to the
23 disposition hearing, but shall not be reviewed by the court
24 without the consent of the child and his or her legal counsel
25 until the child has been found to have committed a delinquent
26 act.

27 (2) The court shall consider the child's entire
28 assessment and predisposition report and shall review the
29 records of earlier judicial proceedings prior to making a
30 final disposition of the case. The court may, by order,
31 require additional evaluations and studies to be performed by

1 the department, by the county school system, or by any social,
2 psychological, or psychiatric agencies of the state. The
3 court shall order the educational needs assessment completed
4 pursuant to s. 985.224(2) to be included in the assessment and
5 predisposition report.

6 (3) The predisposition report shall be made available
7 to the child's legal counsel and the state attorney upon
8 completion of the report and at a reasonable time prior to the
9 disposition hearing.

10 Section 38. Section 985.23, Florida Statutes, is
11 created to read:

12 985.23 Disposition hearings in delinquency
13 cases.--When a child has been found to have committed a
14 delinquent act, the following procedures shall be applicable
15 to the disposition of the case:

16 (1) Before the court determines and announces the
17 disposition to be imposed, it shall:

18 (a) State clearly, using common terminology, the
19 purpose of the hearing and the right of persons present as
20 parties to comment at the appropriate time on the issues
21 before the court;

22 (b) Discuss with the child his or her compliance with
23 any home release plan or other plan imposed since the date of
24 the offense;

25 (c) Discuss with the child his or her feelings about
26 the offense committed, the harm caused to the victim or
27 others, and what penalty he or she should be required to pay
28 for such transgression; and

29 (d) Give all parties present at the hearing an
30 opportunity to comment on the issue of disposition and any
31 proposed rehabilitative plan. Parties to the case shall

1 include the parents, legal custodians, or guardians of the
2 child; the child's counsel; the state attorney;
3 representatives of the department; the victim if any, or his
4 or her representative; representatives of the school system;
5 and the law enforcement officers involved in the case.

6 (2) The first determination to be made by the court is
7 a determination of the suitability or nonsuitability for
8 adjudication and commitment of the child to the department.
9 This determination shall be based upon the predisposition
10 report which shall include, whether as part of the child's
11 multidisciplinary assessment, classification, and placement
12 process components or separately, evaluation of the following
13 criteria:

14 (a) The seriousness of the offense to the community.
15 If the court determines that the child was a member of a
16 criminal street gang at the time of the commission of the
17 offense, which determination shall be made pursuant to chapter
18 874, the seriousness of the offense to the community shall be
19 given great weight.

20 (b) Whether the protection of the community requires
21 adjudication and commitment to the department.

22 (c) Whether the offense was committed in an
23 aggressive, violent, premeditated, or willful manner.

24 (d) Whether the offense was against persons or against
25 property, greater weight being given to offenses against
26 persons, especially if personal injury resulted.

27 (e) The sophistication and maturity of the child.

28 (f) The record and previous criminal history of the
29 child, including without limitations:

30 1. Previous contacts with the department, the former
31 Department of Health and Rehabilitative Services, the

1 Department of Children and Family Services, the Department of
2 Corrections, other law enforcement agencies, and courts;

3 2. Prior periods of probation or community control;

4 3. Prior adjudications of delinquency; and

5 4. Prior commitments to institutions.

6 (g) The prospects for adequate protection of the
7 public and the likelihood of reasonable rehabilitation of the
8 child if committed to a community services program or
9 facility.

10 (3)(a) If the court determines that the child should
11 be adjudicated as having committed a delinquent act and should
12 be committed to the department, such determination shall be in
13 writing or on the record of the hearing. The determination
14 shall include a specific finding of the reasons for the
15 decision to adjudicate and to commit the child to the
16 department, including any determination that the child was a
17 member of a criminal street gang.

18 (b) If the court determines that commitment to the
19 department is appropriate, the intake counselor or case
20 manager shall recommend to the court the most appropriate
21 placement and treatment plan, specifically identifying the
22 restrictiveness level most appropriate for the child. If the
23 court has determined that the child was a member of a criminal
24 street gang, that determination shall be given great weight in
25 identifying the most appropriate restrictiveness level for the
26 child. The court shall consider the department's
27 recommendation in making its commitment decision.

28 (c) The court shall commit the child to the department
29 at the restrictiveness level identified or may order placement
30 at a different restrictiveness level. The court shall state
31 for the record the reasons which establish by a preponderance

1 of the evidence why the court is disregarding the assessment
 2 of the child and the restrictiveness level recommended by the
 3 department. Any party may appeal the court's findings
 4 resulting in a modified level of restrictiveness pursuant to
 5 this paragraph.

6 (d) The court may also require that the child be
 7 placed in a community control program following the child's
 8 discharge from commitment. Community-based sanctions pursuant
 9 to subsection (4) may be imposed by the court at the
 10 disposition hearing or at any time prior to the child's
 11 release from commitment.

12 (e) The court shall be responsible for the
 13 fingerprinting of any child at the disposition hearing if the
 14 child has been adjudicated or had adjudication withheld for
 15 any felony in the case currently before the court.

16 (4) If the court determines not to adjudicate and
 17 commit to the department, then the court shall determine what
 18 community-based sanctions it will impose in a community
 19 control program for the child. Community-based sanctions may
 20 include, but are not limited to, participation in substance
 21 abuse treatment, restitution in money or in kind, a curfew,
 22 revocation or suspension of the driver's license of the child,
 23 community service, and appropriate educational programs as
 24 determined by the district school board.

25 (5) After appropriate sanctions for the offense are
 26 determined, the court shall develop, approve, and order a plan
 27 of community control which will contain rules, requirements,
 28 conditions, and rehabilitative programs that are designed to
 29 encourage responsible and acceptable behavior and to promote
 30 both the rehabilitation of the child and the protection of the
 31 community.

1 (6) The court may receive and consider any other
2 relevant and material evidence, including other written or
3 oral reports or statements, in its effort to determine the
4 appropriate disposition to be made with regard to the child.
5 The court may rely upon such evidence to the extent of its
6 probative value, even though such evidence may not be
7 technically competent in an adjudicatory hearing.

8 (7) The court shall notify any victim of the offense,
9 if such person is known and within the jurisdiction of the
10 court, of the hearing and shall notify and summon or subpoena,
11 if necessary, the parents, legal custodians, or guardians of
12 the child to attend the disposition hearing if they reside in
13 the state.

14
15 It is the intent of the Legislature that the criteria set
16 forth in subsection (2) are general guidelines to be followed
17 at the discretion of the court and not mandatory requirements
18 of procedure. It is not the intent of the Legislature to
19 provide for the appeal of the disposition made pursuant to
20 this subsection.

21 Section 39. Section 985.231, Florida Statutes, is
22 created to read:

23 985.231 Powers of disposition in delinquency cases.--

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

28 1. Place the child in a community control program or
29 an aftercare program under the supervision of an authorized
30 agent of the Department of Juvenile Justice or of any other
31 person or agency specifically authorized and appointed by the

1 court, whether in the child's own home, in the home of a
2 relative of the child, or in some other suitable place under
3 such reasonable conditions as the court may direct. A
4 community control program for an adjudicated delinquent child
5 must include a penalty component such as restitution in money
6 or in kind, community service, a curfew, revocation or
7 suspension of the driver's license of the child, or other
8 nonresidential punishment appropriate to the offense and must
9 also include a rehabilitative program component such as a
10 requirement of participation in substance abuse treatment or
11 in school or other educational program.

12 a. A restrictiveness level classification scale for
13 levels of supervision shall be provided by the department,
14 taking into account the child's needs and risks relative to
15 community control supervision requirements to reasonably
16 ensure the public safety. Community control programs for
17 children shall be supervised by the department or by any other
18 person or agency specifically authorized by the court. These
19 programs must include, but are not limited to, structured or
20 restricted activities as described in this subparagraph, and
21 shall be designed to encourage the child toward acceptable and
22 functional social behavior. If supervision or a program of
23 community service is ordered by the court, the duration of
24 such supervision or program must be consistent with any
25 treatment and rehabilitation needs identified for the child
26 and may not exceed the term for which sentence could be
27 imposed if the child were committed for the offense, except
28 that the duration of such supervision or program for an
29 offense that is a misdemeanor of the second degree, or is
30 equivalent to a misdemeanor of the second degree, may be for a
31 period not to exceed 6 months. When restitution is ordered by

1 the court, the amount of restitution may not exceed an amount
 2 the child and the parent or guardian could reasonably be
 3 expected to pay or make. A child who participates in any work
 4 program under this part is considered an employee of the state
 5 for purposes of liability, unless otherwise provided by law.

6 b. The court may conduct judicial review hearings for
 7 a child placed on community control for the purpose of
 8 fostering accountability to the judge and compliance with
 9 other requirements, such as restitution and community service.
 10 The court may allow early termination of community control for
 11 a child who has substantially complied with the terms and
 12 conditions of community control.

13 c. If the conditions of the community control program
 14 or the aftercare program are violated, the agent supervising
 15 the program as it relates to the child involved, or the state
 16 attorney, may bring the child before the court on a petition
 17 alleging a violation of the program. Any child who violates
 18 the conditions of community control or aftercare must be
 19 brought before the court if sanctions are sought. A child
 20 taken into custody under s. 39.037 for violating the
 21 conditions of community control or aftercare shall be held in
 22 a consequence unit if such a unit is available. The child
 23 shall be afforded a hearing within 24 hours after being taken
 24 into custody to determine the existence of probable cause that
 25 the child violated the conditions of community control or
 26 aftercare. A consequence unit is a secure facility
 27 specifically designated by the department for children who are
 28 taken into custody under s. 985.207 for violating community
 29 control or aftercare, or who have been found by the court to
 30 have violated the conditions of community control or
 31 aftercare. If the violation involves a new charge of

1 delinquency, the child may be detained under s. 985.215 in a
 2 facility other than a consequence unit. If the child is not
 3 eligible for detention for the new charge of delinquency, the
 4 child may be held in the consequence unit pending a hearing
 5 and is subject to the time limitations specified in s.
 6 985.215. If the child denies violating the conditions of
 7 community control or aftercare, the court shall appoint
 8 counsel to represent the child at the child's request. Upon
 9 the child's admission, or if the court finds after a hearing
 10 that the child has violated the conditions of community
 11 control or aftercare, the court shall enter an order revoking,
 12 modifying, or continuing community control or aftercare. In
 13 each such case, the court shall enter a new disposition order
 14 and, in addition to the sanctions set forth in this paragraph,
 15 may impose any sanction the court could have imposed at the
 16 original disposition hearing. If the child is found to have
 17 violated the conditions of community control or aftercare, the
 18 court may:

19 (I) Place the child in a consequence unit in that
 20 judicial circuit, if available, for up to 5 days for a first
 21 violation, and up to 15 days for a second or subsequent
 22 violation.

23 (II) Place the child on home detention with electronic
 24 monitoring. However, this sanction may be used only if a
 25 consequence unit is not available.

26 (III) Modify or continue the child's community control
 27 program or aftercare program.

28 (IV) Revoke community control or aftercare and commit
 29 the child to the department.

30 d. Notwithstanding s. 743.07 and paragraph (d), and
 31 except as provided in s. 985.31, the term of any order placing

1 a child in a community control program must be until the
2 child's 19th birthday unless he or she is released by the
3 court, on the motion of an interested party or on its own
4 motion.

5 2. Commit the child to a licensed child-caring agency
6 willing to receive the child, but the court may not commit the
7 child to a jail or to a facility used primarily as a detention
8 center or facility or shelter.

9 3. Commit the child to the Department of Juvenile
10 Justice at a restrictiveness level defined in s. 985.03(45).
11 Such commitment must be for the purpose of exercising active
12 control over the child, including, but not limited to,
13 custody, care, training, urine monitoring, and treatment of
14 the child and furlough of the child into the community.
15 Notwithstanding s. 743.07 and paragraph (d), and except as
16 provided in s. 985.31, the term of the commitment must be
17 until the child is discharged by the department or until he or
18 she reaches the age of 21.

19 4. Revoke or suspend the driver's license of the
20 child.

21 5. Require the child and, if the court finds it
22 appropriate, the child's parent or guardian together with the
23 child, to render community service in a public service
24 program.

25 6. As part of the community control program to be
26 implemented by the Department of Juvenile Justice, or, in the
27 case of a committed child, as part of the community-based
28 sanctions ordered by the court at the disposition hearing or
29 before the child's release from commitment, order the child to
30 make restitution in money, through a promissory note cosigned
31 by the child's parent or guardian, or in kind for any damage

1 or loss caused by the child's offense in a reasonable amount
2 or manner to be determined by the court. The clerk of the
3 circuit court shall be the receiving and dispensing agent. In
4 such case, the court shall order the child or the child's
5 parent or guardian to pay to the office of the clerk of the
6 circuit court an amount not to exceed the actual cost incurred
7 by the clerk as a result of receiving and dispensing
8 restitution payments. The clerk shall notify the court if
9 restitution is not made and the court shall take any further
10 action that is necessary against the child or the child's
11 parent or guardian. A finding by the court, after a hearing,
12 that the parent or guardian has made diligent and good faith
13 efforts to prevent the child from engaging in delinquent acts
14 absolves the parent or guardian of liability for restitution
15 under this subparagraph.

16 7. Order the child and, if the court finds it
17 appropriate, the child's parent or guardian together with the
18 child, to participate in a community work project, either as
19 an alternative to monetary restitution or as part of the
20 rehabilitative or community control program.

21 8. Commit the child to the Department of Juvenile
22 Justice for placement in a program or facility for serious or
23 habitual juvenile offenders in accordance with s. 985.31. Any
24 commitment of a child to a program or facility for serious or
25 habitual juvenile offenders must be for an indeterminate
26 period of time, but the time may not exceed the maximum term
27 of imprisonment that an adult may serve for the same offense.
28 The court may retain jurisdiction over such child until the
29 child reaches the age of 21, specifically for the purpose of
30 the child completing the program.

31

1 9. 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 effort to prevent the child
 5 from engaging in delinquent acts. The court may also order the
 6 parent or guardian to make restitution in money or in kind for
 7 any damage or loss caused by the child's offense. The court
 8 shall determine a reasonable amount or manner of restitution,
 9 and payment shall be made to the clerk of the circuit court as
 10 provided in subparagraph 6.

11 10. Subject to specific appropriation, commit the
 12 juvenile sexual offender to the Department of Juvenile Justice
 13 for placement in a program or facility for juvenile sexual
 14 offenders in accordance with s. 985.308. Any commitment of a
 15 juvenile sexual offender to a program or facility for juvenile
 16 sexual offenders must be for an indeterminate period of time,
 17 but the time may not exceed the maximum term of imprisonment
 18 that an adult may serve for the same offense. The court may
 19 retain jurisdiction over a juvenile sexual offender until the
 20 juvenile sexual offender reaches the age of 21, specifically
 21 for the purpose of completing the program.

22 (b) When any child is adjudicated by the court to have
 23 committed a delinquent act and temporary legal custody of the
 24 child has been placed with a licensed child-caring agency or
 25 the Department of Juvenile Justice, the court shall order the
 26 natural or adoptive parents of such child, the natural father
 27 of such child born out of wedlock who has acknowledged his
 28 paternity in writing before the court, or the guardian of such
 29 child's estate, if possessed of assets that under law may be
 30 disbursed for the care, support, and maintenance of the child,
 31 to pay fees to the licensed child-caring agency or the

1 Department of Juvenile Justice equal to the actual cost of the
2 care, support, and maintenance of the child, unless the court
3 determines that the parent or guardian of the child is
4 indigent. The court may reduce the fees or waive the fees upon
5 a showing by the parent or guardian of an inability to pay the
6 full cost of the care, support, and maintenance of the child.
7 In addition, the court may waive the fees if it finds that the
8 child's parent or guardian was the victim of the child's
9 delinquent act or violation of law or if the court finds that
10 the parent or guardian has made a diligent and good faith
11 effort to prevent the child from engaging in the delinquent
12 act or violation of law. When the order affects the
13 guardianship estate, a certified copy of the order shall be
14 delivered to the judge having jurisdiction of the guardianship
15 estate.

16 (c) Any order made pursuant to paragraph (a) may
17 thereafter be modified or set aside by the court.

18 (d) Any commitment of a delinquent child to the
19 Department of Juvenile Justice must be for an indeterminate
20 period of time, which may include periods of temporary
21 release, but the time may not exceed the maximum term of
22 imprisonment that an adult may serve for the same offense. Any
23 temporary release for a period greater than 3 days must be
24 approved by the court. Any child so committed may be
25 discharged from institutional confinement or a program upon
26 the direction of the department with the concurrence of the
27 court. Notwithstanding s. 743.07 and this subsection, and
28 except as provided in s. 985.31, a child may not be held under
29 a commitment from a court pursuant to this section after
30 becoming 21 years of age. The department shall give the court
31 that committed the child to the department reasonable notice,

1 in writing, of its desire to discharge the child from a
2 commitment facility. The court that committed the child may
3 thereafter accept or reject the request. If the court does not
4 respond within 10 days after receipt of the notice, the
5 request of the department shall be deemed granted. This
6 section does not limit the department's authority to revoke a
7 child's temporary release status and return the child to a
8 commitment facility for any violation of the terms and
9 conditions of the temporary release.

10 (e) In carrying out the provisions of this part, the
11 court may order the natural parents or legal custodian or
12 guardian of a child who is found to have committed a
13 delinquent act to participate in family counseling and other
14 professional counseling activities deemed necessary for the
15 rehabilitation of the child or to enhance their ability to
16 provide the child with adequate support, guidance, and
17 supervision. The court may also order that the parent,
18 custodian, or guardian support the child and participate with
19 the child in fulfilling a court-imposed sanction. In addition,
20 the court may use its contempt powers to enforce a
21 court-imposed sanction.

22 (f) The court may at any time enter an order ending
23 its jurisdiction over any child.

24 (g) Whenever a child is required by the court to
25 participate in any work program under this part or whenever a
26 child volunteers to work in a specified state, county,
27 municipal, or community service organization supervised work
28 program or to work for the victim, either as an alternative to
29 monetary restitution or as a part of the rehabilitative or
30 community control program, the child is an employee of the
31 state for the purposes of liability. In determining the

1 child's average weekly wage unless otherwise determined by a
2 specific funding program, all remuneration received from the
3 employer is a gratuity, and the child is not entitled to any
4 benefits otherwise payable under s. 440.15, regardless of
5 whether the child may be receiving wages and remuneration from
6 other employment with another employer and regardless of the
7 child's future wage-earning capacity.

8 (h) The court may, upon motion of the child or upon
9 its own motion, within 60 days after imposition of a
10 disposition of commitment, suspend the further execution of
11 the disposition and place the child on probation in a
12 community control program upon such terms and conditions as
13 the court may require. The department shall forward to the
14 court all relevant material on the child's progress while in
15 custody not later than 3 working days prior to the hearing on
16 the motion to suspend the disposition.

17 (i) The nonconsent of the child to commitment or
18 treatment in a substance abuse treatment program in no way
19 precludes the court from ordering such commitment or
20 treatment.

21 (j) If the offense committed by the child was grand
22 theft of a motor vehicle, the court:

23 1. Upon a first adjudication for a grand theft of a
24 motor vehicle, may place the youth in a boot camp, unless the
25 child is ineligible pursuant to s. 985.309, and shall order
26 the youth to complete a minimum of 50 hours of community
27 service.

28 2. Upon a second adjudication for grand theft of a
29 motor vehicle which is separate and unrelated to the previous
30 adjudication, may place the youth in a boot camp, unless the
31 child is ineligible pursuant to s. 985.309, and shall order

1 the youth to complete a minimum of 100 hours of community
2 service.

3 3. Upon a third adjudication for grand theft of a
4 motor vehicle which is separate and unrelated to the previous
5 adjudications, shall place the youth in a boot camp or other
6 treatment program, unless the child is ineligible pursuant to
7 s. 985.309, and shall order the youth to complete a minimum of
8 250 hours of community service.

9 (2) Following a delinquency adjudicatory hearing
10 pursuant to s. 985.228 and a delinquency disposition hearing
11 pursuant to section 985.23 which results in a commitment
12 determination, the court shall, on its own or upon request by
13 the state or the department, determine whether the protection
14 of the public requires that the child be placed in a program
15 for serious or habitual juvenile offenders and whether the
16 particular needs of the child would be best served by a
17 program for serious or habitual juvenile offenders as provided
18 in s. 985.31. The determination shall be made pursuant to ss.
19 985.03(47) and 985.23(3).

20 (3) Following a delinquency adjudicatory hearing
21 pursuant to s. 985.228, the court may on its own or upon
22 request by the state or the department and subject to specific
23 appropriation, determine whether a juvenile sexual offender
24 placement is required for the protection of the public and
25 what would be the best approach to address the treatment needs
26 of the juvenile sexual offender. When the court determines
27 that a juvenile has no history of a recent comprehensive
28 assessment focused on sexually deviant behavior, the court
29 may, subject to specific appropriation, order the department
30 to conduct or arrange for an examination to determine whether
31

1 the juvenile sexual offender is amenable to community-based
2 treatment.

3 (a) The report of the examination shall include, at a
4 minimum, the following:

5 1. The juvenile sexual offender's account of the
6 incident and the official report of the investigation.

7 2. The juvenile sexual offender's offense history.

8 3. A multidisciplinary assessment of the sexually
9 deviant behaviors, including an assessment by a certified
10 psychologist, therapist, or psychiatrist.

11 4. An assessment of the juvenile sexual offender's
12 family, social, educational, and employment situation. The
13 report shall set forth the sources of the evaluator's
14 information.

15 (b) The report shall assess the juvenile sexual
16 offender's amenability to treatment and relative risk to the
17 victim and the community.

18 (c) The department shall provide a proposed plan to
19 the court that shall include, at a minimum:

20 1. The frequency and type of contact between the
21 offender and therapist.

22 2. The specific issues and behaviors to be addressed
23 in the treatment and description of planned treatment methods.

24 3. Monitoring plans, including any requirements
25 regarding living conditions, school attendance and
26 participation, lifestyle, and monitoring by family members,
27 legal guardians, or others.

28 4. Anticipated length of treatment.

29 5. Recommended crime-related prohibitions and curfew.

30
31

1 6. Reasonable restrictions on the contact between the
2 juvenile sexual offender and either the victim or alleged
3 victim.

4 (d) After receipt of the report on the proposed plan
5 of treatment, the court shall consider whether the community
6 and the offender will benefit from use of juvenile sexual
7 offender community-based treatment alternative disposition and
8 consider the opinion of the victim or the victim's family as
9 to whether the offender should receive a community-based
10 treatment alternative disposition under this subsection.

11 (e) If the court determines that this juvenile sexual
12 offender community-based treatment alternative is appropriate,
13 the court may place the offender on community supervision for
14 up to 3 years. As a condition of community treatment and
15 supervision, the court may order the offender to:

16 1. Undergo available outpatient juvenile sexual
17 offender treatment for up to 3 years. A program or provider
18 may not be used for such treatment unless it has an
19 appropriate program designed for sexual offender treatment.
20 The department shall not change the treatment provider without
21 first notifying the state attorney's office.

22 2. Remain within described geographical boundaries and
23 notify the court or the department counselor prior to any
24 change in the offender's address, educational program, or
25 employment.

26 3. Comply with all requirements of the treatment plan.

27 (f) The juvenile sexual offender treatment provider
28 shall submit quarterly reports on the respondent's progress in
29 treatment to the court and the parties to the proceedings.
30 The juvenile sexual offender reports shall reference the
31 treatment plan and include, at a minimum, the following:

- 1 1. Dates of attendance.
2 2. The juvenile sexual offender's compliance with the
3 requirements of treatment.
4 3. A description of the treatment activities.
5 4. The sexual offender's relative progress in
6 treatment.
7 5. The offender's family support of the treatment
8 objectives.
9 6. Any other material specified by the court at the
10 time of the disposition.
11 (g) At the disposition hearing, the court may set case
12 review hearings as the court considers appropriate.
13 (h) If the juvenile sexual offender violates any
14 condition of the disposition or the court finds that the
15 juvenile sexual offender is failing to make satisfactory
16 progress in treatment, the court may revoke the
17 community-based treatment alternative and order commitment to
18 the department pursuant to subsection (1).
19 (i) If the court determines that the juvenile sexual
20 offender is not amenable to community-based treatment, the
21 court shall proceed with a juvenile sexual offender
22 disposition hearing pursuant to subsection (1).
23 Section 40. Section 39.078, Florida Statutes, is
24 transferred and renumbered as section 985.232, Florida
25 Statutes.
26 Section 41. Section 985.233, Florida Statutes, is
27 created to read:
28 985.233 Sentencing powers; procedures; alternatives
29 for juveniles prosecuted as adults.--
30 (1) POWERS OF DISPOSITION.--
31

1 (a) A child who is found to have committed a violation
2 of law may, as an alternative to adult dispositions, be
3 committed to the department for treatment in an appropriate
4 program for children outside the adult correctional system or
5 be placed in a community control program for juveniles.

6 (b) In determining whether to impose juvenile
7 sanctions instead of adult sanctions, the court shall consider
8 the following criteria:

9 1. The seriousness of the offense to the community and
10 whether the community would best be protected by juvenile or
11 adult sanctions.

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

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

17 4. The sophistication and maturity of the offender.

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

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

25 b. Prior periods of probation or community control.

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

28 d. Prior commitments to the Department of Juvenile
29 Justice, the former Department of Health and Rehabilitative
30 Services, the Department of Children and Family Services, or
31 other facilities or institutions.

1 6. The prospects for adequate protection of the public
2 and the likelihood of deterrence and reasonable rehabilitation
3 of the offender if assigned to services and facilities of the
4 Department of Juvenile Justice.

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

8 8. Whether adult sanctions would provide more
9 appropriate punishment and deterrence to further violations of
10 law than the imposition of juvenile sanctions.

11 (2) PRESENTENCE INVESTIGATION REPORT.--

12 (a) Upon a plea of guilty, the court may refer the
13 case to the department for investigation and recommendation as
14 to the suitability of its programs for the child.

15 (b) Upon completion of the presentence investigation
16 report, it must be made available to the child's counsel and
17 the state attorney by the department prior to the disposition
18 hearing.

19 (3) SENTENCING HEARING.--

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

28 (b) After considering the presentence investigation
29 report, the court shall give all parties present at the
30 hearing an opportunity to comment on the issue of sentence and
31 any proposed rehabilitative plan. Parties to the case include

1 the parent, guardian, or legal custodian of the offender; the
2 offender's counsel; the state attorney; representatives of the
3 Department of Corrections and the Department of Juvenile
4 Justice; the victim or victim's representative;
5 representatives of the school system; and the law enforcement
6 officers involved in the case.

7 (c) The court may receive and consider any other
8 relevant and material evidence, including other reports,
9 written or oral, in its effort to determine the action to be
10 taken with regard to the child, and may rely upon such
11 evidence to the extent of its probative value even if the
12 evidence would not be competent in an adjudicatory hearing.

13 (d) The court shall notify any victim of the offense
14 of the hearing and shall notify, or subpoena if appropriate,
15 the parents, guardians, or legal custodians of the child to
16 attend the disposition hearing.

17 (4) SENTENCING ALTERNATIVES.--

18 (a) Sentencing to adult sanctions.--

19 1. Cases prosecuted on indictment.--If the child is
20 found to have committed the offense punishable by death or
21 life imprisonment, the child shall be sentenced as an adult.
22 If the juvenile is not found to have committed the indictable
23 offense but is found to have committed a lesser included
24 offense or any other offense for which he or she was indicted
25 as a part of the criminal episode, the court may sentence as
26 follows:

27 a. As an adult pursuant to this section;

28 b. Pursuant to chapter 958, notwithstanding any other
29 provision of that chapter to the contrary; or

30 c. As a juvenile pursuant to this section.

31

1 2. Other cases.--If a child who has been transferred
2 for criminal prosecution pursuant to information or waiver of
3 juvenile court jurisdiction is found to have committed a
4 violation of state law or a lesser included offense for which
5 he or she was charged as a part of the criminal episode, the
6 court may sentence as follows:

7 a. As an adult pursuant to this section;

8 b. Pursuant to chapter 958, notwithstanding any other
9 provision of that chapter to the contrary; or

10 c. As a juvenile pursuant to this section.

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

16 4. When a child has been transferred for criminal
17 prosecution as an adult and has been found to have committed a
18 violation of state law, the disposition of the case may
19 include the enforcement of any restitution ordered in any
20 juvenile proceeding.

21 (b) Sentencing to juvenile sanctions.--In order to use
22 this paragraph, the court shall stay adjudication of guilt and
23 instead shall adjudge the child to have committed a delinquent
24 act. Adjudication of delinquency shall not be deemed a
25 conviction, nor shall it operate to impose any of the civil
26 disabilities ordinarily resulting from a conviction. The court
27 shall impose an adult sanction or a juvenile sanction and may
28 not sentence the child to a combination of adult and juvenile
29 punishments. An adult sanction or a juvenile sanction may
30 include enforcement of an order of restitution or community
31 control previously ordered in any juvenile proceeding.

1 However, if the court imposes a juvenile sanction and the
2 department determines that the sanction is unsuitable for the
3 child, the department shall return custody of the child to the
4 sentencing court for further proceedings, including the
5 imposition of adult sanctions. Upon adjudicating a child
6 delinquent under subsection (1), the court may:

7 1. Place the child in a community control program
8 under the supervision of the department for an indeterminate
9 period of time until the child reaches the age of 19 years or
10 sooner if discharged by order of the court.

11 2. Commit the child to the department for an
12 indeterminate period of time until the child is 19 years of
13 age, or 21 years of age if the child is committed to a
14 maximum-risk program or a serious or habitual juvenile
15 offender program, or until the child is discharged by the
16 department. The department shall notify the court of its
17 intent to discharge no later than 14 days prior to discharge.
18 Failure of the court to timely respond to the department's
19 notice shall be considered approval for discharge.

20 3. Order disposition pursuant to s. 985.231 as an
21 alternative to youthful offender or adult sentencing if the
22 court determines not to impose youthful offender or adult
23 sanctions.

24 4. Develop, approve, and order a plan of community
25 control after appropriate sanctions for the offense are
26 determined. The community control plan shall contain rules,
27 requirements, conditions, and programs designed to encourage
28 responsible and acceptable behavior and to promote the
29 rehabilitation of the child and the protection of the
30 community.

31

1 (c) Imposition of adult sanctions upon failure of
 2 juvenile sanctions.--If a child proves not to be suitable to a
 3 community control program or for a treatment program under the
 4 provisions of subparagraph (b)2., the court may revoke the
 5 previous adjudication, impose an adjudication of guilt,
 6 classify the child as a youthful offender when appropriate,
 7 and impose any sentence which it may lawfully impose, giving
 8 credit for all time spent by the child in the department.

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

1 delivered to the judge having jurisdiction of the guardianship
2 estate.

3 (e) Further proceedings heard in adult court.--When a
4 child is sentenced to juvenile sanctions, further proceedings
5 involving those sanctions shall continue to be heard in the
6 adult court.

7
8 It is the intent of the Legislature that the criteria and
9 guidelines in this subsection are mandatory and that a
10 determination of disposition under this subsection is subject
11 to the right of the child to appellate review under s.
12 985.234.

13 Section 42. Section 39.069, Florida Statutes, is
14 transferred and renumbered as section 985.234, Florida
15 Statutes.

16 Section 43. Section 39.0711, Florida Statutes, is
17 transferred and renumbered as section 985.235, Florida
18 Statutes.

19 Section 44. Section 39.072, Florida Statutes, is
20 transferred and renumbered as section 985.236, Florida
21 Statutes.

22 Section 45. Section 39.0255, Florida Statutes, is
23 transferred, renumbered as section 985.301, Florida Statutes,
24 and amended to read:

25 985.301 ~~39.0255~~ Civil citation.--

26 (1) There is established a juvenile civil citation
27 process for the purpose of providing an efficient and
28 innovative alternative to custody by the Department of
29 Juvenile Justice of children who commit nonserious delinquent
30 acts and to ensure swift and appropriate consequences. The
31 civil citation program may be established at the local level

1 with the concurrence of the chief judge of the circuit, state
 2 attorney, public defender, and the head of each local law
 3 enforcement agency involved. Under such a juvenile civil
 4 citation program, any law enforcement officer upon making
 5 contact with a juvenile who admits having committed a
 6 misdemeanor, may issue a civil citation assessing not more
 7 than 50 community service hours, and may require participation
 8 in intervention services appropriate to identified needs of
 9 the juvenile, including family counseling, urinalysis
 10 monitoring, and substance abuse and mental health treatment
 11 services. A copy of each citation issued under this section
 12 shall be provided to the department, and the department shall
 13 enter appropriate information into the juvenile offender
 14 information system.

15 (2) Upon issuing such citation, the law enforcement
 16 officer shall send a copy to the county sheriff, state
 17 attorney, the appropriate intake office of the department, the
 18 community service performance monitor designated by the
 19 department, the parent or guardian of the child, and the
 20 victim.

21 (3) The child shall report to the community service
 22 performance monitor within 7 working days after the date of
 23 issuance of the citation. The work assignment shall be
 24 accomplished at a rate of not less than 5 hours per week. The
 25 monitor shall advise the intake office immediately upon
 26 reporting by the child to the monitor, that the child has in
 27 fact reported and the expected date upon which completion of
 28 the work assignment will be accomplished.

29 (4) If the juvenile fails to report timely for a work
 30 assignment, complete a work assignment, or comply with
 31 assigned intervention services within the prescribed time, or

1 if the juvenile commits a third or subsequent misdemeanor, the
2 law enforcement officer shall issue a report alleging the
3 child has committed a delinquent act, at which point an intake
4 counselor or case manager shall perform a preliminary
5 determination as provided under s. 985.21(4) ~~39.047(4)~~.

6 (5) At the time of issuance of the citation by the law
7 enforcement officer, such officer shall advise the child that
8 the child has the option to refuse the citation and to be
9 referred to the intake office of the department. That option
10 may be exercised at any time prior to completion of the work
11 assignment.

12 Section 46. Section 39.019, Florida Statutes, 1996
13 Supplement, is transferred and renumbered as section 985.302,
14 Florida Statutes.

15 Section 47. Section 39.0361, Florida Statutes, 1996
16 Supplement, is transferred, renumbered as section 985.303,
17 Florida Statutes, and amended to read:

18 985.303 ~~39.0361~~ Neighborhood Restorative Justice
19 Act.--

20 ~~(1) SHORT TITLE.--This section shall be known and may~~
21 ~~be cited as the "Neighborhood Restorative Justice Act."~~

22 ~~(1)(2)~~ DEFINITIONS.--For purposes of this section act,
23 the term:

24 (a) "Board" means a Restorative Justice Board
25 established by the state attorney pursuant to subsection (3)
26 ~~(4)~~.

27 (b) "Center" means a Neighborhood Restorative Justice
28 Center established by the state attorney pursuant to
29 subsection (2) ~~(3)~~.

30 (c) "First-time, nonviolent juvenile offender" means a
31 minor who allegedly has committed a delinquent act or

1 violation of law that would not be a crime of violence
2 providing grounds for detention or incarceration and who does
3 not have a previous record of being found to have committed a
4 criminal or delinquent act or other violation of law.

5 (2)~~(3)~~ NEIGHBORHOOD RESTORATIVE JUSTICE CENTER.--

6 (a) The state attorney may establish at least one
7 Neighborhood Restorative Justice Center in designated
8 geographical areas in the county for the purposes of operating
9 a deferred prosecution program for first-time, nonviolent
10 juvenile offenders.

11 (b) The state attorney may refer any first-time,
12 nonviolent juvenile offender accused of committing a
13 delinquent act to a Neighborhood Restorative Justice Center.

14 (3)~~(4)~~ RESTORATIVE JUSTICE BOARD.--

15 (a) The state attorney may establish Restorative
16 Justice Boards consisting of five volunteer members, of which:
17 two are appointed by the state attorney; two are appointed by
18 the public defender; and one is appointed by the chief judge
19 of the circuit. The state attorney shall appoint a chairman
20 for each board.

21 (b) The board has jurisdiction to hear all matters
22 involving first-time, nonviolent juvenile offenders who are
23 alleged to have committed a delinquent act within the
24 geographical area covered by the board.

25 (4)~~(5)~~ DEFERRED PROSECUTION PROGRAM; PROCEDURES.--

26 (a) The participation by a juvenile in the deferred
27 prosecution program through a Neighborhood Restorative Justice
28 Center is voluntary. To participate in the deferred
29 prosecution program, the juvenile who is referred to a
30 Neighborhood Restorative Justice Center must take
31 responsibility for the actions which led to the current

1 accusation. The juvenile and the juvenile's parent or legal
 2 guardian must waive the juvenile's right to a speedy trial and
 3 the right to be represented by a public defender while in the
 4 Neighborhood Restorative Justice program. This waiver and
 5 acknowledgement of responsibility shall not be construed as an
 6 admission of guilt in future proceedings. The board or the
 7 board's representative must inform the juvenile and the parent
 8 or legal guardian of the juvenile's legal rights prior to the
 9 signing of the waiver.

10 (b) If the state attorney refers a juvenile matter to
 11 a Neighborhood Restorative Justice Center, the board shall
 12 convene a meeting within 15 days after receiving the referral.

13 (c) The board shall require the parent or legal
 14 guardian of the juvenile who is referred to a Neighborhood
 15 Restorative Justice Center to appear with the juvenile before
 16 the board at the time set by the board. In scheduling board
 17 meetings, the board shall be cognizant of a parent's or legal
 18 guardian's other obligations. The failure of a parent or
 19 legal guardian to appear at the scheduled board meeting with
 20 his or her child or ward may be considered by the juvenile
 21 court as an act of child neglect as defined by s. 415.503(3),
 22 and the board may refer the matter to the Department of
 23 Children and Family ~~Health and Rehabilitative~~ Services for
 24 investigation under the provisions of chapter 415.

25 (d) The board shall serve notice of a board meeting on
 26 the juvenile referred to the Neighborhood Restorative Justice
 27 Center, the juvenile's parent or guardian, and the victim or
 28 family of the victim of the alleged offense. These persons and
 29 their representatives have the right to appear and participate
 30 in any meeting conducted by the board relative to the alleged
 31 offense in which they were the alleged juvenile offender or

1 parent or guardian of the alleged juvenile offender, or victim
2 or family of the victim of the alleged juvenile offender. The
3 victim or a person representing the victim may vote with the
4 board.

5 (5)~~(6)~~ SANCTIONS.--After holding a meeting pursuant to
6 paragraph(4)~~(5)~~~~(d)~~, the board may impose any of the
7 following sanctions alone or in any combination:

8 (a) Require the juvenile to make restitution to the
9 victim.

10 (b) Require the juvenile to perform work for the
11 victim.

12 (c) Require the juvenile to make restitution to the
13 community.

14 (d) Require the juvenile to perform work for the
15 community.

16 (e) Recommend that the juvenile participate in
17 counseling, education, or treatment services that are
18 coordinated by the state attorney.

19 (f) Require the juvenile to surrender the juvenile's
20 driver's license and forward a copy of the board's resolution
21 to the Department of Highway Safety and Motor Vehicles. The
22 department, upon receipt of the license, shall suspend the
23 driving privileges of the juvenile, or the juvenile may be
24 restricted to travel between the juvenile's home, school, and
25 place of employment during specified periods of time according
26 to the juvenile's school and employment schedule.

27 (g) Refer the matter to the state attorney for the
28 filing of a petition with the juvenile court.

29 (h) Impose any other sanction except detention that
30 the board determines is necessary to fully and fairly resolve
31 the matter.

1 (6)~~(7)~~ WRITTEN CONTRACT.--

2 (a) The board, on behalf of the community, and the
3 juvenile, the juvenile's parent or guardian, and the victim or
4 representative of the victim, shall sign a written contract in
5 which the parties agree to the board's resolution of the
6 matter and in which the juvenile's parent or guardian agrees
7 to ensure that the juvenile complies with the contract. The
8 contract may provide that the parent or guardian shall post a
9 bond payable to this state to secure the performance of any
10 sanction imposed upon the juvenile pursuant to subsection (5)
11 ~~(6)~~.

12 (b) A breach of the contract by any party may be
13 sanctioned by the juvenile court as it deems appropriate upon
14 motion by any party.

15 (c) If the juvenile disagrees with the resolution of
16 the board, the juvenile may file a notice with the board
17 within 3 working days after the board makes its resolution
18 that the juvenile has rejected the board's resolution. After
19 receiving notice of the juvenile's rejection, the state
20 attorney shall file a petition in juvenile court.

21 (7)~~(8)~~ COMPLETION OF SANCTIONS.--

22 (a) If the juvenile accepts the resolution of the
23 board and successfully completes the sanctions imposed by the
24 board, the state attorney shall not file a petition in
25 juvenile court and the board's resolution shall not be used
26 against the juvenile in any further proceeding and is not an
27 adjudication of delinquency. The resolution of the board is
28 not a conviction of a crime, does not impose any civil
29 disabilities ordinarily resulting from a conviction, and does
30 not disqualify the juvenile in any civil service application
31 or appointment.

1 (b) If the juvenile accepts the resolution reached by
2 the board but fails to successfully complete the sanctions
3 imposed by it, the state attorney may file the matter with the
4 juvenile court.

5 (c) Upon successful completion of the sanctions
6 imposed by the board, the juvenile shall submit to the board
7 proof of completion. The board shall determine the form and
8 manner in which a juvenile presents proof of completion.

9 (8)~~(9)~~ CONSTRUCTION.--This section shall not be
10 construed to diminish, impair, or otherwise affect any rights
11 conferred on victims of crimes under chapter 960, relating to
12 victim assistance, or any other provisions of law.

13 (9)~~(10)~~ SEVERABILITY.--If any provision of this
14 section or the application thereof to any person or
15 circumstance is held invalid, the invalidity shall not affect
16 other provisions or applications of the section which can be
17 given effect without the invalid provision or application, and
18 to this end the provisions of this section are declared
19 severable.

20 Section 48. Section 39.026, Florida Statutes, is
21 transferred, renumbered as section 985.304, Florida Statutes,
22 and amended to read:

23 985.304 ~~39.026~~ Community arbitration; ~~purpose~~.--

24 (1) PURPOSE.--The purpose of community arbitration is
25 to provide a system by which children who commit delinquent
26 acts may be dealt with in a speedy and informal manner at the
27 community or neighborhood level, in an attempt to reduce the
28 ever-increasing instances of delinquent acts and permit the
29 judicial system to deal effectively with cases which are more
30 serious in nature.

31 (2) PROGRAMS.--

1 (a) Each county may establish community arbitration
2 programs designed to complement the department's intake
3 process provided in this chapter. Community arbitration
4 programs shall provide one or more community arbitrators or
5 community arbitration panels to hear informally cases which
6 involve alleged commissions of certain delinquent acts by
7 children.

8 (b) Cases which may be referred to a community
9 arbitrator or community arbitration panel are limited to those
10 which involve violations of local ordinances, those which
11 involve misdemeanors, and those which involve third degree
12 felonies, exclusive of third degree felonies involving
13 personal violence, grand theft auto, or the use of a weapon.

14 (c) A child who has been the subject of at least one
15 prior adjudication or adjudication withheld for any first or
16 second degree felony offense, any third degree felony offense
17 involving personal violence, grand theft auto, or the use of a
18 weapon, or any other offense not eligible for arbitration,
19 shall not be eligible for resolution of any current offense
20 through community arbitration.

21 (d) Cases resolved through community arbitration shall
22 be limited pursuant to this subsection.

23 1. For each child referred to community arbitration,
24 the primary offense shall be assigned a point value.

25 a. Misdemeanor offenses shall be assigned two points
26 for a misdemeanor of the second degree, four points for a
27 nonviolent misdemeanor of the first degree, and six points for
28 a misdemeanor of the first degree involving violence.

29 b. Eligible third degree felony offenses shall be
30 assigned eight points.

31

1 2. There is not a restriction on the limit of separate
2 incidents for which a law enforcement officer may refer a
3 child to community arbitration, but a child who has accrued a
4 point value of 12 or more points through community arbitration
5 prior to the current offense shall no longer be eligible for
6 community arbitration.

7 3. The point values provided in this paragraph shall
8 also be assigned to a child's prior adjudications or
9 adjudications withheld on eligible offenses for cases not
10 referred to community arbitration.

11 (3) COMMUNITY ARBITRATORS.--The chief judge of each
12 judicial circuit shall maintain a list of qualified persons
13 who have agreed to serve as community arbitrators for the
14 purpose of carrying out the provisions of this part.
15 Community arbitrators shall meet the qualification and
16 training requirements adopted in rule by the Supreme Court.
17 Whenever possible, qualified volunteers shall be used as
18 community arbitrators.

19 (a) Each community arbitrator or member of a community
20 arbitration panel shall be selected by the chief judge of the
21 circuit, the senior circuit court judge assigned to juvenile
22 cases in the circuit, and the state attorney. A community
23 arbitrator or, in the case of a panel, the chief arbitrator
24 shall have such powers as are necessary to conduct the
25 proceedings in a fair and expeditious manner.

26 (b) A community arbitrator or member of a community
27 arbitration panel shall be trained or experienced in juvenile
28 causes and shall be:

29 1. Either a graduate of an accredited law school or of
30 an accredited school with a degree in behavioral social work
31 or trained in conflict resolution techniques; and

1 2. A person of the temperament necessary to deal
 2 properly with cases involving children and with the family
 3 crises likely to be presented to him or her.

4 (4) PROCEDURE FOR INITIATING CASES FOR COMMUNITY
 5 ARBITRATION.--

6 (a) Any law enforcement officer may issue a complaint,
 7 along with a recommendation for community arbitration, against
 8 any child who such officer has reason to believe has committed
 9 any offense that is eligible for community arbitration. The
 10 complaint shall specify the offense and the reasons why the
 11 law enforcement officer feels that the offense should be
 12 handled by community arbitration. Any intake counselor or case
 13 manager or, at the request of the child's parent or legal
 14 custodian or guardian, the state attorney or the court having
 15 jurisdiction, with the concurrence of the state attorney, may
 16 refer a complaint to be handled by community arbitration when
 17 appropriate. A copy of the complaint shall be forwarded to the
 18 appropriate intake counselor or case manager and the parent or
 19 legal custodian or guardian of the child within 48 hours after
 20 issuance of the complaint. In addition to the complaint, the
 21 child and the parent or legal custodian or guardian shall be
 22 informed of the objectives of the community arbitration
 23 process; the conditions, procedures, and timeframes under
 24 which it will be conducted; and the fact that it is not
 25 obligatory. The intake counselor shall contact the child and
 26 the parent or legal custodian or guardian within 2 days after
 27 the date on which the complaint was received. At this time,
 28 the child or the parent or legal custodian or guardian shall
 29 inform the intake counselor of the decision to approve or
 30 reject the handling of the complaint through community
 31 arbitration.

1 (b) The intake counselor shall verify accurate
2 identification of the child and determine whether or not the
3 child has any prior adjudications or adjudications withheld
4 for an offense eligible for community arbitration for
5 consideration in the point value structure. If the child has
6 at least one prior adjudication or adjudication withheld for
7 an offense which is not eligible for community arbitration, or
8 if the child has already surpassed the accepted level of
9 points on prior community arbitration resolutions, the intake
10 counselor or case manager shall consult with the state
11 attorney regarding the filing of formal juvenile proceedings.

12 (c) If the child or the parent or legal custodian or
13 guardian rejects the handling of the complaint through
14 community arbitration, the intake counselor shall consult with
15 the state attorney for the filing of formal juvenile
16 proceedings.

17 (d) If the child or the parent or legal custodian or
18 guardian accepts the handling of the complaint through
19 community arbitration, the intake counselor shall provide
20 copies of the complaint to the arbitrator or panel within 24
21 hours.

22 (e) The community arbitrator or community arbitration
23 panel shall, upon receipt of the complaint, set a time and
24 date for a hearing within 7 days and shall inform the child's
25 parent or legal custodian or guardian, the complaining
26 witness, and any victims of the time, date, and place of the
27 hearing.

28 (5) HEARINGS.--

29 (a) The law enforcement officer who issued the
30 complaint need not appear at the scheduled hearing. However,
31 prior to the hearing, the officer shall file with the

1 community arbitrator or the community arbitration panel a
2 comprehensive report setting forth the facts and circumstances
3 surrounding the allegation.

4 (b) Records and reports submitted by interested
5 agencies and parties, including, but not limited to,
6 complaining witnesses and victims, may be received in evidence
7 before the community arbitrator or the community arbitration
8 panel without the necessity of formal proof.

9 (c) The testimony of the complaining witness and any
10 alleged victim may be received when available.

11 (d) Any statement or admission made by the child
12 appearing before the community arbitrator or the community
13 arbitration panel relating to the offense for which he or she
14 was cited is privileged and may not be used as evidence
15 against the child either in a subsequent juvenile proceeding
16 or in any subsequent civil or criminal action.

17 (e) If a child fails to appear on the original hearing
18 date, the matter shall be referred back to the intake
19 counselor who shall consult with the state attorney regarding
20 the filing of formal juvenile proceedings.

21 (6) DISPOSITION OF CASES.--

22 (a) Subsequent to any hearing held as provided in
23 subsection (5), the community arbitrator or community
24 arbitration panel may:

25 1. Recommend that the state attorney decline to
26 prosecute the child.

27 2. Issue a warning to the child or the child's family
28 and recommend that the state attorney decline to prosecute the
29 child.

30 3. Refer the child for placement in a community-based
31 nonresidential program.

1 4. Refer the child or the family to community
2 counseling.

3 5. Refer the child to a safety and education program
4 related to delinquent children.

5 6. Refer the child to a work program related to
6 delinquent children and require up to 100 hours of work by the
7 child.

8 7. Refer the child to a nonprofit organization for
9 volunteer work in the community and require up to 100 hours of
10 work by the child.

11 8. Order restitution in money or in kind in a case
12 involving property damage; however, the amount of restitution
13 shall not exceed the amount of actual damage to property.

14 9. Continue the case for further investigation.

15 10. Require the child to undergo urinalysis
16 monitoring.

17 11. Impose any other restrictions or sanctions that
18 are designed to encourage responsible and acceptable behavior
19 and are agreed upon by the participants of the community
20 arbitration proceedings.

21
22 The community arbitrator or community arbitration panel shall
23 determine an appropriate timeframe in which the disposition
24 must be completed. The community arbitrator or community
25 arbitration panel shall report the disposition of the case to
26 the intake counselor or case manager.

27 (b) Any person or agency to whom a child is referred
28 pursuant to this section shall periodically report the
29 progress of the child to the referring community arbitrator or
30 community arbitration panel in the manner prescribed by such
31 arbitrator or panel.

1 (c) Any child who is referred by the community
 2 arbitrator or community arbitration panel to a work program
 3 related to delinquent children or to a nonprofit organization
 4 for volunteer work in the community, and who is also ordered
 5 to pay restitution to the victim, may be paid a reasonable
 6 hourly wage for work, to the extent that funds are
 7 specifically appropriated or authorized for this purpose;
 8 provided, however, that such payments shall not, in total,
 9 exceed the amount of restitution ordered and that such
 10 payments shall be turned over by the child to the victim.

11 (d) If a child consents to an informal resolution and,
 12 in the presence of the parent or legal custodian or guardian
 13 and the community arbitrator or community arbitration panel,
 14 agrees to comply with any disposition suggested or ordered by
 15 such arbitrator or panel and subsequently fails to abide by
 16 the terms of such agreement, the community arbitrator or
 17 community arbitration panel may, after a careful review of the
 18 circumstances, forward the case back to the intake counselor,
 19 who shall consult with the state attorney regarding the filing
 20 of formal juvenile proceedings.

21 (7) REVIEW.--Any child or his or her parent or legal
 22 custodian or guardian who is dissatisfied with the disposition
 23 provided by the community arbitrator or the community
 24 arbitration panel may request a review of the disposition to
 25 the appropriate intake counselor within 15 days after the
 26 community arbitration hearing. Upon receipt of the request
 27 for review, the intake counselor shall consult with the state
 28 attorney who shall consider the request for review and may
 29 file formal juvenile proceedings or take such other action as
 30 may be warranted.

31

1 (8) FUNDING.--Funding for the provisions of community
2 arbitration may be provided through appropriations from the
3 state or from local governments, through federal or other
4 public or private grants, through any appropriations as
5 authorized by the county participating in the community
6 arbitration program, and through donations.

7 Section 49. Section 39.055, Florida Statutes, is
8 transferred, renumbered as section 985.305, Florida Statutes,
9 and amended to read:

10 985.305 ~~39.055~~ Early delinquency intervention program;
11 criteria.--

12 (1) The Department of Juvenile Justice shall,
13 contingent upon specific appropriation and with the
14 cooperation of local law enforcement agencies, the judiciary,
15 district school board personnel, the office of the state
16 attorney, the office of the public defender, the Department of
17 Children and Family ~~Health and Rehabilitative~~ Services, and
18 community service agencies that work with children, establish
19 an early delinquency intervention program, the components of
20 which shall include, but not be limited to:

21 (a) Case management services.

22 (b) Treatment modalities, including substance abuse
23 treatment services, mental health services, and retardation
24 services.

25 (c) Prevocational education and career education
26 services.

27 (d) Diagnostic evaluation services.

28 (e) Educational services.

29 (f) Self-sufficiency planning.

30 (g) Independent living skills.

31 (h) Parenting skills.

1 (i) Recreational and leisure time activities.
2 (j) Program evaluation.
3 (k) Medical screening.
4 (2) The early delinquency intervention program shall
5 consist of intensive residential treatment in a secure
6 facility for 7 days to 6 weeks, followed by 6 to 9 months of
7 aftercare. An early delinquency intervention program facility
8 shall be designed to accommodate the placement of a maximum of
9 10 children, except that the facility may accommodate up to 2
10 children in excess of that maximum if the additional children
11 have previously been released from the residential portion of
12 the program and are later found to need additional residential
13 treatment.
14 (3) A copy of the arrest report of any child 15 years
15 of age or younger who is taken into custody for committing a
16 delinquent act or any violation of law shall be forwarded to
17 the local service district office of the Department of
18 Juvenile Justice. Upon receiving the second arrest report of
19 any such child from the judicial circuit in which the program
20 is located, the Department of Juvenile Justice shall initiate
21 an intensive review of the child's social and educational
22 history to determine the likelihood of further significant
23 delinquent behavior. In making this determination, the
24 Department of Juvenile Justice shall consider, without
25 limitation, the following factors:
26 (a) Any prior allegation that the child is dependent
27 or a child in need of services.
28 (b) The physical, emotional, and intellectual status
29 and developmental level of the child.
30
31

1 (c) The child's academic history, including school
2 attendance, school achievements, grade level, and involvement
3 in school-sponsored activities.

4 (d) The nature and quality of the child's peer group
5 relationships.

6 (e) The child's history of substance abuse or
7 behavioral problems.

8 (f) The child's family status, including the
9 capability of the child's family members to participate in a
10 family-centered intervention program.

11 (g) The child's family history of substance abuse or
12 criminal activity.

13 (h) The supervision that is available in the child's
14 home.

15 (i) The nature of the relationship between the parents
16 and the child and any siblings and the child.

17 (4) Upon determination that a child is likely to
18 continue to exhibit significant delinquent behavior, the
19 department may recommend to the court that the child be placed
20 in an early delinquency intervention program, and the court
21 may order the program as the dispositional placement for the
22 child. At the discretion of the department or its designee,
23 or upon order of the court, a child who is 11 years of age or
24 younger may be excused from the residential portion of
25 treatment.

26 (5) Not later than 18 months after the initiation of
27 an early delinquency intervention program, the department
28 shall prepare and submit a progress report to the chairs of
29 the appropriate House and Senate fiscal committees and the
30 appropriate House and Senate substantive committees on the
31 development and implementation of the program, including:

1 (a) Factors determining placement of a child in the
2 program.

3 (b) Services provided in each component of the
4 program.

5 (c) Costs associated with each component of the
6 program.

7 (d) Problems or difficulties encountered in the
8 implementation and operation of the program.

9 Section 50. Section 39.0475, Florida Statutes, is
10 transferred and renumbered as section 985.306, Florida
11 Statutes.

12 Section 51. Section 39.0551, Florida Statutes, is
13 transferred and renumbered as section 985.307, Florida
14 Statutes.

15 Section 52. Section 39.0571, Florida Statutes, is
16 transferred and renumbered as section 985.308, Florida
17 Statutes.

18 Section 53. Section 39.057, Florida Statutes, is
19 transferred, renumbered as section 985.309, Florida Statutes,
20 and amended to read:

21 985.309 ~~39.057~~ Boot camp for children.--

22 (1) Contingent upon specific appropriation, the
23 department shall implement and operate a boot camp program to
24 provide an intensive educational and physical training and
25 rehabilitative program for appropriate children.

26 (2) Contingent upon local funding, a county or
27 municipal government may implement and operate a boot camp
28 program to provide an intensive educational and physical
29 training and rehabilitative program for appropriate children.

30 (3) A child may be placed in a boot camp program if he
31 or she is at least 14 years of age but less than 18 years of

1 age at the time of adjudication and has been committed to the
2 department for any offense that, if committed by an adult,
3 would be a felony, other than a capital felony, a life felony,
4 or a violent felony of the first degree.

5 (4) The department, county, or municipality operating
6 the boot camp program shall screen children sent to the boot
7 camp program, so that only those children who have medical and
8 psychological profiles conducive to successfully completing an
9 intensive work, educational, and disciplinary program may be
10 admitted to the program. The department shall adopt rules for
11 use by the department, county, or municipality operating the
12 boot camp program for screening such admissions.

13 (5) The program shall include educational assignments,
14 work assignments, and physical training exercises. Children
15 shall be required to participate in educational, vocational,
16 and substance abuse programs and to receive additional
17 training in techniques of appropriate decisionmaking, as well
18 as in life skills and job skills. The program shall include
19 counseling that is directed at replacing the criminal
20 thinking, beliefs, and values of the child with moral
21 thinking, beliefs, and values.

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

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

28 (b) A participant in a moderate-risk residential
29 program ~~or a high-risk residential program~~ must spend at least
30 4 months in the boot camp component of the program and 4
31 months in aftercare.

1
 2 This subsection does not preclude the operation of a program
 3 that requires the participants to spend more than 4 months in
 4 the boot camp component of the program or that requires the
 5 participants to complete two sequential programs of 4 months
 6 each in the boot camp component of the program.

7 (7) The department shall adopt rules for use by the
 8 department, county, or municipality operating the boot camp
 9 program which provide for disciplinary sanctions and
 10 restrictions on the privileges of the general population of
 11 children in the program.

12 (8) The department shall conduct quarterly inspections
 13 and evaluations of each county or municipal government boot
 14 camp program to determine whether the program complies with
 15 department rules for continued operation of the program. The
 16 department shall charge, and the county or municipal
 17 government shall pay, a monitoring fee equal to 0.5 percent of
 18 the direct operating costs of the boot camp program. The
 19 operation of a boot camp program that fails to pass the
 20 department's quarterly inspection and evaluation, if the
 21 deficiency causing the failure is material, must be terminated
 22 if the deficiency is not corrected by the next quarterly
 23 inspection.

24 (9) The department shall keep records and monitor
 25 criminal activity, educational progress, and employment
 26 placement of all boot camp program participants in department,
 27 county, and municipal boot camp programs after their release
 28 from the program. The department must publish an outcome
 29 evaluation study of each boot camp program within 18 months
 30 after the fourth platoon has graduated ~~program becomes~~
 31 ~~operational, which includes a comparison of criminal activity,~~

1 ~~educational progress, and employment placements of children~~
2 ~~completing the program with the criminal activity, educational~~
3 ~~progress, and employment records of children completing other~~
4 ~~types of programs.~~

5 (10) A child in any boot camp program who becomes
6 unmanageable or medically or psychologically ineligible must
7 be removed from the program.

8 (11)(a) The department may contract with private
9 organizations for the operation of its boot camp program and
10 aftercare.

11 (b) A county or municipality may contract with private
12 organizations for the operation of its boot camp program and
13 aftercare.

14 (12)(a) The Juvenile Justice Standards and Training
15 Commission shall either establish criteria for training all
16 contract staff or provide a special training program for
17 department, county, and municipal boot camp program staff,
18 which shall include appropriate methods of dealing with
19 children who have been placed in such a stringent program.

20 (b) Administrative staff must successfully complete a
21 minimum of 120 contact hours of commission-approved training.
22 Staff who have direct contact with children must successfully
23 complete a minimum of 200 contact hours of commission-approved
24 training, which must include training in the counseling
25 techniques that are used in the boot camp program, basic
26 cardiopulmonary resuscitation and choke-relief, and the
27 control of aggression.

28 (c) All training courses must be taught by persons who
29 are certified as instructors by the Division of Criminal
30 Justice Standards and Training of the Department of Law
31 Enforcement and who have prior experience in a juvenile boot

1 camp program. A training course in counseling techniques need
2 not be taught by a certified instructor but must be taught by
3 a person who has at least a bachelor's degree in social work,
4 counseling, psychology, or a related field.

5 (d) A person may not have direct contact with a child
6 in the boot camp program until he or she has successfully
7 completed the training requirements specified in paragraph
8 (b), unless he or she is under the direct supervision of a
9 certified drill instructor or camp commander.

10 (13)(a) The department may institute injunctive
11 proceedings in a court of competent jurisdiction against a
12 county or a municipality to:

13 1. Enforce the provisions of this chapter or a minimum
14 standard, rule, regulation, or order issued or entered
15 pursuant thereto; or

16 2. Terminate the operation of a facility operated
17 pursuant to this section.

18 (b) The department may institute proceedings against a
19 county or a municipality to terminate the operation of a
20 facility when any of the following conditions exist:

21 1. The facility fails to take preventive or corrective
22 measures in accordance with any order of the department.

23 2. The facility fails to abide by any final order of
24 the department once it has become effective and binding.

25 3. The facility commits any violation of this section
26 constituting an emergency requiring immediate action as
27 provided in this chapter.

28 4. The facility has willfully and knowingly refused to
29 comply with the screening requirement for personnel pursuant
30 to s. 985.01 ~~39.001~~ or has refused to dismiss personnel found
31

1 to be in noncompliance with the requirements for good moral
2 character.

3 (c) Injunctive relief may include temporary and
4 permanent injunctions.

5 Section 54. Section 39.058, Florida Statutes, 1996
6 Supplement, is transferred, renumbered as section 985.31,
7 Florida Statutes, and amended to read:

8 985.31 ~~39.058~~ Serious or habitual juvenile offender.--

9 (1) ASSESSMENT AND TREATMENT SERVICES.--Pursuant to
10 the provisions of this chapter and the establishment of
11 appropriate program guidelines and standards, contractual
12 instruments, which shall include safeguards of all
13 constitutional rights, shall be developed as follows:

14 (a) The department shall provide for:

15 1. The oversight of implementation of assessment and
16 treatment approaches.

17 2. The identification and prequalification of
18 appropriate individuals or not-for-profit organizations,
19 including minority individuals or organizations when possible,
20 to provide assessment and treatment services to serious or
21 habitual delinquent children.

22 3. The monitoring and evaluation of assessment and
23 treatment services for compliance with the provisions of this
24 chapter and all applicable rules and guidelines pursuant
25 thereto.

26 4. The development of an annual report on the
27 performance of assessment and treatment to be presented to the
28 Governor, the Attorney General, the President of the Senate,
29 the Speaker of the House of Representatives, and the Auditor
30 General no later than January 1 of each year.

31

1 (b) Assessment shall generally comprise the first 30
2 days of treatment and be provided by the same provider as
3 treatment, but assessment and treatment services may be
4 provided by separate providers, where warranted. Providers
5 shall be selected who have the capacity to assess and treat
6 the unique problems presented by children with different
7 racial and ethnic backgrounds. The department shall retain
8 contractual authority to reject any assessment or treatment
9 provider for lack of qualification.

10 (2) SERIOUS OR HABITUAL JUVENILE OFFENDER PROGRAM.--

11 (a) There is created the serious or habitual juvenile
12 offender program. The program shall combine 9 to 12 months of
13 intensive secure residential treatment followed by a minimum
14 of 9 months of aftercare. The components of the program shall
15 include, but not be limited to:

- 16 1. Diagnostic evaluation services.
- 17 2. Appropriate treatment modalities, including
18 substance abuse intervention, mental health services, and
19 sexual behavior dysfunction interventions and gang-related
20 behavior interventions.
- 21 3. Prevocational and vocational services.
- 22 4. Job training, job placement, and
23 employability-skills training.
- 24 5. Case management services.
- 25 6. Educational services, including special education
26 and pre-GED literacy.
- 27 7. Self-sufficiency planning.
- 28 8. Independent living skills.
- 29 9. Parenting skills.
- 30 10. Recreational and leisure time activities.

1 11. Community involvement opportunities commencing,
2 where appropriate, with the direct and timely payment of
3 restitution to the victim.

4 12. Intensive aftercare.

5 13. Graduated reentry into the community.

6 14. A diversity of forms of individual and family
7 treatment appropriate to and consistent with the child's
8 needs.

9 15. Consistent and clear consequences for misconduct.

10 (b) The department is authorized to contract with
11 private companies to provide some or all of the components
12 indicated in paragraph (a).

13 (c) The department shall involve local law enforcement
14 agencies, the judiciary, school board personnel, the office of
15 the state attorney, the office of the public defender, and
16 community service agencies interested in or currently working
17 with juveniles, in planning and developing this program.

18 (d) The department is authorized to accept funds or
19 in-kind contributions from public or private sources to be
20 used for the purposes of this section.

21 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
22 TREATMENT.--

23 (a) Assessment and treatment shall be conducted by
24 treatment professionals with expertise in specific treatment
25 procedures, which professionals shall exercise all
26 professional judgment independently of the department.

27 (b) Treatment provided to children in designated
28 facilities shall be suited to the assessed needs of each
29 individual child and shall be administered safely and
30 humanely, with respect for human dignity.

31

1 (c) The department may promulgate rules for the
2 implementation and operation of programs and facilities for
3 serious or habitual juvenile offenders.

4 (d) Any provider who acts in good faith is immune from
5 civil or criminal liability for his or her actions in
6 connection with the assessment, treatment, or transportation
7 of a serious or habitual juvenile offender under the
8 provisions of this chapter.

9 (e) After a child has been adjudicated delinquent
10 pursuant to s. 985.228 ~~39.053(3)~~, the court shall determine
11 whether the child meets the criteria for a serious or habitual
12 juvenile offender pursuant to s. 985.03(47) ~~39.01(62)~~. If the
13 court determines that the child does not meet such criteria,
14 the provisions of s. 985.231(1) ~~39.054~~ shall apply.

15 (f) After a child has been transferred for criminal
16 prosecution, a circuit court judge may direct an intake
17 counselor or case manager to consult with designated staff
18 from an appropriate serious or habitual juvenile offender
19 program for the purpose of making recommendations to the court
20 regarding the child's placement in such program.

21 (g) Recommendations as to a child's placement in a
22 serious or habitual juvenile offender program shall be
23 presented to the court within 72 hours after the adjudication
24 or conviction, and may be based on a preliminary screening of
25 the child at appropriate sites, considering the child's
26 location while court action is pending, which may include the
27 nearest regional detention center or facility or jail.

28 (h) Based on the recommendations of the
29 multidisciplinary assessment, the intake counselor or case
30 manager shall make the following recommendations to the court:
31

1 1. For each child who has not been transferred for
2 criminal prosecution, the intake counselor or case manager
3 shall recommend whether placement in such program is
4 appropriate and needed.

5 2. For each child who has been transferred for
6 criminal prosecution, the intake counselor or case manager
7 shall recommend whether the most appropriate placement for the
8 child is a juvenile justice system program, including a
9 serious or habitual juvenile offender program or facility, or
10 placement in the adult correctional system.

11
12 If treatment provided by a serious or habitual juvenile
13 offender program or facility is determined to be appropriate
14 and needed and placement is available, the intake counselor or
15 case manager and the court shall identify the appropriate
16 serious or habitual juvenile offender program or facility best
17 suited to the needs of the child.

18 (i) The treatment and placement recommendations shall
19 be submitted to the court for further action pursuant to this
20 paragraph:

21 1. If it is recommended that placement in a serious or
22 habitual juvenile offender program or facility is
23 inappropriate, the court shall make an alternative disposition
24 pursuant to s. 985.309 ~~39-057~~ or other alternative sentencing
25 as applicable, utilizing the recommendation as a guide.

26 2. If it is recommended that placement in a serious or
27 habitual juvenile offender program or facility is appropriate,
28 the court may commit the child to the department for placement
29 in the restrictiveness level designated for serious or
30 habitual delinquent children programs.

31

1 (j) The following provisions shall apply to children
2 in serious or habitual juvenile offender programs and
3 facilities:

4 1. A child shall begin participation in the reentry
5 component of the program based upon a determination made by
6 the treatment provider and approved by the department.

7 2. A child shall begin participation in the community
8 supervision component of aftercare based upon a determination
9 made by the treatment provider and approved by the department.
10 The treatment provider shall give written notice of the
11 determination to the circuit court having jurisdiction over
12 the child. If the court does not respond with a written
13 objection within 10 days, the child shall begin the aftercare
14 component.

15 3. A child shall be discharged from the program based
16 upon a determination made by the treatment provider with the
17 approval of the department.

18 4. In situations where the department does not agree
19 with the decision of the treatment provider, a reassessment
20 shall be performed, and the department shall utilize the
21 reassessment determination to resolve the disagreement and
22 make a final decision.

23 (k) Any commitment of a child to the department for
24 placement in a serious or habitual juvenile offender program
25 or facility shall be for an indeterminate period of time, but
26 the time shall not exceed the maximum term of imprisonment
27 which an adult may serve for the same offense. Notwithstanding
28 the provisions of ss. ~~39.054(4)~~ and 743.07 and 985.231(1)(d),
29 a serious or habitual juvenile offender shall not be held
30 under commitment from a court pursuant to this section, s.
31 985.231 ~~39.054~~, or s. 985.233 ~~39.059~~ after becoming 21 years

1 of age. This provision shall apply only for the purpose of
2 completing the serious or habitual juvenile offender program
3 pursuant to this chapter and shall be used solely for the
4 purpose of treatment.

5 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

6 (a) Pursuant to the provisions of this section, the
7 department shall implement the comprehensive assessment
8 instrument for the treatment needs of serious or habitual
9 juvenile offenders and for the assessment, which assessment
10 shall include the criteria under s. 985.03(47) ~~39.01(62)~~ and
11 shall also include, but not be limited to, evaluation of the
12 child's:

- 13 1. Amenability to treatment.
- 14 2. Proclivity toward violence.
- 15 3. Tendency toward gang involvement.
- 16 4. Substance abuse or addiction and the level thereof.
- 17 5. History of being a victim of child abuse or sexual
18 abuse, or indication of sexual behavior dysfunction.
- 19 6. Number and type of previous adjudications, findings
20 of guilt, and convictions.
- 21 7. Potential for rehabilitation.

22 (b) The department shall contract with multiple
23 individuals or not-for-profit organizations to perform the
24 assessments and treatment, and shall ensure that the staff of
25 each provider are appropriately trained.

26 (c) Assessment and treatment providers shall have a
27 written procedure developed, in consultation with licensed
28 treatment professionals, establishing conditions under which a
29 child's blood and urine samples will be tested for substance
30 abuse indications. It is not unlawful for the person receiving
31 the test results to divulge the test results to the relevant

1 facility staff and department personnel. However, such
2 information is exempt from the provisions of ss. 119.01 and
3 119.07(1) and s. 24(a), Art. I of the State Constitution.

4 (d) Serologic blood test and urinalysis results
5 obtained pursuant to paragraph (c) are confidential, except
6 that they may be shared with employees or officers of the
7 department, the court, and any assessment or treatment
8 provider and designated facility treating the child. No
9 person to whom the results of a test have been disclosed under
10 this section may disclose the test results to another person
11 not authorized under this section.

12 (e) The results of any serologic blood or urine test
13 on a serious or habitual juvenile offender shall become a part
14 of that child's permanent medical file. Upon transfer of the
15 child to any other designated treatment facility, such file
16 shall be transferred in an envelope marked confidential. The
17 results of any test designed to identify the human
18 immunodeficiency virus, or its antigen or antibody, shall be
19 accessible only to persons designated by rule of the
20 department. The provisions of such rule shall be consistent
21 with the guidelines established by the Centers for Disease
22 Control.

23 (f) A record of the assessment and treatment of each
24 serious or habitual juvenile offender shall be maintained by
25 the provider, which shall include data pertaining to the
26 child's treatment and such other information as may be
27 required under rules of the department. Unless waived by
28 express and informed consent by the child or the guardian or,
29 if the child is deceased, by the child's personal
30 representative or by the person who stands next in line of
31 intestate succession, the privileged and confidential status

1 of the clinical assessment and treatment record shall not be
2 lost by either authorized or unauthorized disclosure to any
3 person, organization, or agency.

4 (g) The assessment and treatment record shall not be a
5 public record, and no part of it shall be released, except
6 that:

7 1. The record shall be released to such persons and
8 agencies as are designated by the child or the guardian.

9 2. The record shall be released to persons authorized
10 by order of court, excluding matters privileged by other
11 provisions of law.

12 3. The record or any part thereof shall be disclosed
13 to a qualified researcher, as defined by rule; a staff member
14 of the designated treatment facility; or an employee of the
15 department when the administrator of the facility or the
16 Secretary of Juvenile Justice deems it necessary for treatment
17 of the child, maintenance of adequate records, compilation of
18 treatment data, or evaluation of programs.

19 4. Information from the assessment and treatment
20 record may be used for statistical and research purposes if
21 the information is abstracted in such a way as to protect the
22 identity of individuals.

23 (h) Notwithstanding other provisions of this section,
24 the department may request, receive, and provide assessment
25 and treatment information to facilitate treatment,
26 rehabilitation, and continuity of care of any serious or
27 habitual juvenile offender from any of the following:

28 1. The Social Security Administration and the United
29 States Department of Veterans Affairs.

30 2. Law enforcement agencies, state attorneys, defense
31 attorneys, and judges in regard to the child's status.

1 3. Personnel in any facility in which the child may be
2 placed.

3 4. Community agencies and others expected to provide
4 services to the child upon his or her return to the community.

5 (i) Any law enforcement agency, designated treatment
6 facility, governmental or community agency, or other entity
7 that receives information pursuant to this section shall
8 maintain such information as a nonpublic record as otherwise
9 provided herein.

10 (j) Any agency, not-for-profit organization, or
11 treatment professional who acts in good faith in releasing
12 information pursuant to this subsection shall not be subject
13 to civil or criminal liability for such release.

14 (k) Assessment and treatment records are confidential
15 as described in this paragraph and exempt from the provisions
16 of s. 119.07(1) and s. 24(a), Art. I of the State
17 Constitution.

18 1. The department shall have full access to the
19 assessment and treatment records to ensure coordination of
20 services to the child.

21 2. The principles of confidentiality of records as
22 provided in s. 985.04 ~~39.045~~ shall apply to the assessment and
23 treatment records of serious or habitual juvenile offenders.

24 (1) For purposes of effective administration, accurate
25 tracking and recordkeeping, and optimal treatment decisions,
26 each assessment and treatment provider shall maintain a
27 central identification file on the serious or habitual
28 juvenile offenders it treats.

29 (m) The file of each serious or habitual juvenile
30 offender shall contain, but is not limited to, pertinent
31 children-in-need-of-services and delinquency record

1 information maintained by the department; pertinent school
2 records information on behavior, attendance, and achievement;
3 and pertinent information on delinquency or children in need
4 of services maintained by law enforcement agencies and the
5 state attorney.

6 (n) All providers under this section shall, as part of
7 their contractual duties, collect, maintain, and report to the
8 department all information necessary to comply with mandatory
9 reporting pursuant to the promulgation of rules by the
10 department for the implementation of serious or habitual
11 juvenile offender programs and the monitoring and evaluation
12 thereof.

13 (o) The department is responsible for the development
14 and maintenance of a statewide automated tracking system for
15 serious or habitual juvenile offenders.

16 (5) DESIGNATED TREATMENT FACILITIES.--

17 (a) Designated facilities shall be sited and
18 constructed by the department, directly or by contract,
19 pursuant to departmental rules, to ensure that facility design
20 is compatible with treatment. The department is authorized to
21 contract for the construction of the facilities and may also
22 lease facilities. The number of beds per facility shall not
23 exceed 25. An assessment of need for additional facilities
24 shall be conducted prior to the siting or construction of more
25 than one facility in any judicial circuit.

26 (b) Designated facilities for serious or habitual
27 juvenile offenders shall be separate and secure facilities
28 established under the authority of the department for the
29 treatment of such children.

30 (c) Security for designated facilities for serious or
31 habitual juvenile offenders shall be determined by the

1 department. The department is authorized to contract for the
2 provision of security.

3 (d) With respect to the treatment of serious or
4 habitual juvenile offenders under this section, designated
5 facilities shall be immune from liability for civil damages
6 except in instances when the failure to act in good faith
7 results in serious injury or death, in which case liability
8 shall be governed by s. 768.28.

9 (e) Minimum standards and requirements for designated
10 treatment facilities shall be contractually prescribed
11 pursuant to subsection (1).

12 Section 55. Section 39.0582, Florida Statutes, 1996
13 Supplement, is transferred, renumbered as section 985.311,
14 Florida Statutes, and amended to read:

15 985.311 ~~39.0582~~ Intensive residential treatment
16 program for offenders less than 13 years of age.--

17 (1) ASSESSMENT AND TREATMENT SERVICES.--Pursuant to
18 the provisions of this chapter and the establishment of
19 appropriate program guidelines and standards, contractual
20 instruments, which shall include safeguards of all
21 constitutional rights, shall be developed for intensive
22 residential treatment programs for offenders less than 13
23 years of age as follows:

24 (a) The department shall provide for:

25 1. The oversight of implementation of assessment and
26 treatment approaches.

27 2. The identification and prequalification of
28 appropriate individuals or not-for-profit organizations,
29 including minority individuals or organizations when possible,
30 to provide assessment and treatment services to intensive
31 offenders less than 13 years of age.

1 3. The monitoring and evaluation of assessment and
2 treatment services for compliance with the provisions of this
3 chapter and all applicable rules and guidelines pursuant
4 thereto.

5 4. The development of an annual report on the
6 performance of assessment and treatment to be presented to the
7 Governor, the Attorney General, the President of the Senate,
8 the Speaker of the House of Representatives, and the Auditor
9 General no later than January 1 of each year.

10 (b) Assessment shall generally comprise the first 30
11 days of treatment and be provided by the same provider as
12 treatment, but assessment and treatment services may be
13 provided by separate providers, where warranted. Providers
14 shall be selected who have the capacity to assess and treat
15 the unique problems presented by children with different
16 racial and ethnic backgrounds. The department shall retain
17 contractual authority to reject any assessment or treatment
18 provider for lack of qualification.

19 (2) INTENSIVE RESIDENTIAL TREATMENT PROGRAM FOR
20 OFFENDERS LESS THAN 13 YEARS OF AGE.--

21 (a) There is created the intensive residential
22 treatment program for offenders less than 13 years of age.
23 The program shall combine 9 to 12 months of intensive secure
24 residential treatment followed by a minimum of 9 months of
25 aftercare. The components of the program shall include, but
26 not be limited to:

- 27 1. Diagnostic evaluation services.
- 28 2. Appropriate treatment modalities, including
29 substance abuse intervention, mental health services, and
30 sexual behavior dysfunction interventions and gang-related
31 behavior interventions.

- 1 3. Life skills.
- 2 4. Values clarification.
- 3 5. Case management services.
- 4 6. Educational services, including special and
- 5 remedial education.
- 6 7. Recreational and leisure time activities.
- 7 8. Community involvement opportunities commencing,
- 8 where appropriate, with the direct and timely payment of
- 9 restitution to the victim.
- 10 9. Intensive aftercare.
- 11 10. Graduated reentry into the community.
- 12 11. A diversity of forms of individual and family
- 13 treatment appropriate to and consistent with the child's
- 14 needs.
- 15 12. Consistent and clear consequences for misconduct.
- 16 (b) The department is authorized to contract with
- 17 private companies to provide some or all of the components
- 18 indicated in paragraph (a).
- 19 (c) The department shall involve local law enforcement
- 20 agencies, the judiciary, school board personnel, the office of
- 21 the state attorney, the office of the public defender, and
- 22 community service agencies interested in or currently working
- 23 with juveniles, in planning and developing this program.
- 24 (d) The department is authorized to accept funds or
- 25 in-kind contributions from public or private sources to be
- 26 used for the purposes of this section.
- 27 (e) The department shall establish quality assurance
- 28 standards to ensure the quality and substance of mental health
- 29 services provided to children with mental, nervous, or
- 30 emotional disorders who may be committed to intensive
- 31 residential treatment programs. The quality assurance

1 standards shall address the possession of credentials by the
2 mental health service providers.

3 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
4 TREATMENT.--

5 (a) Assessment and treatment shall be conducted by
6 treatment professionals with expertise in specific treatment
7 procedures, which professionals shall exercise all
8 professional judgment independently of the department.

9 (b) Treatment provided to children in designated
10 facilities shall be suited to the assessed needs of each
11 individual child and shall be administered safely and
12 humanely, with respect for human dignity.

13 (c) The department may promulgate rules for the
14 implementation and operation of programs and facilities for
15 children who are eligible for an intensive residential
16 treatment program for offenders less than 13 years of age.
17 The department must involve the following groups in the
18 promulgation of rules for services for this population: local
19 law enforcement agencies, the judiciary, school board
20 personnel, the office of the state attorney, the office of the
21 public defender, and community service agencies interested in
22 or currently working with juveniles. When promulgating these
23 rules, the department must consider program principles,
24 components, standards, procedures for intake, diagnostic and
25 assessment activities, treatment modalities, and case
26 management.

27 (d) Any provider who acts in good faith is immune from
28 civil or criminal liability for his or her actions in
29 connection with the assessment, treatment, or transportation
30 of an intensive offender less than 13 years of age under the
31 provisions of this chapter.

1 (e) After a child has been adjudicated delinquent
2 pursuant to s. 985.228(5)~~39-053(3)~~, the court shall determine
3 whether the child is eligible for an intensive residential
4 treatment program for offenders less than 13 years of age
5 pursuant to s. 985.03(7)~~39-01(11)~~. If the court determines
6 that the child does not meet the criteria, the provisions of
7 s. 985.231(1)~~39-054~~ shall apply.

8 (f) After a child has been transferred for criminal
9 prosecution, a circuit court judge may direct an intake
10 counselor or case manager to consult with designated staff
11 from an appropriate intensive residential treatment program
12 for offenders less than 13 years of age for the purpose of
13 making recommendations to the court regarding the child's
14 placement in such program.

15 (g) Recommendations as to a child's placement in an
16 intensive residential treatment program for offenders less
17 than 13 years of age may be based on a preliminary screening
18 of the child at appropriate sites, considering the child's
19 location while court action is pending, which may include the
20 nearest regional detention center or facility or jail.

21 (h) Based on the recommendations of the
22 multidisciplinary assessment, the intake counselor or case
23 manager shall make the following recommendations to the court:

24 1. For each child who has not been transferred for
25 criminal prosecution, the intake counselor or case manager
26 shall recommend whether placement in such program is
27 appropriate and needed.

28 2. For each child who has been transferred for
29 criminal prosecution, the intake counselor or case manager
30 shall recommend whether the most appropriate placement for the
31 child is a juvenile justice system program, including a child

1 who is eligible for an intensive residential treatment program
2 for offenders less than 13 years of age, or placement in the
3 adult correctional system.

4
5 If treatment provided by an intensive residential treatment
6 program for offenders less than 13 years of age is determined
7 to be appropriate and needed and placement is available, the
8 intake counselor or case manager and the court shall identify
9 the appropriate intensive residential treatment program for
10 offenders less than 13 years of age best suited to the needs
11 of the child.

12 (i) The treatment and placement recommendations shall
13 be submitted to the court for further action pursuant to this
14 paragraph:

15 1. If it is recommended that placement in an intensive
16 residential treatment program for offenders less than 13 years
17 of age is inappropriate, the court shall make an alternative
18 disposition pursuant to s. 985.309 ~~39-057~~ or other alternative
19 sentencing as applicable, utilizing the recommendation as a
20 guide.

21 2. If it is recommended that placement in an intensive
22 residential treatment program for offenders less than 13 years
23 of age is appropriate, the court may commit the child to the
24 department for placement in the restrictiveness level
25 designated for intensive residential treatment program for
26 offenders less than 13 years of age.

27 (j) The following provisions shall apply to children
28 in an intensive residential treatment program for offenders
29 less than 13 years of age:

30
31

1 1. A child shall begin participation in the reentry
2 component of the program based upon a determination made by
3 the treatment provider and approved by the department.

4 2. A child shall begin participation in the community
5 supervision component of aftercare based upon a determination
6 made by the treatment provider and approved by the department.
7 The treatment provider shall give written notice of the
8 determination to the circuit court having jurisdiction over
9 the child. If the court does not respond with a written
10 objection within 10 days, the child shall begin the aftercare
11 component.

12 3. A child shall be discharged from the program based
13 upon a determination made by the treatment provider with the
14 approval of the department.

15 4. In situations where the department does not agree
16 with the decision of the treatment provider, a reassessment
17 shall be performed, and the department shall utilize the
18 reassessment determination to resolve the disagreement and
19 make a final decision.

20 (k) Any commitment of a child to the department for
21 placement in an intensive residential treatment program for
22 offenders less than 13 years of age shall be for an
23 indeterminate period of time, but the time shall not exceed
24 the maximum term of imprisonment which an adult may serve for
25 the same offense. Any child who has not completed the
26 residential portion of the intensive residential treatment
27 program for offenders less than 13 years of age by his or her
28 fourteenth birthday may be transferred to another program for
29 committed delinquent offenders.

30 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--
31

1 (a) Pursuant to the provisions of this section, the
2 department shall implement the comprehensive assessment
3 instrument for the treatment needs of children who are
4 eligible for an intensive residential treatment program for
5 offenders less than 13 years of age and for the assessment,
6 which assessment shall include the criteria under s. 985.03(7)
7 ~~39.01(11)~~ and shall also include, but not be limited to,
8 evaluation of the child's:

- 9 1. Amenability to treatment.
- 10 2. Proclivity toward violence.
- 11 3. Tendency toward gang involvement.
- 12 4. Substance abuse or addiction and the level thereof.
- 13 5. History of being a victim of child abuse or sexual
14 abuse, or indication of sexual behavior dysfunction.
- 15 6. Number and type of previous adjudications, findings
16 of guilt, and convictions.
- 17 7. Potential for rehabilitation.

18 (b) The department shall contract with multiple
19 individuals or not-for-profit organizations to perform the
20 assessments and treatment, and shall ensure that the staff of
21 each provider are appropriately trained.

22 (c) Assessment and treatment providers shall have a
23 written procedure developed, in consultation with licensed
24 treatment professionals, establishing conditions under which a
25 child's blood and urine samples will be tested for substance
26 abuse indications. It is not unlawful for the person receiving
27 the test results to divulge the test results to the relevant
28 facility staff and department personnel. However, such
29 information is exempt from the provisions of ss. 119.01 and
30 119.07(1) and s. 24(a), Art. I of the State Constitution.

31

1 (d) Serologic blood test and urinalysis results
 2 obtained pursuant to paragraph (c) are confidential, except
 3 that they may be shared with employees or officers of the
 4 department, the court, and any assessment or treatment
 5 provider and designated facility treating the child. No
 6 person to whom the results of a test have been disclosed under
 7 this section may disclose the test results to another person
 8 not authorized under this section.

9 (e) The results of any serologic blood or urine test
 10 on a child who is eligible for an intensive residential
 11 treatment program for offenders less than 13 years of age
 12 shall become a part of that child's permanent medical file.
 13 Upon transfer of the child to any other designated treatment
 14 facility, such file shall be transferred in an envelope marked
 15 confidential. The results of any test designed to identify the
 16 human immunodeficiency virus, or its antigen or antibody,
 17 shall be accessible only to persons designated by rule of the
 18 department. The provisions of such rule shall be consistent
 19 with the guidelines established by the Centers for Disease
 20 Control.

21 (f) A record of the assessment and treatment of each
 22 child who is eligible for an intensive residential treatment
 23 program for offenders less than 13 years of age shall be
 24 maintained by the provider, which shall include data
 25 pertaining to the child's treatment and such other information
 26 as may be required under rules of the department. Unless
 27 waived by express and informed consent by the child or the
 28 guardian or, if the child is deceased, by the child's personal
 29 representative or by the person who stands next in line of
 30 intestate succession, the privileged and confidential status
 31 of the clinical assessment and treatment record shall not be

1 lost by either authorized or unauthorized disclosure to any
2 person, organization, or agency.

3 (g) The assessment and treatment record shall not be a
4 public record, and no part of it shall be released, except
5 that:

6 1. The record shall be released to such persons and
7 agencies as are designated by the child or the guardian.

8 2. The record shall be released to persons authorized
9 by order of court, excluding matters privileged by other
10 provisions of law.

11 3. The record or any part thereof shall be disclosed
12 to a qualified researcher, as defined by rule; a staff member
13 of the designated treatment facility; or an employee of the
14 department when the administrator of the facility or the
15 Secretary of Juvenile Justice deems it necessary for treatment
16 of the child, maintenance of adequate records, compilation of
17 treatment data, or evaluation of programs.

18 4. Information from the assessment and treatment
19 record may be used for statistical and research purposes if
20 the information is abstracted in such a way as to protect the
21 identity of individuals.

22 (h) Notwithstanding other provisions of this section,
23 the department may request, receive, and provide assessment
24 and treatment information to facilitate treatment,
25 rehabilitation, and continuity of care of any child who is
26 eligible for an intensive residential treatment program for
27 offenders less than 13 years of age from any of the following:

28 1. The Social Security Administration and the United
29 States Department of Veterans Affairs.

30 2. Law enforcement agencies, state attorneys, defense
31 attorneys, and judges in regard to the child's status.

1 3. Personnel in any facility in which the child may be
2 placed.

3 4. Community agencies and others expected to provide
4 services to the child upon his or her return to the community.

5 (i) Any law enforcement agency, designated treatment
6 facility, governmental or community agency, or other entity
7 that receives information pursuant to this section shall
8 maintain such information as a nonpublic record as otherwise
9 provided herein.

10 (j) Any agency, not-for-profit organization, or
11 treatment professional who acts in good faith in releasing
12 information pursuant to this subsection shall not be subject
13 to civil or criminal liability for such release.

14 (k) Assessment and treatment records are confidential
15 as described in this paragraph and exempt from the provisions
16 of s. 119.07(1) and s. 24(a), Art. I of the State
17 Constitution.

18 1. The department shall have full access to the
19 assessment and treatment records to ensure coordination of
20 services to the child.

21 2. The principles of confidentiality of records as
22 provided in s. 985.05 ~~39.045~~ shall apply to the assessment and
23 treatment records of children who are eligible for an
24 intensive residential treatment program for offenders less
25 than 13 years of age.

26 (1) For purposes of effective administration, accurate
27 tracking and recordkeeping, and optimal treatment decisions,
28 each assessment and treatment provider shall maintain a
29 central identification file on each child it treats in the
30 intensive residential treatment program for offenders less
31 than 13 years of age.

1 (m) The file of each child treated in the intensive
2 residential treatment program for offenders less than 13 years
3 of age shall contain, but is not limited to, pertinent
4 children-in-need-of-services and delinquency record
5 information maintained by the department; pertinent school
6 records information on behavior, attendance, and achievement;
7 and pertinent information on delinquency or children in need
8 of services maintained by law enforcement agencies and the
9 state attorney.

10 (n) All providers under this section shall, as part of
11 their contractual duties, collect, maintain, and report to the
12 department all information necessary to comply with mandatory
13 reporting pursuant to the promulgation of rules by the
14 department for the implementation of intensive residential
15 treatment programs for offenders less than 13 years of age and
16 the monitoring and evaluation thereof.

17 (o) The department is responsible for the development
18 and maintenance of a statewide automated tracking system for
19 children who are treated in an intensive residential treatment
20 program for offenders less than 13 years of age.

21 (5) DESIGNATED TREATMENT FACILITIES.--

22 (a) Designated facilities shall be sited and
23 constructed by the department, directly or by contract,
24 pursuant to departmental rules, to ensure that facility design
25 is compatible with treatment. The department is authorized to
26 contract for the construction of the facilities and may also
27 lease facilities. The number of beds per facility shall not
28 exceed 25. An assessment of need for additional facilities
29 shall be conducted prior to the siting or construction of more
30 than one facility in any judicial circuit.

31

1 (b) Designated facilities for an intensive residential
2 treatment program for offenders less than 13 years of age
3 shall be separate and secure facilities established under the
4 authority of the department for the treatment of such
5 children.

6 (c) Security for designated facilities for children
7 who are eligible for an intensive residential treatment
8 program for offenders less than 13 years of age shall be
9 determined by the department. The department is authorized to
10 contract for the provision of security.

11 (d) With respect to the treatment of children who are
12 eligible for an intensive residential treatment program for
13 offenders less than 13 years of age under this section,
14 designated facilities shall be immune from liability for civil
15 damages except in instances when the failure to act in good
16 faith results in serious injury or death, in which case
17 liability shall be governed by s. 768.28.

18 (e) Minimum standards and requirements for designated
19 treatment facilities shall be contractually prescribed
20 pursuant to subsection (1).

21 Section 56. Section 39.0583, Florida Statutes, 1996
22 Supplement, is transferred, renumbered as section 985.312,
23 Florida Statutes, and amended to read:

24 985.312 ~~39.0583~~ Intensive residential treatment
25 programs for offenders less than 13 years of age; prerequisite
26 for commitment.--No child who is eligible for commitment to an
27 intensive residential treatment program for offenders less
28 than 13 years of age as established in s. 985.03(7) ~~39.01(11)~~,
29 may be committed to any intensive residential treatment
30 program for offenders less than 13 years of age as established
31 in s. 985.311 ~~39.0582~~, unless such program has been

1 established by the department through existing resources or
2 specific appropriation, for such program.

3 Section 57. Section 39.0581, Florida Statutes, 1996
4 Supplement, is transferred and renumbered as section 985.313,
5 Florida Statutes.

6 Section 58. Section 39.0584, Florida Statutes, 1996
7 Supplement, is transferred, renumbered as section 985.314,
8 Florida Statutes, and amended to read:

9 985.314 ~~39.0584~~ Commitment programs for juvenile
10 felony offenders.--

11 (1) Notwithstanding any other law and regardless of
12 the child's age, a child who is adjudicated delinquent, or for
13 whom adjudication is withheld, for an act that would be a
14 felony if committed by an adult, shall be committed to:

15 (a) A boot camp program under s. 985.309 ~~39.057~~ if the
16 child has participated in an early delinquency intervention
17 program as provided in s. 985.305 ~~39.055~~.

18 (b) A program for serious or habitual juvenile
19 offenders under s. 985.31 ~~39.058~~ or an intensive residential
20 treatment program for offenders less than 13 years of age
21 under s. 985.311 ~~39.0582~~, if the child has participated in an
22 early delinquency intervention program and has completed a
23 boot camp program.

24 (c) A maximum-risk residential program, if the child
25 has participated in an early delinquency intervention program,
26 has completed a boot camp program, and has completed a program
27 for serious or habitual juvenile offenders or an intensive
28 residential treatment program for offenders less than 13 years
29 of age. The commitment of a child to a maximum-risk
30 residential program must be for an indeterminate period, but
31

1 may not exceed the maximum term of imprisonment that an adult
2 may serve for the same offense.

3 (2) In committing a child to the appropriate program,
4 the court may consider an equivalent program of similar
5 intensity as being comparable to a program required under
6 subsection (1).

7 Section 59. Section 39.05841, Florida Statutes, 1996
8 Supplement, is transferred, renumbered as section 985.315,
9 Florida Statutes, and amended to read:

10 985.315 ~~39.05841~~ Findings of fact/Vocational/work
11 training programs.--

12 (1)(a) It is the finding of the Legislature that
13 vocational work programs of the Department of Juvenile Justice
14 are uniquely different from other programs operated or
15 conducted by other departments in that it is essential to the
16 state that the work programs provide juveniles with useful
17 activities that can lead to meaningful employment after
18 release in order to assist in reducing the return of juveniles
19 to the system.

20 (b)~~(2)~~ It is further the finding of the Legislature
21 that the mission of a juvenile vocational work program is, in
22 order of priority:

23 1.(a) To provide a joint effort between the
24 department, the juvenile work programs, and other vocational
25 training programs to reinforce relevant education, training,
26 and postrelease job placement, and help reduce recommitment.

27 2.(b) To serve the security goals of the state through
28 the reduction of idleness of juveniles and the provision of an
29 incentive for good behavior in residential commitment
30 facilities.

31

1 ~~(c)(3)~~ It is further the finding of the Legislature
2 that a program which duplicates as closely as possible
3 free-work production and service operations in order to aid
4 juveniles in adjustment after release and to prepare juveniles
5 for gainful employment is in the best interest of the state,
6 juveniles, and the general public.

7 (2)(a) The department may require juveniles placed in
8 a high-risk residential, maximum-risk residential, or a
9 serious/habitual offender program to participate in a
10 vocational work program. All policies developed by the
11 department relating to this requirement must be consistent
12 with applicable federal, state, and local labor laws and
13 standards, including all laws relating to child labor.

14 (b) Nothing in this subsection is intended to restore,
15 in whole or in part, the civil rights of any juvenile. No
16 juvenile compensated under this subsection shall be considered
17 as an employee of the state or the department, nor shall such
18 juvenile come within any other provision of the Workers'
19 Compensation Law.

20 (3) In adopting or modifying master plans for juvenile
21 work programs, and in the administration of the Department of
22 Juvenile Justice, it shall be the objective of the department
23 to develop:

24 (a) Attitudes favorable to work, the work situation,
25 and a law-abiding life in each juvenile employed in the
26 juvenile work program.

27 (b) Training opportunities that are reasonably broad,
28 but which develop specific work skills.

29 (c) Programs that motivate juveniles to use their
30 abilities. Juveniles who do not adjust to these programs shall
31 be reassigned.

1 (d) Training programs that will be of mutual benefit
2 to all governmental jurisdictions of the state by reducing the
3 costs of government to the taxpayers and which integrate all
4 instructional programs into a unified curriculum suitable for
5 all juveniles, but taking account of the different abilities
6 of each juvenile.

7 (e) A logical sequence of vocational training,
8 employment by the juvenile vocational work programs, and
9 postrelease job placement for juveniles participating in
10 juvenile work programs.

11 (4)(a) The Department of Juvenile Justice shall
12 establish guidelines for the operation of juvenile vocational
13 work programs, which shall include the following procedures:

14 1. The education, work experience, emotional and
15 mental abilities, and physical capabilities of the juvenile
16 and the duration of the term of placement imposed on the
17 juvenile are to be analyzed before assignment of the inmate
18 into the various processes best suited for training.

19 2. When feasible, the department shall attempt to
20 obtain training credit for a juvenile seeking apprenticeship
21 status or a high school diploma or its equivalent.

22 3. The juvenile may begin in a general work skills
23 program and progress to a specific work skills training
24 program, depending upon the ability, desire, and work record
25 of the juvenile.

26 4. Modernization and upgrading of equipment and
27 facilities should include greater automation and improved
28 production techniques to expose juveniles to the latest
29 technological procedures to facilitate their adjustment to
30 real work situations.

31

1 (b) Evaluations of juvenile work programs shall be
2 conducted according to the following guidelines:

3 1. Systematic evaluations and quality assurance
4 monitoring shall be implemented, in accordance with ss.
5 985.401(4) and 985.412(1), to determine whether the juvenile
6 vocational work programs are related to successful postrelease
7 adjustments.

8 2. Operations and policies of work programs shall be
9 reevaluated to determine if they are consistent with their
10 primary objectives.

11 (c) The department shall seek the advice of private
12 labor and management to:

13 1. Assist its work programs in the development of
14 statewide policies aimed at innovation and organizational
15 change.

16 2. Obtain technical and practical assistance,
17 information, and guidance.

18 3. Encourage the cooperation and involvement of the
19 private sector.

20 (5)(a) The Department of Juvenile Justice may adopt
21 and put into effect an agricultural and industrial production
22 and marketing program to provide training facilities for
23 persons placed in serious/habitual offender, high-risk
24 residential, and maximum-risk residential programs and
25 facilities under the control and supervision of the
26 department. The emphasis of this program shall be to provide
27 juveniles with useful work experience and appropriate job
28 skills that will facilitate their reentry into society and
29 provide an economic benefit to the public and the department
30 through effective utilization of juveniles.

31

1 (b) The department is authorized to contract with the
2 private sector for substantial involvement in a juvenile
3 industry program which includes the operation of a direct
4 private sector business within a juvenile facility and the
5 hiring of juvenile workers. The purposes and objectives of
6 this program shall be to:

7 1. Increase benefits to the general public by
8 reimbursement to the state for a portion of the costs of
9 juvenile residential care.

10 2. Provide purposeful work for juveniles as a means of
11 reducing tensions caused by confinement.

12 3. Increase job skills.

13 4. Provide additional opportunities for rehabilitation
14 of juveniles who are otherwise ineligible to work outside the
15 facilities, such as maximum security juveniles.

16 5. Develop and establish new models for juvenile
17 facility-based businesses which create jobs approximating
18 conditions of private sector employment.

19 6. Draw upon the economic base of operations for
20 disposition to the Crimes Compensation Trust Fund.

21 7. Substantially involve the private sector with its
22 capital, management skills, and expertise in the design,
23 development, and operation of businesses.

24 (c) Notwithstanding any other law to the contrary,
25 including s. 440.15(9), private sector employers shall provide
26 juveniles participating in juvenile work programs under
27 paragraph (b) with workers' compensation coverage, and
28 juveniles shall be entitled to the benefits of such coverage.
29 Nothing in this subsection shall be construed to allow
30 juveniles to participate in unemployment compensation
31 benefits.

1 Section 60. Section 39.067, Florida Statutes, is
2 transferred and renumbered as section 985.316, Florida
3 Statutes.

4 Section 61. Section 39.003, Florida Statutes, 1996
5 Supplement, is transferred, renumbered as section 985.401,
6 Florida Statutes, and amended to read:

7 985.401 ~~39.003~~ Juvenile Justice Advisory Board.--

8 (1) The Juvenile Justice Advisory Board shall be
9 composed of nine members. Members of the board shall have
10 direct experience and a strong interest in juvenile justice
11 issues. The authority to appoint the board is allocated as
12 follows:

13 (a) Three members appointed by the Governor.

14 (b) Three members appointed by the President of the
15 Senate.

16 (c) Three members appointed by the Speaker of the
17 House of Representatives.

18 (2)(a) A full term shall be 3 years, and the term for
19 each seat on the board commences on October 1 and expires on
20 September 30, without regard to the date of appointment. Each
21 appointing authority shall appoint a member to fill one of the
22 three vacancies that occurs with the expiration of terms on
23 September 30 of each year. A member is not eligible for
24 appointment to more than two full, consecutive terms. A
25 vacancy on the board shall be filled within 60 days after the
26 date on which the vacancy occurs. The appointing authority
27 that made the original appointment shall make the appointment
28 to fill a vacancy that occurs for any reason other than the
29 expiration of a term, and the appointment shall be for the
30 remainder of the unexpired term.

31

1 (b) The board shall annually select a chairperson from
2 among its members.

3 (c) The board shall meet at least once each quarter. A
4 member may not authorize a designee to attend a meeting of the
5 board in place of the member. A member who fails to attend two
6 consecutive regularly scheduled meetings of the board, unless
7 the member is excused by the chairperson, shall be deemed to
8 have abandoned the position, and the position shall be
9 declared vacant by the board.

10 (3)(a) The board members shall serve without
11 compensation, but are entitled to reimbursement for per diem
12 and travel expenses pursuant to s. 112.061.

13 (b) The board shall appoint an executive director and
14 other personnel who are exempt from part II of chapter 110,
15 relating to the Career Service System.

16 (c) The board is assigned, for the purpose of general
17 oversight, to the Joint Legislative Auditing Committee. The
18 board shall develop a budget pursuant to procedures
19 established by the Joint Legislative Auditing Committee.

20 (d) The composition of the board shall be broadly
21 reflective of the public and shall include minorities and
22 women. The term "minorities" as used in this paragraph means a
23 member of a socially or economically disadvantaged group that
24 includes African Americans, Hispanics, and American Indians.
25 Members of the board shall have direct experience and a strong
26 interest in juvenile justice issues.

27 (4) The board shall:

28 (a) Review and recommend programmatic and fiscal
29 policies governing the operation of programs, services, and
30 facilities for which the Department of Juvenile Justice is
31 responsible.

1 (b) Monitor the development and implementation of
2 long-range juvenile justice policies, including prevention,
3 early intervention, diversion, adjudication, and commitment.

4 (c) Monitor all activities of the executive and
5 judicial branch and their effectiveness in implementing
6 policies pursuant to ~~parts II and IV~~ of this chapter.

7 (d) Establish and operate a comprehensive system to
8 annually measure and report program outcome and effectiveness
9 for each program operated by the Department of Juvenile
10 Justice or operated by a provider under contract with the
11 department. The board shall use its evaluation research to
12 make advisory recommendations to the Legislature, the
13 Governor, and the department concerning the effectiveness and
14 future funding priorities of juvenile justice programs.

15 (e) Advise the President of the Senate, the Speaker of
16 the House of Representatives, the Governor, and the department
17 on matters relating to ~~parts II and IV~~ of this chapter.

18 (f) Serve as a clearinghouse to provide information
19 and assistance to the district juvenile justice boards and
20 county juvenile justice councils.

21 (g) Hold public hearings and inform the public of
22 activities of the board and of the Department of Juvenile
23 Justice, as appropriate.

24 (h) Monitor the delivery and use of services,
25 programs, or facilities operated, funded, regulated, or
26 licensed by the Department of Juvenile Justice for juvenile
27 offenders or alleged juvenile offenders, and for prevention,
28 diversion, or early intervention of delinquency, and to
29 develop programs to educate the citizenry about such services,
30 programs, and facilities and about the need and procedure for
31 siting new facilities.

1 (i) Contract for consultants as necessary and
2 appropriate. The board may apply for and receive grants for
3 the purposes of conducting research and evaluation activities.

4 (j) Conduct such other activities as the board may
5 determine are necessary and appropriate to monitor the
6 effectiveness of the delivery of juvenile justice programs and
7 services under ~~parts II and IV~~ of this chapter.

8 (k) The board shall submit an annual report to the
9 President of the Senate, the Speaker of the House of
10 Representatives, the Governor, and the secretary of the
11 department not later than February 15 of each calendar year,
12 summarizing the activities and reports of the board for the
13 preceding year, and any recommendations of the board for the
14 following year.

15 (5) Each state agency shall provide assistance when
16 requested by the board. The board shall have access to all
17 records, files, and reports that are material to its duties
18 and that are in the custody of a school board, a law
19 enforcement agency, a state attorney, a public defender, the
20 court, the Department of Children and Family Health and
21 ~~Rehabilitative~~ Services, and the department.

22 Section 62. Section 39.085, Florida Statutes, is
23 transferred and renumbered as section 985.402, Florida
24 Statutes.

25 Section 63. Section 39.0572, Florida Statutes, is
26 transferred and renumbered as section 985.403, Florida
27 Statutes.

28 Section 64. Section 39.021, Florida Statutes, 1996
29 Supplement, is transferred, renumbered as section 985.404,
30 Florida Statutes, and amended to read:

31

1 985.404 ~~39.021~~ Administering the juvenile justice
2 continuum.--

3 (1) The Department of Juvenile Justice shall plan,
4 develop, and coordinate comprehensive services and programs
5 statewide for the prevention, early intervention, control, and
6 rehabilitative treatment of delinquent behavior.

7 (2) The department shall develop and implement an
8 appropriate continuum of care that provides individualized,
9 multidisciplinary assessments, objective evaluations of
10 relative risks, and the matching of needs with placements for
11 all children under its care, and that uses a system of case
12 management to facilitate each child being appropriately
13 assessed, provided with services, and placed in a program that
14 meets the child's needs.

15 (3) The department shall develop or contract for
16 diversified and innovative programs to provide rehabilitative
17 treatment, including early intervention and prevention,
18 diversion, comprehensive intake, case management, diagnostic
19 and classification assessments, individual and family
20 counseling, shelter care, diversified detention care
21 emphasizing alternatives to secure detention, diversified
22 community control, halfway houses, foster homes,
23 community-based substance abuse treatment services,
24 community-based mental health treatment services,
25 community-based residential and nonresidential programs,
26 environmental programs, and programs for serious or habitual
27 juvenile offenders. Each program shall place particular
28 emphasis on reintegration and aftercare for all children in
29 the program.

30 (4) The department may transfer a child, when
31 necessary to appropriately administer the child's commitment,

1 from one facility or program to another facility or program
 2 operated, contracted, subcontracted, or designated by the
 3 department. The department shall notify the court that
 4 committed the child to the department, in writing, of its
 5 transfer of the child from a commitment facility or program to
 6 another facility or program of a higher or lower
 7 restrictiveness level. The court that committed the child may
 8 agree to the transfer or may set a hearing to review the
 9 transfer. If the court does not respond within 10 days after
 10 receipt of the notice, the transfer of the child shall be
 11 deemed granted.

12 (5) The department shall maintain continuing
 13 cooperation with the Department of Education, the Department
 14 of Children and Family ~~Health and Rehabilitative~~ Services, the
 15 Department of Labor and Employment Security, and the
 16 Department of Corrections for the purpose of participating in
 17 agreements with respect to dropout prevention and the
 18 reduction of suspensions, expulsions, and truancy; increased
 19 access to and participation in GED, vocational, and
 20 alternative education programs; and employment training and
 21 placement assistance. The cooperative agreements between the
 22 departments shall include an interdepartmental plan to
 23 cooperate in accomplishing the reduction of inappropriate
 24 transfers of children into the adult criminal justice and
 25 correctional systems.

26 (6) The department may provide consulting services and
 27 technical assistance to courts, law enforcement agencies, and
 28 other state agencies, local governments, and public and
 29 private organizations, and may develop or assist in developing
 30 community interest and action programs relating to
 31

1 intervention against, diversion from, and prevention and
2 treatment of, delinquent behavior.

3 (7) In view of the importance of the basic values of
4 work, responsibility, and self-reliance to a child's return to
5 his or her community, the department may pay a child a
6 reasonable sum of money for work performed while employed in
7 any of the department's work programs. The work programs shall
8 be designed so that the work benefits the department or the
9 state, their properties, or the child's community. Funds for
10 payments shall be provided specifically for salaries pursuant
11 to this subsection, and payments shall be made pursuant to a
12 plan approved or rules adopted by the department.

13 (8) The department shall administer programs and
14 services for children in need of services and families in need
15 of services and shall coordinate its efforts with those of the
16 Federal Government, state agencies, county and municipal
17 governments, private agencies, and child advocacy groups. The
18 department shall establish standards for, providing technical
19 assistance to, and exercising the requisite supervision of,
20 services and programs for children in all state-supported
21 facilities and programs.

22 (9) The department shall ensure that personnel
23 responsible for the care, supervision, and individualized
24 treatment of children are appropriately apprised of the
25 requirements of this part and trained in the specialized areas
26 required to comply with standards established by rule.

27 ~~(10)(a) It is the intent of the Legislature to:~~
28 ~~1. Ensure that information be provided to~~
29 ~~decisionmakers so that resources are allocated to programs of~~
30 ~~the department which achieve desired performance levels.~~

31

1 ~~2. Provide information about the cost of such programs~~
2 ~~and their differential effectiveness so that the quality of~~
3 ~~such programs can be compared and improvements made~~
4 ~~continually.~~

5 ~~3. Provide information to aid in developing related~~
6 ~~policy issues and concerns.~~

7 ~~4. Provide information to the public about the~~
8 ~~effectiveness of such programs in meeting established goals~~
9 ~~and objectives.~~

10 ~~5. Provide a basis for a system of accountability so~~
11 ~~that each client is afforded the best programs to meet his or~~
12 ~~her needs.~~

13 ~~6. Improve service delivery to clients.~~

14 ~~7. Modify or eliminate activities that are not~~
15 ~~effective.~~

16 ~~(b) As used in this subsection, the term:~~

17 ~~1. "Client" means any person who is being provided~~
18 ~~treatment or services by the department or by a provider under~~
19 ~~contract with the department.~~

20 ~~2. "Program component" means an aggregation of~~
21 ~~generally related objectives which, because of their special~~
22 ~~character, related workload, and interrelated output, can~~
23 ~~logically be considered an entity for purposes of~~
24 ~~organization, management, accounting, reporting, and~~
25 ~~budgeting.~~

26 ~~3. "Program effectiveness" means the ability of the~~
27 ~~program to achieve desired client outcomes, goals, and~~
28 ~~objectives.~~

29 ~~(c) The department shall:~~

30 ~~1. Establish a comprehensive quality assurance system~~
31 ~~for each program operated by the department or operated by a~~

1 ~~provider under contract with the department. Each contract~~
2 ~~entered into by the department must provide for quality~~
3 ~~assurance.~~

4 ~~2. Provide operational definitions of and criteria for~~
5 ~~quality assurance for each specific program component.~~

6 ~~3. Establish quality assurance goals and objectives~~
7 ~~for each specific program component.~~

8 ~~4. Establish the information and specific data~~
9 ~~elements required for the quality assurance program.~~

10 ~~5. Develop a quality assurance manual of specific,~~
11 ~~standardized terminology and procedures to be followed by each~~
12 ~~program.~~

13 ~~6. Evaluate each program operated by a provider under~~
14 ~~a contract with the department and establish minimum~~
15 ~~thresholds for each program component. If a provider fails to~~
16 ~~meet the established minimum thresholds, such failure shall~~
17 ~~cause the department to cancel the provider's contract unless~~
18 ~~the provider achieves compliance with minimum thresholds~~
19 ~~within 6 months or unless there are documented extenuating~~
20 ~~circumstances. In addition, the department may not contract~~
21 ~~with the same provider for the canceled service for a period~~
22 ~~of 12 months.~~

23
24 ~~The department shall submit an annual report to the President~~
25 ~~of the Senate, the Speaker of the House of Representatives,~~
26 ~~the Minority Leader of each house of the Legislature, the~~
27 ~~appropriate substantive and appropriations committees of each~~
28 ~~house of the Legislature, and the Governor, no later than~~
29 ~~February 1 of each year. The annual report must contain, at a~~
30 ~~minimum, for each specific program component: a comprehensive~~
31 ~~description of the population served by the program; a~~

1 ~~specific description of the services provided by the program;~~
 2 ~~cost; a comparison of expenditures to federal and state~~
 3 ~~funding; immediate and long-range concerns; and~~
 4 ~~recommendations to maintain, expand, improve, modify, or~~
 5 ~~eliminate each program component so that changes in services~~
 6 ~~lead to enhancement in program quality. The department's~~
 7 ~~inspector general shall ensure the reliability and validity of~~
 8 ~~the information contained in the report.~~

9 ~~(11) The department shall collect and analyze~~
 10 ~~available statistical data for the purpose of ongoing~~
 11 ~~evaluation of all programs. The department shall provide the~~
 12 ~~Legislature with necessary information and reports to enable~~
 13 ~~the Legislature to make informed decisions regarding the~~
 14 ~~effectiveness of, and any needed changes in, services,~~
 15 ~~programs, policies, and laws.~~

16 (10)~~(12)~~ The department shall annually collect and
 17 report cost data for every program operated or contracted by
 18 the department. The cost data shall conform to a format
 19 approved by the department and the Legislature. Uniform cost
 20 data shall be reported and collected for state-operated and
 21 contracted programs so that comparisons can be made among
 22 programs. The department shall ensure that there is accurate
 23 cost accounting for state-operated services including
 24 market-equivalent rent and other shared cost. The cost of the
 25 educational program provided to a residential facility shall
 26 be reported and included in the cost of a program. The
 27 department shall submit an annual cost report to the President
 28 of the Senate, the Speaker of the House of Representatives,
 29 the Minority Leader of each house of the Legislature, the
 30 appropriate substantive and appropriations committees of each
 31 house of the Legislature, and the Governor, no later than

1 February 1 of each year. Cost-benefit analysis for educational
 2 programs will be developed and implemented in collaboration
 3 with the Department of Education and will use current data
 4 sources whenever possible.

5 (11)~~(13)~~ The Department of Juvenile Justice in
 6 consultation with the Juvenile Justice Advisory Board and
 7 providers shall develop a cost-benefit model and apply the
 8 model to each commitment program. Program recommitment rates
 9 shall be a component of the model. The cost-benefit model
 10 shall compare program costs to benefits ~~to produce a~~
 11 ~~cost-benefit ratio~~. A report ranking commitment programs
 12 based on cost-benefit ~~ratios~~ shall be submitted to the
 13 appropriate substantive and appropriations committees of each
 14 house of the Legislature, no later than December 31 of each
 15 year. It is the intent of the Legislature that continual
 16 development efforts take place to improve the validity and
 17 reliability of the cost-benefit model.

18 (12)~~(14)~~(a) The department shall operate a statewide,
 19 regionally administered system of detention services for
 20 children, in accordance with a comprehensive plan for the
 21 regional administration of all detention services in the
 22 state. The plan must provide for the maintenance of adequate
 23 availability of detention services for all counties. The plan
 24 must cover the department's 15 service districts, with each
 25 service district having a secure facility and nonsecure and
 26 home detention programs, and the plan may be altered or
 27 modified by the Department of Juvenile Justice as necessary.

28 (b) The department shall adopt rules prescribing
 29 standards and requirements with reference to:

- 30 1. The construction, equipping, maintenance, staffing,
 31 programming, and operation of detention facilities;

1 2. The treatment, training, and education of children
2 confined in detention facilities;

3 3. The cleanliness and sanitation of detention
4 facilities;

5 4. The number of children who may be housed in
6 detention facilities per specified unit of floor space;

7 5. The quality, quantity, and supply of bedding
8 furnished to children housed in detention facilities;

9 6. The quality, quantity, and diversity of food served
10 in detention facilities and the manner in which it is served;

11 7. The furnishing of medical attention and health and
12 comfort items in detention facilities; and

13 8. The disciplinary treatment administered in
14 detention facilities.

15 (c) The rules must provide that the time spent by a
16 child in a detention facility must be devoted to educational
17 training and other types of self-motivation and development.
18 The use of televisions, radios, and audioplayers shall be
19 restricted to educational programming. However, the manager of
20 a detention facility may allow noneducational programs to be
21 used as a reward for good behavior. Exercise must be
22 structured and calisthenic and aerobic in nature and may
23 include weight lifting.

24 (d) Each programmatic, residential, and service
25 contract or agreement entered into by the department must
26 include a cooperation clause for purposes of complying with
27 the department's quality assurance requirements,
28 cost-accounting requirements, and the program
29 outcome-evaluation requirements.

30 Section 65. Section 985.405, Florida Statutes, is
31 created to read:

1 985.405 Rules for implementation.--The Department of
2 Juvenile Justice shall adopt rules for the efficient and
3 effective management of all programs, services, facilities,
4 and functions necessary for implementing this chapter. Such
5 rules may not conflict with the Florida Rules of Juvenile
6 Procedure. All rules and policies must conform to accepted
7 standards of care and treatment.

8 Section 66. Section 39.024, Florida Statutes, is
9 transferred and renumbered as section 985.406, Florida
10 Statutes.

11 Section 67. Section 39.076, Florida Statutes, 1996
12 Supplement, is transferred and renumbered as section 985.407,
13 Florida Statutes.

14 Section 68. Section 39.075, Florida Statutes, is
15 transferred and renumbered as section 985.408, Florida
16 Statutes.

17 Section 69. Section 985.409, Florida Statutes, is
18 created to read:

19 985.409 Participation of certain programs in the
20 Florida Casualty Insurance Risk Management Trust
21 Fund.--Pursuant to s. 284.30, the Division of Risk Management
22 of the Department of Insurance is authorized to insure a
23 private agency, individual, or corporation operating a
24 state-owned training school under a contract to carry out the
25 purposes and responsibilities of any program of the
26 department. The coverage authorized herein shall be under the
27 same general terms and conditions as the department is insured
28 for its responsibilities under chapter 284.

29 Section 70. Section 39.074, Florida Statutes, 1996
30 Supplement, is transferred and renumbered as section 985.41,
31 Florida Statutes.

1 Section 71. Section 39.0215, Florida Statutes, is
2 transferred, renumbered as section 985.411, Florida Statutes,
3 and amended to read:

4 985.411 ~~39.0215~~ Administering county and municipal
5 delinquency programs and facilities.--

6 (1) A county or municipal government may plan,
7 develop, and coordinate services and programs for the control
8 and rehabilitative treatment of delinquent behavior.

9 (2) A county or municipal government may develop or
10 contract for innovative programs which provide rehabilitative
11 treatment with particular emphasis on reintegration and
12 aftercare for all children in the program, including halfway
13 houses and community-based substance abuse treatment services,
14 mental health treatment services, residential and
15 nonresidential programs, environmental programs, and programs
16 for serious or habitual juvenile offenders.

17 (3) A county or municipal government developing or
18 contracting for a local program pursuant to this section is
19 responsible for all costs associated with the establishment,
20 operation, and maintenance of the program.

21 (4) In accordance with rules adopted by the
22 department, a county or municipal government may transfer a
23 child, when necessary to appropriately administer the child's
24 commitment, from one facility or program operated, contracted,
25 or subcontracted by the county or municipal government to
26 another such facility or program.

27 (5) In view of the importance of the basic value of
28 work, responsibility, and self-reliance to a child's
29 rehabilitation within his or her community, a county or
30 municipal government may provide work programs for delinquent
31 children and may pay a child a reasonable sum of money for

1 work performed while employed in any such work program. The
2 work involved in such work programs must be designed to
3 benefit the county or municipal government, the local
4 community, or the state.

5 (6) A county or municipal government developing or
6 contracting for a local program pursuant to this section is
7 responsible for following state law and department rules
8 relating to children's delinquency services and for the
9 coordination of its efforts with those of the Federal
10 Government, state agencies, private agencies, and child
11 advocacy groups providing such services.

12 (7) The department is required to conduct quarterly
13 inspections and evaluations of each county or municipal
14 government juvenile delinquency program to determine whether
15 the program complies with department rules for continued
16 operation of the program. The department shall charge, and
17 the county or municipal government shall pay, a monitoring fee
18 equal to 0.5 percent of the direct operating costs of the
19 program. The operation of a program which fails to pass the
20 department's quarterly inspection and evaluation, if the
21 deficiency causing the failure is material, must be terminated
22 if such deficiency is not corrected by the next quarterly
23 inspection.

24 (8) A county or municipal government providing a local
25 program pursuant to this section shall ensure that personnel
26 responsible for the care, supervision, and treatment of
27 children in the program are apprised of the requirements of
28 this section and appropriately trained to comply with
29 department rules.

30
31

1 (9) A county or municipal government may establish and
2 operate a juvenile detention facility in compliance with this
3 section, if such facility is certified by the department.

4 (a) The department shall evaluate the county or
5 municipal government detention facility to determine whether
6 the facility complies with the department's rules prescribing
7 the standards and requirements for the operation of a juvenile
8 detention facility. The rules for certification of secure
9 juvenile detention facilities operated by county or municipal
10 governments must be consistent with the rules for
11 certification of secure juvenile detention facilities operated
12 by the department.

13 (b) The department is required to conduct quarterly
14 inspections and evaluations of each county or municipal
15 government juvenile detention facility to determine whether
16 the facility complies with the department's rules for
17 continued operation. The department shall charge, and the
18 county or municipal government shall pay, a monitoring fee
19 equal to 0.5 percent of the direct operating costs of the
20 program. The operation of a facility which fails to pass the
21 department's quarterly inspection and evaluation, if the
22 deficiency causing the failure is material, must be terminated
23 if such deficiency is not corrected by the next quarterly
24 inspection.

25 (c) A county or municipal government operating a local
26 juvenile detention facility pursuant to this section is
27 responsible for all costs associated with the establishment,
28 operation, and maintenance of the facility.

29 (d) Only children who reside within the jurisdictional
30 boundaries of the county or municipal government operating the
31 juvenile detention facility and children who are detained for

1 committing an offense within the jurisdictional boundaries of
2 the county or municipal government operating the facility may
3 be held in the facility.

4 (e) A child may be placed in a county or municipal
5 government juvenile detention facility only when:

6 1. The department's regional juvenile detention
7 facility is filled to capacity;

8 2. The safety of the child dictates; or

9 3. Otherwise ordered by a court.

10 (f) A child who is placed in a county or municipal
11 government juvenile detention facility must meet the detention
12 criteria as established in this chapter.

13 (10)(a) The department may institute injunctive
14 proceedings in a court of competent jurisdiction against a
15 county or municipality to:

16 1. Enforce the provisions of this chapter or a minimum
17 standard, rule, regulation, or order issued or entered
18 pursuant thereto; or

19 2. Terminate the operation of a facility operated
20 pursuant to this section.

21 (b) The department may institute proceedings against a
22 county or municipality to terminate the operation of a
23 facility when any of the following conditions exist:

24 1. The facility fails to take preventive or corrective
25 measures in accordance with any order of the department.

26 2. The facility fails to abide by any final order of
27 the department once it has become effective and binding.

28 3. The facility commits any violation of this section
29 constituting an emergency requiring immediate action as
30 provided in this chapter.

31

1 4. The facility has willfully and knowingly refused to
2 comply with the screening requirement for personnel pursuant
3 to s. 985.01 ~~39.001~~ or has refused to dismiss personnel found
4 to be in noncompliance with the requirements for good moral
5 character.

6 (c) Injunctive relief may include temporary and
7 permanent injunctions.

8 Section 72. Section 985.412, Florida Statutes, is
9 created to read:

10 985.412 Quality assurance.--

11 (1)(a) It is the intent of the Legislature to:

12 1. Ensure that information be provided to
13 decisionmakers so that resources are allocated to programs of
14 the department which achieve desired performance levels.

15 2. Provide information about the cost of such programs
16 and their differential effectiveness so that the quality of
17 such programs can be compared and improvements made
18 continually.

19 3. Provide information to aid in developing related
20 policy issues and concerns.

21 4. Provide information to the public about the
22 effectiveness of such programs in meeting established goals
23 and objectives.

24 5. Provide a basis for a system of accountability so
25 that each client is afforded the best programs to meet his or
26 her needs.

27 6. Improve service delivery to clients.

28 7. Modify or eliminate activities that are not
29 effective.

30 (b) As used in this subsection, the term:

1 1. "Client" means any person who is being provided
2 treatment or services by the department or by a provider under
3 contract with the department.

4 2. "Program component" means an aggregation of
5 generally related objectives which, because of their special
6 character, related workload, and interrelated output, can
7 logically be considered an entity for purposes of
8 organization, management, accounting, reporting, and
9 budgeting.

10 3. "Program effectiveness" means the ability of the
11 program to achieve desired client outcomes, goals, and
12 objectives.

13 (c) The department shall:

14 1. Establish a comprehensive quality assurance system
15 for each program operated by the department or operated by a
16 provider under contract with the department. Each contract
17 entered into by the department must provide for quality
18 assurance.

19 2. Provide operational definitions of and criteria for
20 quality assurance for each specific program component.

21 3. Establish quality assurance goals and objectives
22 for each specific program component.

23 4. Establish the information and specific data
24 elements required for the quality assurance program.

25 5. Develop a quality assurance manual of specific,
26 standardized terminology and procedures to be followed by each
27 program.

28 6. Evaluate each program operated by a provider under
29 a contract with the department and establish minimum
30 thresholds for each program component. If a provider fails to
31 meet the established minimum thresholds, such failure shall

1 cause the department to cancel the provider's contract unless
 2 the provider achieves compliance with minimum thresholds
 3 within 6 months or unless there are documented extenuating
 4 circumstances. In addition, the department may not contract
 5 with the same provider for the canceled service for a period
 6 of 12 months.

7
 8 The department shall submit an annual report to the President
 9 of the Senate, the Speaker of the House of Representatives,
 10 the Minority Leader of each house of the Legislature, the
 11 appropriate substantive and fiscal committees of each house of
 12 the Legislature, and the Governor, no later than February 1 of
 13 each year. The annual report must contain, at a minimum, for
 14 each specific program component: a comprehensive description
 15 of the population served by the program; a specific
 16 description of the services provided by the program; cost; a
 17 comparison of expenditures to federal and state funding;
 18 immediate and long-range concerns; and recommendations to
 19 maintain, expand, improve, modify, or eliminate each program
 20 component so that changes in services lead to enhancement in
 21 program quality. The department's inspector general shall
 22 ensure the reliability and validity of the information
 23 contained in the report.

24 (2) The department shall collect and analyze available
 25 statistical data for the purpose of ongoing evaluation of all
 26 programs. The department shall provide the Legislature with
 27 necessary information and reports to enable the Legislature to
 28 make informed decisions regarding the effectiveness of, and
 29 any needed changes in, services, programs, policies, and laws.

1 Section 73. Section 39.025, Florida Statutes, 1996
2 Supplement, is transferred, renumbered as section 985.413,
3 Florida Statutes, and amended to read:

4 985.413 ~~39.025~~ District juvenile justice boards.--

5 ~~(1) SHORT TITLE.--This section may be cited as the~~
6 ~~"Community Juvenile Justice System Act."~~

7 (1)~~(2)~~ FINDINGS.--The Legislature finds that the
8 number of children suspended or expelled from school is
9 growing at an alarming rate; that juvenile crime is growing at
10 an alarming rate; and that there is a direct relationship
11 between the increasing number of children suspended or
12 expelled from school and the rising crime rate. The
13 Legislature further finds that the problem of school safety
14 cannot be solved solely by suspending or expelling students,
15 nor can the public be protected from juvenile crime merely by
16 incarcerating juvenile delinquents, but that school and law
17 enforcement authorities must work in cooperation with the
18 Department of Juvenile Justice, the Department of Children and
19 Family Health and Rehabilitative Services, and other community
20 representatives in a partnership that coordinates goals,
21 strategies, resources, and evaluation of outcomes. The
22 Legislature finds that where such partnerships exist the
23 participants believe that such efforts are beneficial to the
24 community and should be encouraged elsewhere.

25 (2)~~(3)~~ INTENT.--The Legislature recognizes that,
26 despite the large investment of resources committed to address
27 the needs of the criminal justice system of this state, the
28 crime rate continues to increase, overcrowding the state's
29 juvenile detention centers, jails, and prisons and placing the
30 state in jeopardy of being unable to effectively manage these
31 facilities. The economic cost of crime to the state continues

1 to drain existing resources, and the cost to victims, both
2 economic and psychological, is traumatic and tragic. The
3 Legislature further recognizes that many adults in the
4 criminal justice system were once delinquents in the juvenile
5 justice system. The Legislature also recognizes that the most
6 effective juvenile delinquency programs are programs that not
7 only prevent children from entering the juvenile justice
8 system, but also meet local community needs and have
9 substantial community involvement and support. Therefore, it
10 is the belief of the Legislature that one of the best
11 investments of the scarce resources available to combat crime
12 is in the prevention of delinquency, including prevention of
13 criminal activity by youth gangs, with special emphasis on
14 structured and well-supervised alternative education programs
15 for children suspended or expelled from school. It is the
16 intent of the Legislature to authorize and encourage each of
17 the counties of the state to establish a comprehensive
18 juvenile justice plan based upon the input of representatives
19 of every affected public or private entity, organization, or
20 group. It is the further intent of the Legislature that
21 representatives of school systems, the judiciary, law
22 enforcement, and the Department of Juvenile Justice acquire a
23 thorough understanding of the role and responsibility that
24 each has in addressing juvenile crime in the community, that
25 the county juvenile justice plan reflect an understanding of
26 the legal and fiscal limits within which the plan must be
27 implemented, and that willingness of the parties to cooperate
28 and collaborate in implementing the plan be explicitly stated.
29 It is the further intent of the Legislature that county
30 juvenile justice plans form the basis of and be integrated
31 into district juvenile justice plans and that the prevention

1 and treatment resources at the county, district, and regional
2 levels be utilized to the maximum extent possible to implement
3 and further the goals of their respective plans.

4 ~~(4) DEFINITIONS.--As used in this section:~~

5 ~~(a) "Juvenile justice continuum" includes, but is not~~
6 ~~limited to, delinquency prevention programs and services~~
7 ~~designed for the purpose of preventing or reducing delinquent~~
8 ~~acts, including criminal activity by youth gangs, and juvenile~~
9 ~~arrests, as well as programs and services targeted at children~~
10 ~~who have committed delinquent acts, and children who have~~
11 ~~previously been committed to residential treatment programs~~
12 ~~for delinquents. The term includes~~
13 ~~children-in-need-of-services and families-in-need-of-services~~
14 ~~programs; aftercare and reentry services; substance abuse and~~
15 ~~mental health programs; educational and vocational programs;~~
16 ~~recreational programs; community services programs; community~~
17 ~~service work programs; and alternative dispute resolution~~
18 ~~programs serving children at risk of delinquency and their~~
19 ~~families, whether offered or delivered by state or local~~
20 ~~governmental entities, public or private for-profit or~~
21 ~~not-for-profit organizations, or religious or charitable~~
22 ~~organizations.~~

23 ~~(b) "Department" means the Department of Juvenile~~
24 ~~Justice.~~

25 ~~(c) "District" means a service district of the~~
26 ~~Department of Juvenile Justice.~~

27 ~~(d) "District administrator" means the chief operating~~
28 ~~officer of each service district of the Department of Health~~
29 ~~and Rehabilitative Services as defined in s. 20.19(6), and,~~
30 ~~where appropriate, includes each district administrator whose~~
31

1 ~~service district falls within the boundaries of a judicial~~
2 ~~circuit.~~

3 ~~(e) "Circuit" means any of the twenty judicial~~
4 ~~circuits as set forth in s. 26.021.~~

5 ~~(f) "Health and human services board" means the body~~
6 ~~created in each service district of the Department of Health~~
7 ~~and Rehabilitative Services pursuant to the provisions of s.~~
8 ~~20.19(7).~~

9 ~~(g) "District juvenile justice manager" means the~~
10 ~~person appointed by the Secretary of Juvenile Justice,~~
11 ~~responsible for planning, managing, and evaluating all~~
12 ~~juvenile justice continuum programs and services delivered or~~
13 ~~funded by the Department of Juvenile Justice within the~~
14 ~~district.~~

15 ~~(h) "Authority" means the Florida Motor Vehicle Theft~~
16 ~~Prevention Authority established in s. 860.154.~~

17 ~~(5) COUNTY JUVENILE JUSTICE COUNCILS.--~~

18 ~~(a) A county juvenile justice council is authorized in~~
19 ~~each county for the purpose of encouraging the initiation of,~~
20 ~~or supporting ongoing, interagency cooperation and~~
21 ~~collaboration in addressing juvenile crime. A county juvenile~~
22 ~~justice council must include:~~

23 ~~1. The district school superintendent, or the~~
24 ~~superintendent's designee.~~

25 ~~2. The chair of the board of county commissioners, or~~
26 ~~the chair's designee.~~

27 ~~3. An elected official of the governing body of a~~
28 ~~municipality within the county.~~

29 ~~4. Representatives of the local school system~~
30 ~~including administrators, teachers, school counselors, and~~
31 ~~parents.~~

1 ~~5. The district juvenile justice manager and the~~
2 ~~district administrator of the Department of Health and~~
3 ~~Rehabilitative Services, or their respective designees.~~

4 ~~6. Representatives of local law enforcement agencies,~~
5 ~~including the sheriff or the sheriff's designee.~~

6 ~~7. Representatives of the judicial system, including,~~
7 ~~but not limited to, the chief judge of the circuit, the state~~
8 ~~attorney, the public defender, the clerk of the circuit court,~~
9 ~~or their respective designees.~~

10 ~~8. Representatives of the business community.~~

11 ~~9. Representatives of any other interested officials,~~
12 ~~groups, or entities including, but not limited to, a~~
13 ~~children's services council, public or private providers of~~
14 ~~juvenile justice programs and services, students, and~~
15 ~~advocates.~~

16
17 ~~A juvenile delinquency and gang prevention council or any~~
18 ~~other group or organization that currently exists in any~~
19 ~~county, and that is composed of and open to representatives of~~
20 ~~the classes of members described in this section, may notify~~
21 ~~the district juvenile justice manager of its desire to be~~
22 ~~designated as the county juvenile justice council.~~

23 ~~(b) The purpose of a county juvenile justice council~~
24 ~~is to provide a forum for the development of a community-based~~
25 ~~interagency assessment of the local juvenile justice system,~~
26 ~~to develop a county juvenile justice plan for more effectively~~
27 ~~preventing juvenile delinquency, and to make recommendations~~
28 ~~for more effectively utilizing existing community resources in~~
29 ~~dealing with juveniles who are truant or have been suspended~~
30 ~~or expelled from school, or who are found to be involved in~~
31 ~~crime. The county juvenile justice plan shall include relevant~~

1 ~~portions of local crime prevention and public safety plans,~~
2 ~~school improvement and school safety plans, and the plans or~~
3 ~~initiatives of other public and private entities within the~~
4 ~~county that are concerned with dropout prevention, school~~
5 ~~safety, the prevention of juvenile crime and criminal activity~~
6 ~~by youth gangs, and alternatives to suspension, expulsion, and~~
7 ~~detention for children found in contempt of court.~~

8 ~~(c) The duties and responsibilities of a county~~
9 ~~juvenile justice council include, but are not limited to:~~

10 ~~1. Developing a county juvenile justice plan based~~
11 ~~upon utilization of the resources of law enforcement, the~~
12 ~~school system, the Department of Juvenile Justice, the~~
13 ~~Department of Health and Rehabilitative Services, and others~~
14 ~~in a cooperative and collaborative manner to prevent or~~
15 ~~discourage juvenile crime and develop meaningful alternatives~~
16 ~~to school suspensions and expulsions.~~

17 ~~2. Entering into a written county interagency~~
18 ~~agreement specifying the nature and extent of contributions~~
19 ~~each signatory agency will make in achieving the goals of the~~
20 ~~county juvenile justice plan and their commitment to the~~
21 ~~sharing of information useful in carrying out the goals of the~~
22 ~~interagency agreement to the extent authorized by law.~~

23 ~~3. Applying for and receiving public or private~~
24 ~~grants, to be administered by one of the community partners,~~
25 ~~that support one or more components of the county juvenile~~
26 ~~justice plan.~~

27 ~~4. Designating the county representatives to the~~
28 ~~district juvenile justice board pursuant to subsection (6).~~

29 ~~5. Providing a forum for the presentation of~~
30 ~~interagency recommendations and the resolution of~~
31 ~~disagreements relating to the contents of the county~~

1 ~~interagency agreement or the performance by the parties of~~
2 ~~their respective obligations under the agreement.~~

3 ~~6. Assisting and directing the efforts of local~~
4 ~~community support organizations and volunteer groups in~~
5 ~~providing enrichment programs and other support services for~~
6 ~~clients of local juvenile detention centers.~~

7 ~~7. Providing an annual report and recommendations to~~
8 ~~the district juvenile justice board, the Juvenile Justice~~
9 ~~Advisory Board, and the district juvenile justice manager.~~

10 (3)~~(6)~~ DISTRICT JUVENILE JUSTICE BOARDS.--

11 (a) There is created a district juvenile justice board
12 within each district to be composed of representatives of
13 county juvenile justice councils within the district.

14 (b)1.

15 a. The authority to appoint members to district
16 juvenile justice boards, and the size of each board, is as
17 follows:

18 (I) District 1 is to have a board composed of 12
19 members, to be appointed by the juvenile justice councils of
20 the respective counties, as follows: Escambia County, 6
21 members; Okaloosa County, 3 members; Santa Rosa County, 2
22 members; and Walton County, 1 member.

23 (II) District 2 is to have a board composed of 18
24 members, to be appointed by the juvenile justice councils in
25 the respective counties, as follows: Holmes County, 1 member;
26 Washington County, 1 member; Bay County, 2 members; Jackson
27 County, 1 member; Calhoun County, 1 member; Gulf County, 1
28 member; Gadsden County, 1 member; Franklin County, 1 member;
29 Liberty County, 1 member; Leon County, 4 members; Wakulla
30 County, 1 member; Jefferson County, 1 member; Madison County,
31 1 member; and Taylor County, 1 member.

1 (III) District 3 is to have a board composed of 15
2 members, to be appointed by the juvenile justice councils of
3 the respective counties, as follows: Hamilton County, 1
4 member; Suwannee County, 1 member; Lafayette County, 1 member;
5 Dixie County, 1 member; Columbia County, 1 member; Gilchrist
6 County, 1 member; Levy County, 1 member; Union County, 1
7 member; Bradford County, 1 member; Putnam County, 1 member;
8 and Alachua County, 5 members.

9 (IV) District 4 is to have a board composed of 12
10 members, to be appointed by the juvenile justice councils of
11 the respective counties, as follows: Baker County, 1 member;
12 Nassau County, 1 member; Duval County, 7 members; Clay County,
13 2 members; and St. Johns County, 1 member.

14 (V) District 5 is to have a board composed of 12
15 members, to be appointed by the juvenile justice councils of
16 the respective counties, as follows: Pasco County, 3 members;
17 and Pinellas County, 9 members.

18 (VI) District 6 is to have a board composed of 12
19 members, to be appointed by the juvenile justice councils of
20 the respective counties, as follows: Hillsborough County, 9
21 members; and Manatee County, 3 members.

22 (VII) District 7 is to have a board composed of 12
23 members, to be appointed by the juvenile justice councils of
24 the respective counties, as follows: Seminole County, 3
25 members; Orange County, 5 members; Osceola County, 1 member;
26 and Brevard County, 3 members.

27 (VIII) District 8 is to have a board composed of 12
28 members, to be appointed by the juvenile justice councils of
29 the respective counties, as follows: Sarasota County, 3
30 members; DeSoto County, 1 member; Charlotte County, 1 member;
31

1 Lee County, 3 members; Glades County, 1 member; Hendry County,
2 1 member; and Collier County, 2 members.

3 (IX) District 9 is to have a board composed of 12
4 members, to be appointed by the juvenile justice council of
5 Palm Beach County.

6 (X) District 10 is to have a board composed of 12
7 members, to be appointed by the juvenile justice council of
8 Broward County.

9 (XI) District 11 is to have a juvenile justice board
10 composed of 12 members to be appointed by the juvenile justice
11 council in the respective counties, as follows: Dade County,
12 6 members and Monroe County, 6 members.

13 (XII) District 12 is to have a board composed of 12
14 members, to be appointed by the juvenile justice council of
15 the respective counties, as follows: Flagler County, 3
16 members; and Volusia County, 9 members.

17 (XIII) District 13 is to have a board composed of 12
18 members, to be appointed by the juvenile justice councils of
19 the respective counties, as follows: Marion County, 4 members;
20 Citrus County, 2 members; Hernando County, 2 members; Sumter
21 County, 1 member; and Lake County, 3 members.

22 (XIV) District 14 is to have a board composed of 12
23 members, to be appointed by the juvenile justice councils of
24 the respective counties, as follows: Polk County, 9 members;
25 Highlands County, 2 members; and Hardee County, 1 member.

26 (XV) District 15 is to have a board composed of 12
27 members, to be appointed by the juvenile justice councils of
28 the respective counties, as follows: Indian River County, 3
29 members; Okeechobee County, 1 member; St. Lucie County, 5
30 members; and Martin County, 3 members.

31

1 The district health and human services board in each district
2 may appoint one of its members to serve as an ex officio
3 member of the district juvenile justice board established
4 under this sub-subparagraph.

5 b. In any judicial circuit where a juvenile
6 delinquency and gang prevention council exists on the date
7 this act becomes law, and where the circuit and district or
8 subdistrict boundaries are identical, such council shall
9 become the district juvenile justice board, and shall
10 thereafter have the purposes and exercise the authority and
11 responsibilities provided in this section.

12 2. At any time after the adoption of initial bylaws
13 pursuant to paragraph (c), a district juvenile justice board
14 may adopt a bylaw to enlarge the size, by no more than three
15 members, and composition of the board to adequately reflect
16 the diversity of the population and community organizations in
17 the district.

18 3. ~~In order to create staggered terms, the initial~~
19 ~~terms of members of the district juvenile justice board~~
20 ~~appointed by the county juvenile justice council in the most~~
21 ~~populous county of the district shall expire on June 30, 1995.~~
22 ~~The initial terms of members appointed by other county~~
23 ~~councils shall expire on June 30, 1996. Thereafter, All~~
24 appointments shall be for 2-year terms. Appointments to fill
25 vacancies created by death, resignation, or removal of a
26 member are for the unexpired term. A member may not serve more
27 than two full consecutive terms; however, this limitation does
28 not apply in any district in which a juvenile delinquency and
29 gang prevention council that existed on May 7, 1993, became
30 the district juvenile justice board.

31

1 4. A member who is absent for three meetings within
2 any 12-month period, without having been excused by the chair,
3 is deemed to have resigned, and the board shall immediately
4 declare the seat vacant. Members may be suspended or removed
5 for cause by a majority vote of the board members or by the
6 Governor.

7 5. Members are subject to the provisions of chapter
8 112, part III, Code of Ethics for Public Officers and
9 Employees.

10 (c) Upon the completion of the appointment process,
11 the district juvenile justice manager shall schedule an
12 organizational meeting of the board. At the organizational
13 meeting, or as soon thereafter as is practical, the board
14 shall adopt bylaws and rules of procedure for the operation of
15 the board, provided such bylaws and rules are not inconsistent
16 with federal and state laws or county ordinances. The bylaws
17 shall provide for such officers and committees as the board
18 deems necessary, and shall specify the qualifications, method
19 of selection, and term for each office created.

20 (d) A district juvenile justice board has the purpose,
21 power, and duty to:

22 1. Advise the district juvenile justice manager and
23 the district administrator on the need for and the
24 availability of juvenile justice programs and services in the
25 district.

26 2. Develop a district juvenile justice plan that is
27 based upon the juvenile justice plans developed by each county
28 within the district, and that addresses the needs of each
29 county within the district.

30 3. Develop a district interagency cooperation and
31 information-sharing agreement that supplements county

1 agreements and expands the scope to include appropriate
2 circuit and district officials and groups.

3 4. Coordinate the efforts of the district juvenile
4 justice board with the activities of the Governor's Juvenile
5 Justice and Delinquency Prevention Advisory Committee and
6 other public and private entities.

7 5. Advise and assist the district juvenile justice
8 manager in the provision of optional, innovative delinquency
9 services in the district to meet the unique needs of
10 delinquent children and their families.

11 6. Develop, in consultation with the district juvenile
12 justice manager, funding sources external to the Department of
13 Juvenile Justice for the provision and maintenance of
14 additional delinquency programs and services. The board may,
15 either independently or in partnership with one or more county
16 juvenile justice councils or other public or private entities,
17 apply for and receive funds, under contract or other funding
18 arrangement, from federal, state, county, city, and other
19 public agencies, and from public and private foundations,
20 agencies, and charities for the purpose of funding optional
21 innovative prevention, diversion, or treatment services in the
22 district for delinquent children and children at risk of
23 delinquency, and their families. To aid in this process, the
24 department shall provide fiscal agency services for the
25 councils.

26 7. Educate the community about and assist in the
27 community juvenile justice partnership grant program
28 administered by the Department of Juvenile Justice.

29 8. Advise the district health and human services
30 board, the district juvenile justice manager, and the
31 Secretary of Juvenile Justice regarding the development of the

1 legislative budget request for juvenile justice programs and
2 services in the district and the commitment region, and, in
3 coordination with the district health and human services
4 board, make recommendations, develop programs, and provide
5 funding for prevention and early intervention programs and
6 services designed to serve children in need of services,
7 families in need of services, and children who are at risk of
8 delinquency within the district or region.

9 9. Assist the district juvenile justice manager in
10 collecting information and statistical data useful in
11 assessing the need for prevention programs and services within
12 the juvenile justice continuum program in the district.

13 10. Make recommendations with respect to, and monitor
14 the effectiveness of, the judicial administrative plan for
15 each circuit pursuant to Rule 2.050, Florida Rules of Judicial
16 Administration.

17 11. Provide periodic reports to the health and human
18 services board in the appropriate district of the Department
19 of Children and Family ~~Health and Rehabilitative~~ Services.
20 These reports must contain, at a minimum, data about the
21 clients served by the juvenile justice programs and services
22 in the district, as well as data concerning the unmet needs of
23 juveniles within the district.

24 12. Provide a written annual report on the activities
25 of the board to the district administrator, the Secretary of
26 Juvenile Justice, and the Juvenile Justice Advisory Board. The
27 report should include an assessment of the effectiveness of
28 juvenile justice continuum programs and services within the
29 district, recommendations for elimination, modification, or
30 expansion of existing programs, and suggestions for new
31 programs or services in the juvenile justice continuum that

1 would meet identified needs of children and families in the
2 district.

3 (e) Contingent upon legislative appropriation, the
4 department shall provide funding for a minimum of one
5 full-time position for a staff person to work with the
6 district juvenile justice boards.

7 (f) The secretary shall hold quarterly meetings with
8 chairpersons of the district juvenile justice board in order
9 to:

- 10 1. Advise juvenile justice board chairs of statewide
11 juvenile justice issues and activities.
- 12 2. Provide feedback on district budget priorities.
- 13 3. Obtain input into the strategic planning process.
- 14 4. Discuss program development, program
15 implementation, and quality assurance.

16 ~~(4)(7)~~ DISTRICT JUVENILE JUSTICE PLAN; PROGRAMS.--

17 (a) A district juvenile justice plan is authorized in
18 each district or any subdivision of the district authorized by
19 the district juvenile justice board for the purpose of
20 reducing delinquent acts, juvenile arrests, and gang activity.
21 Juvenile justice programs under such plan may be administered
22 by the Department of Juvenile Justice; the district school
23 board; a local law enforcement agency; or any other public or
24 private entity, in cooperation with appropriate state or local
25 governmental entities and public and private agencies. A
26 juvenile justice program under this section may be planned,
27 implemented, and conducted in any district pursuant to a
28 proposal developed and approved as specified in s. 985.415
29 ~~subsection (8)~~.

30 (b) District juvenile justice plans shall be developed
31 by district juvenile justice boards in close cooperation with

1 the schools, the courts, the state attorney, law enforcement,
2 state agencies, and community organizations and groups. It is
3 the intent of the Legislature that representatives of all
4 elements of the community acquire a thorough understanding of
5 the role and responsibility that each has in addressing
6 juvenile crime in the community, and that the district
7 juvenile justice plan reflect an understanding of the legal
8 and fiscal limits within which the plan must be implemented.

9 (c) The district juvenile justice board may use public
10 hearings and other appropriate processes to solicit input
11 regarding the development and updating of the district
12 juvenile justice plan. Input may be provided by parties which
13 include, but are not limited to:

14 1. Local level public and private service providers,
15 advocacy organizations, and other organizations working with
16 delinquent children.

17 2. County and municipal governments.

18 3. State agencies that provide services to children
19 and their families.

20 4. University youth centers.

21 5. Judges, state attorneys, public defenders, and The
22 Florida Bar.

23 6. Victims of crimes committed by children.

24 7. Law enforcement.

25 8. Delinquent children and their families and
26 caregivers.

27
28 The district juvenile justice board must develop its district
29 juvenile justice plan in close cooperation with the
30 appropriate health and human services board of the Department
31 of Children and Family ~~Health and Rehabilitative~~ Services,

1 local school districts, local law enforcement agencies, and
2 other community groups and must update the plan annually. To
3 aid the planning process, the Department of Juvenile Justice
4 shall provide to district juvenile justice boards routinely
5 collected ethnicity data. The Department of Law Enforcement
6 shall include ethnicity as a field in the Florida Intelligence
7 Center database, and shall collect the data routinely and make
8 it available to district juvenile justice boards.

9 ~~(8) COMMUNITY JUVENILE JUSTICE PARTNERSHIP GRANTS;~~
10 ~~CRITERIA.~~

11 ~~(a) In order to encourage the development of county~~
12 ~~and district juvenile justice plans and the development and~~
13 ~~implementation of county and district interagency agreements~~
14 ~~among representatives of the Department of Juvenile Justice,~~
15 ~~the Department of Health and Rehabilitative Services, law~~
16 ~~enforcement, and school authorities, the community juvenile~~
17 ~~justice partnership grant program is established, to be~~
18 ~~administered by the Department of Juvenile Justice.~~

19 ~~(b) The department shall only consider applications~~
20 ~~which at a minimum provide for the following:~~

21 ~~1. The participation of the local school authorities,~~
22 ~~local law enforcement, and local representatives of the~~
23 ~~Department of Juvenile Justice and the Department of Health~~
24 ~~and Rehabilitative Services pursuant to a written interagency~~
25 ~~partnership agreement. Such agreement must specify how~~
26 ~~community entities will cooperate, collaborate, and share~~
27 ~~information in furtherance of the goals of the district and~~
28 ~~county juvenile justice plan; and~~

29 ~~2. The reduction of truancy and in-school and~~
30 ~~out-of-school suspensions and expulsions, and the enhancement~~
31 ~~of school safety.~~

1 ~~(c) In addition, the department may consider the~~
2 ~~following criteria in awarding grants:~~

3 ~~1. The district juvenile justice plan and any county~~
4 ~~juvenile justice plans that are referred to or incorporated~~
5 ~~into the district plan, including a list of individuals,~~
6 ~~groups, and public and private entities that participated in~~
7 ~~the development of the plan.~~

8 ~~2. The diversity of community entities participating~~
9 ~~in the development of the district juvenile justice plan.~~

10 ~~3. The number of community partners who will be~~
11 ~~actively involved in the operation of the grant program.~~

12 ~~4. The number of students or youth to be served by the~~
13 ~~grant and the criteria by which they will be selected.~~

14 ~~5. The criteria by which the grant program will be~~
15 ~~evaluated and, if deemed successful, the feasibility of~~
16 ~~implementation in other communities.~~

17 ~~(9) GRANT APPLICATION PROCEDURES.--~~

18 ~~(a) Each entity wishing to apply for an annual~~
19 ~~community juvenile justice partnership grant, which may be~~
20 ~~renewed for a maximum of 2 additional years for the same~~
21 ~~provision of services, shall submit a grant proposal for~~
22 ~~funding or continued funding to the department by March 1 of~~
23 ~~each year. The department shall establish the grant~~
24 ~~application procedures. In order to be considered for~~
25 ~~funding, the grant proposal shall include the following~~
26 ~~assurances and information:~~

27 ~~1. A letter from the chair of the county juvenile~~
28 ~~justice council confirming that the grant application has been~~
29 ~~reviewed and found to support one or more purposes or goals of~~
30 ~~the juvenile justice plan as developed by the council.~~

31

1 ~~2. A rationale and description of the program and the~~
2 ~~services to be provided, including goals and objectives.~~

3 ~~3. A method for identification of the juveniles at~~
4 ~~risk of involvement in the juvenile justice system who will be~~
5 ~~the focus of the program.~~

6 ~~4. Provisions for the participation of parents and~~
7 ~~guardians in the program.~~

8 ~~5. Coordination with other community-based and social~~
9 ~~service prevention efforts, including, but not limited to,~~
10 ~~drug and alcohol abuse prevention and dropout prevention~~
11 ~~programs, that serve the target population or neighborhood.~~

12 ~~6. An evaluation component to measure the~~
13 ~~effectiveness of the program in accordance with the provisions~~
14 ~~of s. 39.021.~~

15 ~~7. A program budget, including the amount and sources~~
16 ~~of local cash and in-kind resources committed to the budget.~~
17 ~~The proposal must establish to the satisfaction of the~~
18 ~~department that the entity will make a cash or in-kind~~
19 ~~contribution to the program of a value that is at least equal~~
20 ~~to 20 percent of the amount of the grant.~~

21 ~~8. The necessary program staff.~~

22 ~~(b) The department shall consider the following in~~
23 ~~awarding such grants:~~

24 ~~1. The number of youths from 10 through 17 years of~~
25 ~~age within the geographical area to be served by the program.~~
26 ~~Those geographical areas with the highest number of youths~~
27 ~~from 10 through 17 years of age shall have priority for~~
28 ~~selection.~~

29 ~~2. The extent to which the program targets high~~
30 ~~juvenile crime neighborhoods and those public schools serving~~
31 ~~juveniles from high crime neighborhoods.~~

1 ~~3. The validity and cost-effectiveness of the program.~~

2 ~~4. The degree to which the program is located in and~~
3 ~~managed by local leaders of the target neighborhoods and~~
4 ~~public schools serving the target neighborhoods.~~

5 ~~5. The recommendations of the juvenile justice council~~
6 ~~as to the priority that should be given to proposals submitted~~
7 ~~by entities within a county.~~

8 ~~6. The recommendations of the juvenile justice board~~
9 ~~as to the priority that should be given to proposals submitted~~
10 ~~by entities within a district.~~

11 ~~(c) The department shall make available, to anyone~~
12 ~~wishing to apply for such a grant, information on all of the~~
13 ~~criteria to be used in the selection of the proposals for~~
14 ~~funding pursuant to the provisions of this subsection.~~

15 ~~(d) The department shall review all program proposals~~
16 ~~submitted. Entities submitting proposals shall be notified of~~
17 ~~approval not later than June 30 of each year.~~

18 ~~(e) Each entity that is awarded a grant as provided~~
19 ~~for in this section shall submit an annual evaluation report~~
20 ~~to the department, the district juvenile justice manager, the~~
21 ~~district juvenile justice board, and the county juvenile~~
22 ~~justice council, by a date subsequent to the end of the~~
23 ~~contract period established by the department, documenting the~~
24 ~~extent to which the program objectives have been met, the~~
25 ~~effect of the program on the juvenile arrest rate, and any~~
26 ~~other information required by the department. The department~~
27 ~~shall coordinate and incorporate all such annual evaluation~~
28 ~~reports with the provisions of s. 39.021. Each entity is also~~
29 ~~subject to a financial audit and a performance audit.~~

30 ~~(f) The department may establish rules and policy~~
31 ~~provisions necessary to implement this section.~~

1 ~~(10) RESTRICTIONS.--This section does not prevent a~~
 2 ~~program initiated under a community juvenile justice~~
 3 ~~partnership grant established pursuant to this section from~~
 4 ~~continuing to operate beyond the 3-year maximum funding period~~
 5 ~~if it can find other funding sources. Likewise, this section~~
 6 ~~does not restrict the number of programs an entity may apply~~
 7 ~~for or operate.~~

8 ~~(11) INNOVATION ZONES.--The department shall encourage~~
 9 ~~each of the district juvenile justice boards to propose at~~
 10 ~~least one innovation zone within the district for the purpose~~
 11 ~~of implementing any experimental, pilot, or demonstration~~
 12 ~~project that furthers the legislatively established goals of~~
 13 ~~the department. An innovation zone is a defined geographic~~
 14 ~~area such as a district, commitment region, county,~~
 15 ~~municipality, service delivery area, school campus, or~~
 16 ~~neighborhood providing a laboratory for the research,~~
 17 ~~development, and testing of the applicability and efficacy of~~
 18 ~~model programs, policy options, and new technologies for the~~
 19 ~~department.~~

20 ~~(a)1. The district juvenile justice board shall submit~~
 21 ~~a proposal for an innovation zone to the secretary. If the~~
 22 ~~purpose of the proposed innovation zone is to demonstrate that~~
 23 ~~specific statutory goals can be achieved more effectively by~~
 24 ~~using procedures that require modification of existing rules,~~
 25 ~~policies, or procedures, the proposal may request the~~
 26 ~~secretary to waive such existing rules, policies, or~~
 27 ~~procedures or to otherwise authorize use of alternative~~
 28 ~~procedures or practices. Waivers of such existing rules,~~
 29 ~~policies, or procedures must comply with applicable state or~~
 30 ~~federal law.~~

1 ~~2. For innovation zone proposals that the secretary~~
2 ~~determines require changes to state law, the secretary may~~
3 ~~submit a request for a waiver from such laws, together with~~
4 ~~any proposed changes to state law, to the chairs of the~~
5 ~~appropriate legislative committees for consideration.~~

6 ~~3. For innovation zone proposals that the secretary~~
7 ~~determines require waiver of federal law, the secretary may~~
8 ~~submit a request for such waivers to the applicable federal~~
9 ~~agency.~~

10 ~~(b) An innovation zone project may not have a duration~~
11 ~~of more than 2 years, but the secretary may grant an~~
12 ~~extension.~~

13 ~~(c) Before implementing an innovation zone under this~~
14 ~~subsection, the secretary shall, in conjunction with the~~
15 ~~Auditor General, develop measurable and valid objectives for~~
16 ~~such zone within a negotiated reasonable period of time.~~
17 ~~Moneys designated for an innovation zone in one service~~
18 ~~district may not be used to fund an innovation zone in another~~
19 ~~district.~~

20 ~~(d) Program models for innovation zone projects~~
21 ~~include, but are not limited to:~~

22 ~~1. Forestry alternative work program that provides~~
23 ~~selected juvenile offenders an opportunity to serve in a~~
24 ~~forestry work program as an alternative to incarceration, in~~
25 ~~which offenders assist in wildland firefighting, enhancement~~
26 ~~of state land management, environmental enhancement, and land~~
27 ~~restoration.~~

28 ~~2. Collaborative public/private dropout prevention~~
29 ~~partnership that trains personnel from both the public and~~
30 ~~private sectors of a target community who are identified and~~
31 ~~brought into the school system as an additional resource for~~

1 ~~addressing problems which inhibit and retard learning,~~
2 ~~including abuse, neglect, financial instability, pregnancy,~~
3 ~~and substance abuse.~~

4 ~~3. Support services program that provides economically~~
5 ~~disadvantaged youth with support services, jobs, training,~~
6 ~~counseling, mentoring, and prepaid postsecondary tuition~~
7 ~~scholarships.~~

8 ~~4. Juvenile offender job training program that offers~~
9 ~~an opportunity for juvenile offenders to develop educational~~
10 ~~and job skills in a 12-month to 18-month nonresidential~~
11 ~~training program, teaching the offenders skills such as~~
12 ~~computer-aided design, modular panel construction, and heavy~~
13 ~~vehicle repair and maintenance which will readily transfer to~~
14 ~~the private sector, thereby promoting responsibility and~~
15 ~~productivity.~~

16 ~~5. Infant mortality prevention program that is~~
17 ~~designed to discourage unhealthy behaviors such as smoking and~~
18 ~~alcohol or drug consumption, reduce the incidence of babies~~
19 ~~born prematurely or with low birth weight, reduce health care~~
20 ~~cost by enabling babies to be safely discharged earlier from~~
21 ~~the hospital, reduce the incidence of child abuse and neglect,~~
22 ~~and improve parenting and problem-solving skills.~~

23 ~~6. Regional crime prevention and intervention program~~
24 ~~that serves as an umbrella agency to coordinate and replicate~~
25 ~~existing services to at-risk children, first-time juvenile~~
26 ~~offenders, youth crime victims, and school dropouts.~~

27 ~~7. Alternative education outreach school program that~~
28 ~~serves delinquent repeat offenders between 14 and 18 years of~~
29 ~~age who have demonstrated failure in school and who are~~
30 ~~referred by the juvenile court.~~

31

1 ~~8. Drug treatment and prevention program that provides~~
2 ~~early identification of children with alcohol or drug problems~~
3 ~~to facilitate treatment, comprehensive screening and~~
4 ~~assessment, family involvement, and placement options.~~

5 ~~9. Community resource mother or father program that~~
6 ~~emphasizes parental responsibility for the behavior of~~
7 ~~children, and requires the availability of counseling services~~
8 ~~for children at high risk for delinquent behavior.~~

9 Section 74. Section 985.414, Florida Statutes, is
10 created to read:

11 985.414 County juvenile justice councils.--

12 (1)(a) A county juvenile justice council is authorized
13 in each county for the purpose of encouraging the initiation
14 of, or supporting ongoing, interagency cooperation and
15 collaboration in addressing juvenile crime.

16 (b) A county juvenile justice council must include:

17 1. The district school superintendent, or the
18 superintendent's designee.

19 2. The chair of the board of county commissioners, or
20 the chair's designee.

21 3. An elected official of the governing body of a
22 municipality within the county.

23 4. Representatives of the local school system
24 including administrators, teachers, school counselors, and
25 parents.

26 5. The district juvenile justice manager and the
27 district administrator of the Department of Children and
28 Family Services, or their respective designees.

29 6. Representatives of local law enforcement agencies,
30 including the sheriff or the sheriff's designee.

31

1 7. Representatives of the judicial system including,
2 but not limited to, the chief judge of the circuit, the state
3 attorney, the public defender, the clerk of the circuit court,
4 or their respective designees.

5 8. Representatives of the business community.

6 9. Representatives of any other interested officials,
7 groups, or entities including, but not limited to, a
8 children's services council, public or private providers of
9 juvenile justice programs and services, students, and
10 advocates.

11
12 A juvenile delinquency and gang prevention council or any
13 other group or organization that currently exists in any
14 county, and that is composed of and open to representatives of
15 the classes of members described in this section, may notify
16 the district juvenile justice manager of its desire to be
17 designated as the county juvenile justice council.

18 (2)(a) The purpose of a county juvenile justice
19 council is to provide a forum for the development of a
20 community-based interagency assessment of the local juvenile
21 justice system, to develop a county juvenile justice plan for
22 more effectively preventing juvenile delinquency, and to make
23 recommendations for more effectively utilizing existing
24 community resources in dealing with juveniles who are truant
25 or have been suspended or expelled from school, or who are
26 found to be involved in crime. The county juvenile justice
27 plan shall include relevant portions of local crime prevention
28 and public safety plans, school improvement and school safety
29 plans, and the plans or initiatives of other public and
30 private entities within the county that are concerned with
31 dropout prevention, school safety, the prevention of juvenile

1 crime and criminal activity by youth gangs, and alternatives
2 to suspension, expulsion, and detention for children found in
3 contempt of court.

4 (b) The duties and responsibilities of a county
5 juvenile justice council include, but are not limited to:

6 1. Developing a county juvenile justice plan based
7 upon utilization of the resources of law enforcement, the
8 school system, the Department of Juvenile Justice, the
9 Department of Children and Family Services, and others in a
10 cooperative and collaborative manner to prevent or discourage
11 juvenile crime and develop meaningful alternatives to school
12 suspensions and expulsions.

13 2. Entering into a written county interagency
14 agreement specifying the nature and extent of contributions
15 each signatory agency will make in achieving the goals of the
16 county juvenile justice plan and their commitment to the
17 sharing of information useful in carrying out the goals of the
18 interagency agreement to the extent authorized by law.

19 3. Applying for and receiving public or private
20 grants, to be administered by one of the community partners,
21 that support one or more components of the county juvenile
22 justice plan.

23 4. Designating the county representatives to the
24 district juvenile justice board pursuant to s. 985.413.

25 5. Providing a forum for the presentation of
26 interagency recommendations and the resolution of
27 disagreements relating to the contents of the county
28 interagency agreement or the performance by the parties of
29 their respective obligations under the agreement.

30 6. Assisting and directing the efforts of local
31 community support organizations and volunteer groups in

1 providing enrichment programs and other support services for
2 clients of local juvenile detention centers.

3 7. Providing an annual report and recommendations to
4 the district juvenile justice board, the Juvenile Justice
5 Advisory Board, and the district juvenile justice manager.

6 Section 75. Section 985.415, Florida Statutes, is
7 created to read:

8 985.415 Community Juvenile Justice Partnership
9 Grants.--

10 (1) GRANTS; CRITERIA.--

11 (a) In order to encourage the development of county
12 and district juvenile justice plans and the development and
13 implementation of county and district interagency agreements
14 among representatives of the Department of Juvenile Justice,
15 the Department of Children and Family Services, law
16 enforcement, and school authorities, the community juvenile
17 justice partnership grant program is established, which
18 program shall be administered by the Department of Juvenile
19 Justice.

20 (b) The department shall only consider applications
21 which at a minimum provide for the following:

22 1. The participation of the local school authorities,
23 local law enforcement, and local representatives of the
24 Department of Juvenile Justice and the Department of Children
25 and Family Services pursuant to a written interagency
26 partnership agreement. Such agreement must specify how
27 community entities will cooperate, collaborate, and share
28 information in furtherance of the goals of the district and
29 county juvenile justice plan; and

1 2. The reduction of truancy and in-school and
2 out-of-school suspensions and expulsions, and the enhancement
3 of school safety.

4 (c) In addition, the department may consider the
5 following criteria in awarding grants:

6 1. The district juvenile justice plan and any county
7 juvenile justice plans that are referred to or incorporated
8 into the district plan, including a list of individuals,
9 groups, and public and private entities that participated in
10 the development of the plan.

11 2. The diversity of community entities participating
12 in the development of the district juvenile justice plan.

13 3. The number of community partners who will be
14 actively involved in the operation of the grant program.

15 4. The number of students or youths to be served by
16 the grant and the criteria by which they will be selected.

17 5. The criteria by which the grant program will be
18 evaluated and, if deemed successful, the feasibility of
19 implementation in other communities.

20 (2) GRANT APPLICATION PROCEDURES.--

21 (a) Each entity wishing to apply for an annual
22 community juvenile justice partnership grant, which may be
23 renewed for a maximum of 2 additional years for the same
24 provision of services, shall submit a grant proposal for
25 funding or continued funding to the department by March 1 of
26 each year. The department shall establish the grant
27 application procedures. In order to be considered for
28 funding, the grant proposal shall include the following
29 assurances and information:

30 1. A letter from the chair of the county juvenile
31 justice council confirming that the grant application has been

1 reviewed and found to support one or more purposes or goals of
2 the juvenile justice plan as developed by the council.

3 2. A rationale and description of the program and the
4 services to be provided, including goals and objectives.

5 3. A method for identification of the juveniles at
6 risk of involvement in the juvenile justice system who will be
7 the focus of the program.

8 4. Provisions for the participation of parents and
9 guardians in the program.

10 5. Coordination with other community-based and social
11 service prevention efforts, including, but not limited to,
12 drug and alcohol abuse prevention and dropout prevention
13 programs, that serve the target population or neighborhood.

14 6. An evaluation component to measure the
15 effectiveness of the program in accordance with the provisions
16 of s. 985.412.

17 7. A program budget, including the amount and sources
18 of local cash and in-kind resources committed to the budget.
19 The proposal must establish to the satisfaction of the
20 department that the entity will make a cash or in-kind
21 contribution to the program of a value that is at least equal
22 to 20 percent of the amount of the grant.

23 8. The necessary program staff.

24 (b) The department shall consider the following in
25 awarding such grants:

26 1. The number of youths from 10 through 17 years of
27 age within the geographical area to be served by the program.
28 Those geographical areas with the highest number of youths
29 from 10 through 17 years of age shall have priority for
30 selection.

31

1 2. The extent to which the program targets high
2 juvenile crime neighborhoods and those public schools serving
3 juveniles from high crime neighborhoods.

4 3. The validity and cost-effectiveness of the program.

5 4. The degree to which the program is located in and
6 managed by local leaders of the target neighborhoods and
7 public schools serving the target neighborhoods.

8 5. The recommendations of the juvenile justice council
9 as to the priority that should be given to proposals submitted
10 by entities within a county.

11 6. The recommendations of the juvenile justice board
12 as to the priority that should be given to proposals submitted
13 by entities within a district.

14 (c) The department shall make available, to anyone
15 wishing to apply for such a grant, information on all of the
16 criteria to be used in the selection of the proposals for
17 funding pursuant to the provisions of this subsection.

18 (d) The department shall review all program proposals
19 submitted. Entities submitting proposals shall be notified of
20 approval not later than June 30 of each year.

21 (e) Each entity that is awarded a grant as provided
22 for in this section shall submit an annual evaluation report
23 to the department, the district juvenile justice manager, the
24 district juvenile justice board, and the county juvenile
25 justice council, by a date subsequent to the end of the
26 contract period established by the department, documenting the
27 extent to which the program objectives have been met, the
28 effect of the program on the juvenile arrest rate, and any
29 other information required by the department. The department
30 shall coordinate and incorporate all such annual evaluation

31

1 reports with the provisions of s. 985.412. Each entity is
2 also subject to a financial audit and a performance audit.

3 (f) The department may establish rules and policy
4 provisions necessary to implement this section.

5 (3) RESTRICTIONS.--This section does not prevent a
6 program initiated under a community juvenile justice
7 partnership grant established pursuant to this section from
8 continuing to operate beyond the 3-year maximum funding period
9 if it can find other funding sources. Likewise, this section
10 does not restrict the number of programs an entity may apply
11 for or operate.

12 Section 76. Section 985.416, Florida Statutes, is
13 created to read:

14 985.416 Innovation zones.--The department shall
15 encourage each of the district juvenile justice boards to
16 propose at least one innovation zone within the district for
17 the purpose of implementing any experimental, pilot, or
18 demonstration project that furthers the legislatively
19 established goals of the department. An innovation zone is a
20 defined geographic area such as a district, commitment region,
21 county, municipality, service delivery area, school campus, or
22 neighborhood providing a laboratory for the research,
23 development, and testing of the applicability and efficacy of
24 model programs, policy options, and new technologies for the
25 department.

26 (1)(a) The district juvenile justice board shall
27 submit a proposal for an innovation zone to the secretary. If
28 the purpose of the proposed innovation zone is to demonstrate
29 that specific statutory goals can be achieved more effectively
30 by using procedures that require modification of existing
31 rules, policies, or procedures, the proposal may request the

1 secretary to waive such existing rules, policies, or
2 procedures or to otherwise authorize use of alternative
3 procedures or practices. Waivers of such existing rules,
4 policies, or procedures must comply with applicable state or
5 federal law.

6 (b) For innovation zone proposals that the secretary
7 determines require changes to state law, the secretary may
8 submit a request for a waiver from such laws, together with
9 any proposed changes to state law, to the chairs of the
10 appropriate legislative committees for consideration.

11 (c) For innovation zone proposals that the secretary
12 determines require waiver of federal law, the secretary may
13 submit a request for such waivers to the applicable federal
14 agency.

15 (2) An innovation zone project may not have a duration
16 of more than 2 years, but the secretary may grant an
17 extension.

18 (3) Before implementing an innovation zone under this
19 subsection, the secretary shall, in conjunction with the
20 Auditor General, develop measurable and valid objectives for
21 such zone within a negotiated reasonable period of time.
22 Moneys designated for an innovation zone in one service
23 district may not be used to fund an innovation zone in another
24 district.

25 (4) Program models for innovation zone projects
26 include, but are not limited to:

27 (a) A forestry alternative work program that provides
28 selected juvenile offenders an opportunity to serve in a
29 forestry work program as an alternative to incarceration, in
30 which offenders assist in wildland firefighting, enhancement
31

1 of state land management, environmental enhancement, and land
2 restoration.

3 (b) A collaborative public/private dropout prevention
4 partnership that trains personnel from both the public and
5 private sectors of a target community who are identified and
6 brought into the school system as an additional resource for
7 addressing problems which inhibit and retard learning,
8 including abuse, neglect, financial instability, pregnancy,
9 and substance abuse.

10 (c) A support services program that provides
11 economically disadvantaged youth with support services, jobs,
12 training, counseling, mentoring, and prepaid postsecondary
13 tuition scholarships.

14 (d) A juvenile offender job training program that
15 offers an opportunity for juvenile offenders to develop
16 educational and job skills in a 12-month to 18-month
17 nonresidential training program, teaching the offenders skills
18 such as computer-aided design, modular panel construction, and
19 heavy vehicle repair and maintenance which will readily
20 transfer to the private sector, thereby promoting
21 responsibility and productivity.

22 (e) An infant mortality prevention program that is
23 designed to discourage unhealthy behaviors such as smoking and
24 alcohol or drug consumption, reduce the incidence of babies
25 born prematurely or with low birth weight, reduce health care
26 cost by enabling babies to be safely discharged earlier from
27 the hospital, reduce the incidence of child abuse and neglect,
28 and improve parenting and problem-solving skills.

29 (f) A regional crime prevention and intervention
30 program that serves as an umbrella agency to coordinate and
31

1 replicate existing services to at-risk children, first-time
2 juvenile offenders, youth crime victims, and school dropouts.

3 (g) An alternative education outreach school program
4 that serves delinquent repeat offenders between 14 and 18
5 years of age who have demonstrated failure in school and who
6 are referred by the juvenile court.

7 (h) A drug treatment and prevention program that
8 provides early identification of children with alcohol or drug
9 problems to facilitate treatment, comprehensive screening and
10 assessment, family involvement, and placement options.

11 (i) A community resource mother or father program that
12 emphasizes parental responsibility for the behavior of
13 children, and requires the availability of counseling services
14 for children at high risk for delinquent behavior.

15 Section 77. Section 39.062, Florida Statutes, is
16 transferred and renumbered as section 985.417, Florida
17 Statutes.

18 Section 78. Section 39.063, Florida Statutes, is
19 transferred and renumbered as section 985.418, Florida
20 Statutes.

21 Section 79. Section 39.065, Florida Statutes, is
22 transferred and renumbered as section 985.419, Florida
23 Statutes.

24 Section 80. Section 39.51, Florida Statutes, is
25 transferred and renumbered as section 985.501, Florida
26 Statutes.

27 Section 81. Section 39.511, Florida Statutes, is
28 transferred and renumbered as section 985.502, Florida
29 Statutes.

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1 Section 82. Section 39.512, Florida Statutes, is
2 transferred and renumbered as section 985.503, Florida
3 Statutes.

4 Section 83. Section 39.513, Florida Statutes, is
5 transferred and renumbered as section 985.504, Florida
6 Statutes.

7 Section 84. Section 39.514, Florida Statutes, is
8 transferred and renumbered as section 985.505, Florida
9 Statutes.

10 Section 85. Section 39.515, Florida Statutes, is
11 transferred and renumbered as section 985.506, Florida
12 Statutes.

13 Section 86. Section 39.516, Florida Statutes, is
14 transferred and renumbered as section 985.507, Florida
15 Statutes.

16 Section 87. Section 984.01, Florida Statutes, is
17 created to read:

18 984.01 Purposes and intent; personnel standards and
19 screening.--

20 (1) The purposes of this chapter are:

21 (a) To provide judicial and other procedures to assure
22 due process through which children and other interested
23 parties are assured fair hearings by a respectful and
24 respected court or other tribunal and the recognition,
25 protection, and enforcement of their constitutional and other
26 legal rights, while ensuring that public safety interests and
27 the authority and dignity of the courts are adequately
28 protected.

29 (b) To provide for the care, safety, and protection of
30 children in an environment that fosters healthy social,
31 emotional, intellectual, and physical development; to ensure

1 secure and safe custody; and to promote the health and
2 well-being of all children under the state's care.

3 (c) To ensure the protection of society, by providing
4 for a comprehensive standardized assessment of the child's
5 needs so that the most appropriate control, discipline,
6 punishment, and treatment can be administered consistent with
7 the seriousness of the act committed, the community's
8 long-term need for public safety, the prior record of the
9 child, and the specific rehabilitation needs of the child,
10 while also providing restitution, whenever possible, to the
11 victim of the offense.

12 (d) To preserve and strengthen the child's family ties
13 whenever possible, by providing for removal of the child from
14 parental custody only when his or her welfare or the safety
15 and protection of the public cannot be adequately safeguarded
16 without such removal; and, when the child is removed from his
17 or her own family, to secure custody, care, and discipline for
18 the child as nearly as possible equivalent to that which
19 should have been given by the parents; and to assure, in all
20 cases in which a child must be permanently removed from
21 parental custody, that the child be placed in an approved
22 family home, adoptive home, independent living program, or
23 other placement that provides the most stable and permanent
24 living arrangement for the child, as determined by the court.

25 (e)1. To assure that the adjudication and disposition
26 of a child alleged or found to have committed a violation of
27 Florida law be exercised with appropriate discretion and in
28 keeping with the seriousness of the offense and the need for
29 treatment services, and that all findings made under this
30 chapter be based upon facts presented at a hearing that meets
31

1 the constitutional standards of fundamental fairness and due
2 process.

3 2. To assure that the sentencing and placement of a
4 child tried as an adult be appropriate and in keeping with the
5 seriousness of the offense and the child's need for
6 rehabilitative services, and that the proceedings and
7 procedures applicable to such sentencing and placement be
8 applied within the full framework of constitutional standards
9 of fundamental fairness and due process.

10 (f) To provide children committed to the Department of
11 Juvenile Justice with training in life skills, including
12 career education.

13 (2) The Department of Juvenile Justice or the
14 Department of Children and Family Services, as appropriate,
15 may contract with the Federal Government, other state
16 departments and agencies, county and municipal governments and
17 agencies, public and private agencies, and private individuals
18 and corporations in carrying out the purposes of, and the
19 responsibilities established in, this chapter.

20 (a) When the Department of Juvenile Justice or the
21 Department of Children and Family Services contracts with a
22 provider for any program for children, all personnel,
23 including owners, operators, employees, and volunteers, in the
24 facility must be of good moral character. A volunteer who
25 assists on an intermittent basis for less than 40 hours per
26 month need not be screened if the volunteer is under direct
27 and constant supervision by persons who meet the screening
28 requirements.

29 (b) The Department of Juvenile Justice and the
30 Department of Children and Family Services shall require
31 employment screening pursuant to chapter 435, using the level

1 2 standards set forth in that chapter for personnel in
2 programs for children or youths.

3 (c) The Department of Juvenile Justice or the
4 Department of Children and Family Services may grant
5 exemptions from disqualification from working with children as
6 provided in s. 435.07.

7 (3) It is the intent of the Legislature that this
8 chapter be liberally interpreted and construed in conformity
9 with its declared purposes.

10 Section 88. Section 984.02, Florida Statutes, is
11 created to read:

12 984.02 Legislative intent for the juvenile justice
13 system.--

14 (1) GENERAL PROTECTIONS FOR CHILDREN.--It is a purpose
15 of the Legislature that the children of this state be provided
16 with the following protections:

17 (a) Protection from abuse, neglect, and exploitation.

18 (b) A permanent and stable home.

19 (c) A safe and nurturing environment which will
20 preserve a sense of personal dignity and integrity.

21 (d) Adequate nutrition, shelter, and clothing.

22 (e) Effective treatment to address physical, social,
23 and emotional needs, regardless of geographical location.

24 (f) Equal opportunity and access to quality and
25 effective education which will meet the individual needs of
26 each child, and to recreation and other community resources to
27 develop individual abilities.

28 (g) Access to preventive services.

29 (h) An independent, trained advocate when intervention
30 is necessary and a skilled guardian or caretaker in a safe
31 environment when alternative placement is necessary.

1 (2) SUBSTANCE ABUSE SERVICES.--The Legislature finds
2 that children in the care of the state's dependency and
3 delinquency systems need appropriate health care services,
4 that the impact of substance abuse on health indicates the
5 need for health care services to include substance abuse
6 services where appropriate, and that it is in the state's best
7 interest that such children be provided the services they need
8 to enable them to become and remain independent of state care.
9 In order to provide these services, the state's dependency and
10 delinquency systems must have the ability to identify and
11 provide appropriate intervention and treatment for children
12 with personal or family-related substance abuse problems. It
13 is therefore the purpose of the Legislature to provide
14 authority for the state to contract with community substance
15 abuse treatment providers for the development and operation of
16 specialized support and overlay services for the dependency
17 and delinquency systems, which will be fully implemented and
18 utilized as resources permit.

19 (3) JUVENILE JUSTICE AND DELINQUENCY PREVENTION.--It
20 is the policy of the state with respect to juvenile justice
21 and delinquency prevention to first protect the public from
22 acts of delinquency. In addition, it is the policy of the
23 state to:

24 (a) Develop and implement effective methods of
25 preventing and reducing acts of delinquency, with a focus on
26 maintaining and strengthening the family as a whole so that
27 children may remain in their homes or communities.

28 (b) Develop and implement effective programs to
29 prevent delinquency, to divert children from the traditional
30 juvenile justice system, to intervene at an early stage of
31

1 delinquency, and to provide critically needed alternatives to
2 institutionalization and deep-end commitment.

3 (c) Provide well-trained personnel, high-quality
4 services, and cost-effective programs within the juvenile
5 justice system.

6 (d) Increase the capacity of local governments and
7 public and private agencies to conduct rehabilitative
8 treatment programs and to provide research, evaluation, and
9 training services in the field of juvenile delinquency
10 prevention.

11
12 The Legislature intends that detention care, in addition to
13 providing secure and safe custody, will promote the health and
14 well-being of the children committed thereto and provide an
15 environment that fosters their social, emotional,
16 intellectual, and physical development.

17 (4) PARENTAL, CUSTODIAL, AND GUARDIAN
18 RESPONSIBILITIES.--Parents, custodians, and guardians are
19 deemed by the state to be responsible for providing their
20 children with sufficient support, guidance, and supervision to
21 deter their participation in delinquent acts. The state
22 further recognizes that the ability of parents, custodians,
23 and guardians to fulfill those responsibilities can be greatly
24 impaired by economic, social, behavioral, emotional, and
25 related problems. It is therefore the policy of the
26 Legislature that it is the state's responsibility to ensure
27 that factors impeding the ability of caretakers to fulfill
28 their responsibilities are identified through the delinquency
29 intake process and that appropriate recommendations to address
30 those problems are considered in any judicial or nonjudicial
31 proceeding.

1 Section 89. Section 984.03, Florida Statutes, is
2 created to read:

3 984.03 Definitions.--When used in this chapter, the
4 term:

5 (1) "Abandoned" means a situation in which the parent
6 or legal custodian of a child or, in the absence of a parent
7 or legal custodian, the person responsible for the child's
8 welfare, while being able, makes no provision for the child's
9 support and makes no effort to communicate with the child,
10 which situation is sufficient to evince a willful rejection of
11 parental obligations. If the efforts of such parent or legal
12 custodian, or person primarily responsible for the child's
13 welfare to support and communicate with the child are, in the
14 opinion of the court, only marginal efforts that do not evince
15 a settled purpose to assume all parental duties, the court may
16 declare the child to be abandoned. The term "abandoned" does
17 not include a "child in need of services" as defined in
18 subsection (9) or a "family in need of services" as defined in
19 subsection (27). The incarceration of a parent, legal
20 custodian, or person responsible for a child's welfare does
21 not constitute a bar to a finding of abandonment.

22 (2) "Abuse" means any willful act that results in any
23 physical, mental, or sexual injury that causes or is likely to
24 cause the child's physical, mental, or emotional health to be
25 significantly impaired. Corporal discipline of a child by a
26 parent or guardian for disciplinary purposes does not in
27 itself constitute abuse when it does not result in harm to the
28 child as defined in s. 415.503.

29 (3) "Addictions receiving facility" means a substance
30 abuse service provider as defined in chapter 397.

31

1 (4) "Adjudicatory hearing" means a hearing for the
2 court to determine whether or not the facts support the
3 allegations stated in the petition as is provided for under s.
4 984.20(2) in child-in-need-of-services cases.

5 (5) "Adult" means any natural person other than a
6 child.

7 (6) "Authorized agent" or "designee" of the department
8 means a person or agency assigned or designated by the
9 Department of Juvenile Justice or the Department of Children
10 and Family Services, as appropriate, to perform duties or
11 exercise powers pursuant to this chapter and includes contract
12 providers and their employees for purposes of providing
13 services to and managing cases of children in need of services
14 and families in need of services.

15 (7) "Caretaker/homemaker" means an authorized agent of
16 the Department of Children and Family Services who shall
17 remain in the child's home with the child until a parent,
18 legal guardian, or relative of the child enters the home and
19 is capable of assuming and agrees to assume charge of the
20 child.

21 (8) "Child" or "juvenile" or "youth" means any
22 unmarried person under the age of 18 who has not been
23 emancipated by order of the court and who has been found or
24 alleged to be dependent, in need of services, or from a family
25 in need of services; or any married or unmarried person who is
26 charged with a violation of law occurring prior to the time
27 that person reached the age of 18 years.

28 (9) "Child in need of services" means a child for whom
29 there is no pending investigation into an allegation or
30 suspicion of abuse, neglect, or abandonment; no pending
31 referral alleging the child is delinquent; or no current

1 supervision by the Department of Juvenile Justice or the
2 Department of Children and Family Services for an adjudication
3 of dependency or delinquency. The child must also, pursuant to
4 this chapter, be found by the court:

5 (a) To have persistently run away from the child's
6 parents or legal custodians despite reasonable efforts of the
7 child, the parents or legal custodians, and appropriate
8 agencies to remedy the conditions contributing to the
9 behavior. Reasonable efforts shall include voluntary
10 participation by the child's parents or legal custodians and
11 the child in family mediation, services, and treatment offered
12 by the Department of Juvenile Justice or the Department of
13 Children and Family Services;

14 (b) To be habitually truant from school, while subject
15 to compulsory school attendance, despite reasonable efforts to
16 remedy the situation pursuant to s. 232.19 and through
17 voluntary participation by the child's parents or legal
18 custodians and by the child in family mediation, services, and
19 treatment offered by the Department of Juvenile Justice or the
20 Department of Children and Family Services; or

21 (c) To have persistently disobeyed the reasonable and
22 lawful demands of the child's parents or legal custodians, and
23 to be beyond their control despite efforts by the child's
24 parents or legal custodians and appropriate agencies to remedy
25 the conditions contributing to the behavior. Reasonable
26 efforts may include such things as good faith participation in
27 family or individual counseling.

28 (10) "Child support" means a court-ordered obligation,
29 enforced under chapter 61 and ss. 409.2551-409.2597, for
30 monetary support for the care, maintenance, training, and
31 education of a child.

1 (11) "Child who has been found to have committed a
2 delinquent act" means a child who, pursuant to the provisions
3 of chapter 985, is found by a court to have committed a
4 violation of law or to be in direct or indirect contempt of
5 court, except that this definition shall not include an act
6 constituting contempt of court arising out of a dependency
7 proceeding or a proceeding pursuant to this chapter.

8 (12) "Child who is found to be dependent" or
9 "dependent child" means a child who, pursuant to this chapter,
10 is found by the court:

11 (a) To have been abandoned, abused, or neglected by
12 the child's parents or other custodians.

13 (b) To have been surrendered to the former Department
14 of Health and Rehabilitative Services, the Department of
15 Children and Family Services, or a licensed child-placing
16 agency for purpose of adoption.

17 (c) To have been voluntarily placed with a licensed
18 child-caring agency, a licensed child-placing agency, an adult
19 relative, the former Department of Health and Rehabilitative
20 Services, or the Department of Children and Family Services,
21 after which placement, under the requirements of this chapter,
22 a case plan has expired and the parent or parents have failed
23 to substantially comply with the requirements of the plan.

24 (d) To have been voluntarily placed with a licensed
25 child-placing agency for the purposes of subsequent adoption
26 and a natural parent or parents signed a consent pursuant to
27 the Florida Rules of Juvenile Procedure.

28 (e) To have no parent, legal custodian, or responsible
29 adult relative to provide supervision and care.

30 (f) To be at substantial risk of imminent abuse or
31 neglect by the parent or parents or the custodian.

1 (13) "Circuit" means any of the 20 judicial circuits
2 as set forth in s. 26.021.

3 (14) "Comprehensive assessment" or "assessment" means
4 the gathering of information for the evaluation of a juvenile
5 offender's or a child's physical, psychological, educational,
6 vocational, and social condition and family environment as
7 they relate to the child's need for rehabilitative and
8 treatment services, including substance abuse treatment
9 services, mental health services, developmental services,
10 literacy services, medical services, family services, and
11 other specialized services, as appropriate.

12 (15) "Court," unless otherwise expressly stated, means
13 the circuit court assigned to exercise jurisdiction under this
14 chapter.

15 (16) "Delinquency program" means any intake, community
16 control and furlough, or similar program; regional detention
17 center or facility; or community-based program, whether owned
18 and operated by or contracted by the Department of Juvenile
19 Justice, or institution owned and operated by or contracted by
20 the Department of Juvenile Justice, which provides intake,
21 supervision, or custody and care of children who are alleged
22 to be or who have been found to be delinquent pursuant to
23 chapter 985.

24 (17) "Department" means the Department of Juvenile
25 Justice.

26 (18) "Detention care" means the temporary care of a
27 child in secure, nonsecure, or home detention, pending a court
28 adjudication or disposition or execution of a court order.

29 There are three types of detention care, as follows:

30 (a) "Secure detention" means temporary custody of the
31 child while the child is under the physical restriction of a

1 detention center or facility pending adjudication,
2 disposition, or placement.

3 (b) "Nonsecure detention" means temporary custody of
4 the child while the child is in a residential home in the
5 community in a physically nonrestrictive environment under the
6 supervision of the Department of Juvenile Justice pending
7 adjudication, disposition, or placement.

8 (c) "Home detention" means temporary custody of the
9 child while the child is released to the custody of the
10 parent, guardian, or custodian in a physically nonrestrictive
11 environment under the supervision of the Department of
12 Juvenile Justice staff pending adjudication, disposition, or
13 placement.

14 (19) "Detention center or facility" means a facility
15 used pending court adjudication or disposition or execution of
16 court order for the temporary care of a child alleged or found
17 to have committed a violation of law. A detention center or
18 facility may provide secure or nonsecure custody. A facility
19 used for the commitment of adjudicated delinquents shall not
20 be considered a detention center or facility.

21 (20) "Detention hearing" means a hearing for the court
22 to determine if a child should be placed in temporary custody,
23 as provided for under s. 39.402, in dependency cases.

24 (21) "Diligent efforts of social service agency" means
25 reasonable efforts to provide social services or reunification
26 services made by any social service agency as defined in this
27 section that is a party to a case plan.

28 (22) "Diligent search" means the efforts of a social
29 service agency in accordance with the requirements of s.
30 39.4051(6) to locate a parent or prospective parent whose
31 identity or location is unknown, initiated as soon as the

1 agency is made aware of the existence of such a parent, with
2 the search progress reported at each court hearing until the
3 parent is either identified and located or the court excuses
4 further search.

5 (23) "Disposition hearing" means a hearing in which
6 the court determines the most appropriate dispositional
7 services in the least restrictive available setting provided
8 for under s. 984.20(3), in child-in-need-of-services cases.

9 (24) "District" means a service district of the
10 Department of Juvenile Justice.

11 (25) "District juvenile justice manager" means the
12 person appointed by the Secretary of Juvenile Justice,
13 responsible for planning, managing, and evaluating all
14 juvenile justice continuum programs and services delivered or
15 funded by the Department of Juvenile Justice within the
16 district.

17 (26) "Family" means a collective body of persons,
18 consisting of a child and a parent, guardian, adult custodian,
19 or adult relative, in which:

20 (a) The persons reside in the same house or living
21 unit; or

22 (b) The parent, guardian, adult custodian, or adult
23 relative has a legal responsibility by blood, marriage, or
24 court order to support or care for the child.

25 (27) "Family in need of services" means a family that
26 has a child for whom there is no pending investigation into an
27 allegation of abuse, neglect, or abandonment or no current
28 supervision by the Department of Juvenile Justice or the
29 Department of Children and Family Services for an adjudication
30 of dependency or delinquency. The child must also have been
31

1 referred to a law enforcement agency or the Department of
2 Juvenile Justice for:
3 (a) Running away from parents or legal custodians;
4 (b) Persistently disobeying reasonable and lawful
5 demands of parents or legal custodians and being beyond their
6 control; or
7 (c) Habitual truancy from school.
8 (28) "Foster care" means care provided a child in a
9 foster family or boarding home, group home, agency boarding
10 home, child care institution, or any combination thereof.
11 (29) "Habitually truant" means that:
12 (a) The child has 15 unexcused absences within 90 days
13 with or without the knowledge or justifiable consent of the
14 child's parent or legal guardian and is not exempt from
15 attendance by virtue of being over the age of compulsory
16 school attendance or by meeting the criteria in s. 232.06, s.
17 232.09, or any other exemptions specified by law or the rules
18 of the State Board of Education;
19 (b) In addition to the actions described in s.
20 232.17(2), the school administration has completed the
21 following escalating activities to determine the cause, and to
22 attempt the remediation, of the child's truant behavior:
23 1. After a minimum of 3 and prior to 15 unexcused
24 absences within 90 days, one or more meetings have been held,
25 either in person or by phone, between a school attendance
26 assistant or school social worker, the child's parent or
27 guardian, and the child, if necessary, to report and to
28 attempt to solve the truancy problem. However, if the school
29 attendance assistant or school social worker has documented
30 the refusal of the parent or guardian to participate in the
31 meetings, then this requirement has been met;

1 2. Educational counseling has been provided to
2 determine whether curriculum changes would help solve the
3 truancy problem, and, if any changes were indicated, such
4 changes were instituted but proved unsuccessful in remedying
5 the truant behavior. Such curriculum changes may include
6 enrollment of the child in an alternative education program
7 that meets the specific educational and behavioral needs of
8 the child, including a second chance school, as provided for
9 in s. 230.2316, designed to resolve truant behavior;

10 3. Educational evaluation, pursuant to the
11 requirements of s. 232.19(3)(b)3., has been provided; and

12 4. The school social worker, the attendance assistant,
13 or the school superintendent's designee if there is no school
14 social worker or attendance assistant has referred the student
15 and family to the children-in-need-of-services and
16 families-in-need-of-services provider or the case staffing
17 committee, established pursuant to s. 984.12, as determined by
18 the cooperative agreement required in s. 232.19(3). The case
19 staffing committee may request the department or its designee
20 to file a child-in-need-of-services petition based upon the
21 report and efforts of the school district or other community
22 agency or may seek to resolve the truancy behavior through the
23 school or community-based organizations or agencies.

24
25 If a child within the compulsory school attendance age is
26 responsive to the interventions described in this paragraph
27 and has completed the necessary requirements to pass the
28 current grade as indicated in the district pupil progression
29 plan, the child shall not be determined to be habitually
30 truant. If a child within the compulsory school attendance age
31 has 15 unexcused absences or fails to enroll in school, the

1 State Attorney may file a child-in-need-of-services petition.
 2 Prior to filing a petition, the child must be referred to the
 3 appropriate agency for evaluation. After consulting with the
 4 evaluating agency, the State Attorney may elect to file a
 5 child-in-need-of-services petition.

6 (c) A school social worker or other person designated
 7 by the school administration, if the school does not have a
 8 school social worker, and an intake counselor or case manager
 9 of the Department of Juvenile Justice have jointly
 10 investigated the truancy problem or, if that was not feasible,
 11 have performed separate investigations to identify conditions
 12 which may be contributing to the truant behavior; and if,
 13 after a joint staffing of the case to determine the necessity
 14 for services, such services were determined to be needed, the
 15 persons who performed the investigations met jointly with the
 16 family and child to discuss any referral to appropriate
 17 community agencies for economic services, family or individual
 18 counseling, or other services required to remedy the
 19 conditions that are contributing to the truant behavior; and

20 (d) The failure or refusal of the parent or legal
 21 guardian or the child to participate, or make a good faith
 22 effort to participate, in the activities prescribed to remedy
 23 the truant behavior, or the failure or refusal of the child to
 24 return to school after participation in activities required by
 25 this subsection, or the failure of the child to stop the
 26 truant behavior after the school administration and the
 27 Department of Juvenile Justice have worked with the child as
 28 described in s. 232.19(3) shall be handled as prescribed in s.
 29 232.19.

30 (30) "Intake" means the initial acceptance and
 31 screening by the Department of Juvenile Justice of a complaint

1 or a law enforcement report or probable cause affidavit of
2 delinquency, family in need of services, or child in need of
3 services to determine the recommendation to be taken in the
4 best interests of the child, the family, and the community.

5 The emphasis of intake is on diversion and the least
6 restrictive available services. Consequently, intake includes
7 such alternatives as:

8 (a) The disposition of the complaint, report, or
9 probable cause affidavit without court or public agency action
10 or judicial handling when appropriate.

11 (b) The referral of the child to another public or
12 private agency when appropriate.

13 (c) The recommendation by the intake counselor or case
14 manager of judicial handling when appropriate and warranted.

15 (31) "Intake counselor" or "case manager" means the
16 authorized agent of the Department of Juvenile Justice
17 performing the intake or case management function for a child
18 alleged to be delinquent or in need of services, or from a
19 family in need of services.

20 (32) "Judge" means the circuit judge exercising
21 jurisdiction pursuant to this chapter.

22 (33) "Juvenile justice continuum" includes, but is not
23 limited to, delinquency prevention programs and services
24 designed for the purpose of preventing or reducing delinquent
25 acts, including criminal activity by youth gangs and juvenile
26 arrests, as well as programs and services targeted at children
27 who have committed delinquent acts, and children who have
28 previously been committed to residential treatment programs
29 for delinquents. The term includes
30 children-in-need-of-services and families-in-need-of-services
31 programs; aftercare and reentry services; substance abuse and

1 mental health programs; educational and vocational programs;
2 recreational programs; community services programs; community
3 service work programs; and alternative dispute resolution
4 programs serving children at risk of delinquency and their
5 families, whether offered or delivered by state or local
6 governmental entities, public or private for-profit or
7 not-for-profit organizations, or religious or charitable
8 organizations.

9 (34) "Legal custody" means a legal status created by
10 court order or letter of guardianship which vests in a
11 custodian of the person or guardian, whether an agency or an
12 individual, the right to have physical custody of the child
13 and the right and duty to protect, train, and discipline the
14 child and to provide him or her with food, shelter, education,
15 and ordinary medical, dental, psychiatric, and psychological
16 care.

17 (35) "Licensed child-caring agency" means a person,
18 society, association, or agency licensed by the Department of
19 Children and Family Services to care for, receive, and board
20 children.

21 (36) "Licensed health care professional" means a
22 physician licensed under chapter 458, an osteopathic physician
23 licensed under chapter 459, a nurse licensed under chapter
24 464, a physician assistant certified under chapter 458, or a
25 dentist licensed under chapter 466.

26 (37) "Mediation" means a process whereby a neutral
27 third person called a mediator acts to encourage and
28 facilitate the resolution of a dispute between two or more
29 parties. It is an informal and nonadversarial process with
30 the objective of helping the disputing parties reach a
31 mutually acceptable and voluntary agreement. In mediation,

1 decisionmaking authority rests with the parties. The role of
2 the mediator includes, but is not limited to, assisting the
3 parties in identifying issues, fostering joint problem
4 solving, and exploring settlement alternatives.

5 (38) "Necessary medical treatment" means care that is
6 necessary within a reasonable degree of medical certainty to
7 prevent the deterioration of a child's condition or to
8 alleviate immediate pain of a child.

9 (39) "Neglect" occurs when the parent or legal
10 custodian of a child or, in the absence of a parent or legal
11 custodian, the person primarily responsible for the child's
12 welfare deprives a child of, or allows a child to be deprived
13 of, necessary food, clothing, shelter, or medical treatment or
14 permits a child to live in an environment when such
15 deprivation or environment causes the child's physical,
16 mental, or emotional health to be significantly impaired or to
17 be in danger of being significantly impaired. The foregoing
18 circumstances shall not be considered neglect if caused
19 primarily by financial inability unless actual services for
20 relief have been offered to and rejected by such person. A
21 parent or guardian legitimately practicing religious beliefs
22 in accordance with a recognized church or religious
23 organization who thereby does not provide specific medical
24 treatment for a child shall not, for that reason alone, be
25 considered a negligent parent or guardian; however, such an
26 exception does not preclude a court from ordering the
27 following services to be provided, when the health of the
28 child so requires:

29 (a) Medical services from a licensed physician,
30 dentist, optometrist, podiatrist, or other qualified health
31 care provider; or

1 (b) Treatment by a duly accredited practitioner who
 2 relies solely on spiritual means for healing in accordance
 3 with the tenets and practices of a well-recognized church or
 4 religious organization.

5 (40) "Parent" means a woman who gives birth to a child
 6 and a man whose consent to the adoption of the child would be
 7 required under s. 63.062(1)(b). If a child has been legally
 8 adopted, the term "parent" means the adoptive mother or father
 9 of the child. The term does not include an individual whose
 10 parental relationship to the child has been legally
 11 terminated, or an alleged or prospective parent, unless the
 12 parental status falls within the terms of either s. 39.4051(7)
 13 or s. 63.062(1)(b).

14 (41) "Participant," for purposes of a shelter
 15 proceeding, means any person who is not a party but who should
 16 receive notice of hearings involving the child, including
 17 foster parents, identified prospective parents, grandparents
 18 entitled to priority for adoption consideration under s.
 19 63.0425, actual custodians of the child, and any other person
 20 whose participation may be in the best interest of the child.
 21 Participants may be granted leave by the court to be heard
 22 without the necessity of filing a motion to intervene.

23 (42) "Party," for purposes of a shelter proceeding,
 24 means the parent of the child, the petitioner, the department,
 25 the guardian ad litem when one has been appointed, and the
 26 child. The presence of the child may be excused by order of
 27 the court when presence would not be in the child's best
 28 interest. Notice to the child may be excused by order of the
 29 court when the age, capacity, or other condition of the child
 30 is such that the notice would be meaningless or detrimental to
 31 the child.

1 (43) "Preliminary screening" means the gathering of
2 preliminary information to be used in determining a child's
3 need for further evaluation or assessment or for referral for
4 other substance abuse services through means such as
5 psychosocial interviews; urine and breathalyzer screenings;
6 and reviews of available educational, delinquency, and
7 dependency records of the child.

8 (44) "Preventive services" means social services and
9 other supportive and rehabilitative services provided to the
10 parent of the child, the legal guardian of the child, or the
11 custodian of the child and to the child for the purpose of
12 averting the removal of the child from the home or disruption
13 of a family which will or could result in the placement of a
14 child in foster care. Social services and other supportive
15 and rehabilitative services shall promote the child's need for
16 a safe, continuous, stable, living environment and shall
17 promote family autonomy and shall strengthen family life as
18 the first priority whenever possible.

19 (45) "Protective supervision" means a legal status in
20 child-in-need-of-services cases or family-in-need-of-services
21 cases which permits the child to remain in his or her own home
22 or other placement under the supervision of an agent of the
23 Department of Juvenile Justice or the Department of Children
24 and Family Services, subject to being returned to the court
25 during the period of supervision.

26 (46) "Relative" means a grandparent,
27 great-grandparent, sibling, first cousin, aunt, uncle,
28 great-aunt, great-uncle, niece, or nephew, whether related by
29 the whole or half blood, by affinity, or by adoption. The term
30 does not include a stepparent.

31

1 (47) "Reunification services" means social services
2 and other supportive and rehabilitative services provided to
3 the parent of the child, the legal guardian of the child, or
4 the custodian of the child, whichever is applicable; the
5 child; and, where appropriate, the foster parents of the child
6 for the purpose of enabling a child who has been placed in
7 foster care to return to his or her family at the earliest
8 possible time. Social services and other supportive and
9 rehabilitative services shall promote the child's need for a
10 safe, continuous, stable, living environment and shall promote
11 family autonomy and strengthen family life as a first priority
12 whenever possible.

13 (48) "Secure detention center or facility" means a
14 physically restricting facility for the temporary care of
15 children, pending adjudication, disposition, or placement.

16 (49) "Serious or habitual juvenile offender program"
17 means the program established in s. 985.31.

18 (50) "Shelter" means a place for the temporary care of
19 a child who is alleged to be or who has been found to be
20 dependent, a child from a family in need of services, or a
21 child in need of services, pending court disposition before or
22 after adjudication or after execution of a court order.

23 "Shelter" may include a facility which provides 24-hour
24 continual supervision for the temporary care of a child who is
25 placed pursuant to s. 984.14.

26 (51) "Shelter hearing" means a hearing provided for
27 under s. 984.14 in family-in-need-of-services cases or
28 child-in-need-of-services cases.

29 (52) "Staff-secure shelter" means a facility in which
30 a child is supervised 24 hours a day by staff members who are
31 awake while on duty. The facility is for the temporary care

1 and assessment of a child who has been found to be dependent,
 2 who has violated a court order and been found in contempt of
 3 court, or whom the Department of Children and Family Services
 4 is unable to properly assess or place for assistance within
 5 the continuum of services provided for dependent children.

6 (53) "Substance abuse" means using, without medical
 7 reason, any psychoactive or mood-altering drug, including
 8 alcohol, in such a manner as to induce impairment resulting in
 9 dysfunctional social behavior.

10 (54) "Taken into custody" means the status of a child
 11 immediately when temporary physical control over the child is
 12 attained by a person authorized by law, pending the child's
 13 release, detention, placement, or other disposition as
 14 authorized by law.

15 (55) "Temporary legal custody" means the relationship
 16 that a juvenile court creates between a child and an adult
 17 relative of the child, adult nonrelative approved by the
 18 court, or other person until a more permanent arrangement is
 19 ordered. Temporary legal custody confers upon the custodian
 20 the right to have temporary physical custody of the child and
 21 the right and duty to protect, train, and discipline the child
 22 and to provide the child with food, shelter, and education,
 23 and ordinary medical, dental, psychiatric, and psychological
 24 care, unless these rights and duties are otherwise enlarged or
 25 limited by the court order establishing the temporary legal
 26 custody relationship.

27 (56) "Violation of law" or "delinquent act" means a
 28 violation of any law of this state, the United States, or any
 29 other state which is a misdemeanor or a felony or a violation
 30 of a county or municipal ordinance which would be punishable
 31 by incarceration if the violation were committed by an adult.

1 Section 90. Section 39.42, Florida Statutes, 1996
2 Supplement, is transferred, renumbered as section 984.04,
3 Florida Statutes, and amended to read:

4 984.04 ~~39.42~~ Families in need of services and children
5 in need of services; procedures and jurisdiction.--

6 (1) It is the intent of the Legislature to address the
7 problems of families in need of services by providing them
8 with an array of services designed to preserve the unity and
9 integrity of the family and to emphasize parental
10 responsibility for the behavior of their children. Services to
11 families in need of services and children in need of services
12 shall be provided on a continuum of increasing intensity and
13 participation by the parent and child. Judicial intervention
14 to resolve the problems and conflicts that exist within a
15 family shall be limited to situations in which a resolution to
16 the problem or conflict has not been achieved through service,
17 treatment, and family intervention after all available less
18 restrictive resources have been exhausted. In creating this
19 part, the Legislature recognizes the need to distinguish the
20 problems of truants, runaways, and children beyond the control
21 of their parents, and the services provided to these children,
22 from the problems and services designed to meet the needs of
23 abandoned, abused, neglected, and delinquent children. In
24 achieving this recognition, it shall be the policy of the
25 state to develop short-term, temporary services and programs
26 utilizing the least restrictive method for families in need of
27 services and children in need of services.

28 (2) The Department of Juvenile Justice shall be
29 responsible for all nonjudicial proceedings involving a family
30 in need of services.

31

1 (3) All nonjudicial procedures in
2 family-in-need-of-services cases shall be according to rules
3 established by the Department of Juvenile Justice under
4 chapter 120.

5 (4) The circuit court shall have exclusive original
6 jurisdiction of judicial proceedings involving continued
7 placement of a child from a family in need of services in
8 shelter.

9 (5) The circuit court shall have exclusive original
10 jurisdiction of proceedings in which a child is alleged to be
11 a child in need of services. When the jurisdiction of any
12 child who has been found to be a child in need of services or
13 the parent, custodian, or legal guardian of such a child is
14 obtained, the court shall retain jurisdiction, unless
15 relinquished by its order or unless the department withdraws
16 its petition because the child no longer meets the definition
17 of a child in need of services as defined in s. 984.03
18 ~~39-01(12)~~, until the child reaches 18 years of age. This
19 subsection shall not be construed to prevent the exercise of
20 jurisdiction by any other court having jurisdiction of the
21 child if the child commits a violation of law, is the subject
22 of the dependency provisions under this chapter, or is the
23 subject of a pending investigation into an allegation or
24 suspicion of abuse, neglect, or abandonment.

25 (6) All procedures, including petitions, pleadings,
26 subpoenas, summonses, and hearings, in
27 family-in-need-of-services cases and child-in-need-of-services
28 cases shall be according to the Florida Rules of Juvenile
29 Procedure unless otherwise provided by law.

30
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1 (7) The department may contract with a provider to
2 provide services and programs for families in need of services
3 and children in need of services.

4 Section 91. Section 39.015, Florida Statutes, is
5 transferred, renumbered as section 984.05, Florida Statutes,
6 and amended to read:

7 984.05 ~~39.015~~ Rules relating to habitual truants;
8 adoption by Department of Education and Department of Juvenile
9 Justice.--The Department of Juvenile Justice and the
10 Department of Education shall work together on the development
11 of, and shall adopt, rules for the implementation of ss.
12 ~~39.01(73), 39.403(2), 232.19(3) and (6)(a) and~~ 984.03(29).

13 Section 92. Section 39.4451, Florida Statutes, 1996
14 Supplement, is transferred, renumbered as section 984.06,
15 Florida Statutes, and amended to read:

16 984.06 ~~39.4451~~ Oaths, records, and confidential
17 information.--

18 (1) The judge, clerks or deputy clerks, or authorized
19 agents of the department shall each have the power to
20 administer oaths and affirmations ~~pursuant to s. 39.411~~.

21 (2) The court shall make and keep records of all cases
22 brought before it pursuant to this chapter and shall preserve
23 the records pertaining to a child in need of services until 10
24 years after the last entry was made or until the child is 18
25 years of age, whichever date is first reached, and may then
26 destroy them. The court shall make official records,
27 consisting of all petitions and orders filed in a case arising
28 pursuant to this chapter ~~part~~ and any other pleadings,
29 certificates, proofs of publication, summonses, warrants, and
30 other writs which are filed in the case.

31

1 (3) The clerk shall keep all court records required by
 2 this chapter ~~part~~ separate from other records of the circuit
 3 court. Court records required by this chapter ~~part~~ are not
 4 open to inspection by the public. All such records may be
 5 inspected only upon order of the court by a person deemed by
 6 the court to have a proper interest therein, except that,
 7 subject to the provisions of s. 63.162, a child and the
 8 parents or legal custodians of the child and their attorneys,
 9 law enforcement agencies, and the department and its designees
 10 may inspect and copy any official record pertaining to the
 11 child. The court may permit authorized representatives of
 12 recognized organizations compiling statistics for proper
 13 purposes to inspect and make abstracts from official records,
 14 under whatever conditions upon their use and disposition the
 15 court deems proper, and may punish by contempt proceedings any
 16 violation of those conditions.

17 (4) Except as provided in subsection (3), all
 18 information obtained pursuant to this chapter ~~part~~ in the
 19 discharge of official duty by any judge, employee of the
 20 court, authorized agent of the department, or law enforcement
 21 agent is confidential and may not be disclosed to anyone other
 22 than the authorized personnel of the court, the department and
 23 its designees, law enforcement agencies, and others entitled
 24 under this chapter to receive that information, except upon
 25 order of the court.

26 (5) All orders of the court entered pursuant to this
 27 chapter must be in writing and signed by the judge, except
 28 that the clerk or a deputy clerk may sign a summons or notice
 29 to appear.
 30
 31

1 (6) A court record of proceedings under this chapter
2 is not admissible in evidence in any other civil or criminal
3 proceeding, except that:

4 (a) Records of proceedings under this chapter part
5 forming a part of the record on appeal shall be used in the
6 appellate court.

7 (b) Records that are necessary in any case in which a
8 person is being tried upon a charge of having committed
9 perjury are admissible in evidence in that case.

10 Section 93. Section 39.447, Florida Statutes, is
11 transferred and renumbered as section 984.07, Florida
12 Statutes.

13 Section 94. Section 39.017, Florida Statutes, is
14 transferred, renumbered as section 984.08, Florida Statutes,
15 and amended to read:

16 984.08 ~~39.017~~ Attorney's fees.--

17 (1) The court may appoint an attorney to represent a
18 parent or legal guardian under this chapter part ~~part III, part IV,~~
19 ~~part V, or part VI~~ only upon a finding that the parent or
20 legal guardian is indigent.

21 (a) The finding of indigency of any parent or legal
22 guardian may be made by the court at any stage of the
23 proceedings. Any parent or legal guardian claiming indigency
24 shall file with the court an affidavit containing the factual
25 information required in paragraphs (c) and (d).

26 (b) A parent or legal guardian who is unable to pay
27 for the services of an attorney without substantial hardship
28 to self or family is indigent for the purposes of this chapter
29 part.

30 (c) Before finding that a parent or legal guardian is
31 indigent, the court shall determine whether any of the

1 following facts exist, and the existence of any such fact
2 creates a presumption that the parent or legal guardian is not
3 indigent:

4 1. The parent or legal guardian has no dependents and
5 has a gross income exceeding \$250 per week; or, the parent or
6 legal guardian has dependents and has a gross income exceeding
7 \$250 per week plus \$100 per week for each dependent.

8 2. The parent or legal guardian owns cash in excess of
9 \$1,000.

10 3. The parent or legal guardian has an interest
11 exceeding \$1,000 in value in a single motor vehicle as defined
12 in s. 320.01.

13 (d) The court shall also consider the following
14 circumstances before finding that a parent or legal guardian
15 is indigent:

16 1. The probable expense of being represented in the
17 case.

18 2. The parent's or legal guardian's ownership of, or
19 equity in, any intangible or tangible personal property or
20 real property or expectancy of an interest in any such
21 property.

22 3. The amount of debts the parent or legal guardian
23 owes or might incur because of illness or other misfortunes
24 within the family.

25 (2) If, after the appointment of counsel for an
26 indigent parent or legal guardian, it is determined that the
27 parent or legal guardian is not indigent, the court has
28 continuing jurisdiction to assess attorney's fees and costs
29 against the parent or legal guardian, and order the payment
30 thereof. When payment of attorney's fees or costs has been
31 assessed and ordered by the court, there is hereby created a

1 lien in the name of the county in which the legal assistance
 2 was rendered, enforceable as provided in subsection (3), upon
 3 all the property, both real and personal, of the parent or
 4 legal guardian who received the court-ordered appointed
 5 counsel under this chapter ~~part III, part IV, part V, or part~~
 6 ~~VI~~. The lien constitutes a claim against the parent or legal
 7 guardian and the parent's or legal guardian's estate in an
 8 amount to be determined by the court in which the legal
 9 assistance was rendered.

10 (3)(a) The lien created for court-ordered payment of
 11 attorney's fees or costs under subsection (2) is enforceable
 12 upon all the property, both real and personal, of the parent
 13 or legal guardian who is being, or has been, represented by
 14 legal counsel appointed by the court in proceedings under this
 15 chapter ~~part III, part IV, part V, or part VI~~. The lien
 16 constitutes a claim against the person and the estate of the
 17 parent or legal guardian, enforceable according to law, in an
 18 amount to be determined by the court in which the legal
 19 assistance was rendered.

20 (b) Immediately after the issuance of an order for the
 21 payment of attorney's fees or costs, a judgment showing the
 22 name, the residential address, the date of birth, and either a
 23 physical description or the social security number of the
 24 parent or legal guardian must be filed for record in the
 25 office of the clerk of the circuit court in the county where
 26 the parent or legal guardian resides and in each county in
 27 which the parent or legal guardian then owns or later acquires
 28 any property. The judgment is enforceable on behalf of the
 29 county by the board of county commissioners of the county in
 30 which the legal assistance was rendered.

31

1 (c) Instead of the procedure described in paragraphs
2 (a) and (b), the court is authorized to require that the
3 parent or legal guardian who has been represented by legal
4 counsel appointed by the court in proceedings under this
5 chapter ~~part III, part IV, part V, or part VI~~ execute a lien
6 upon his or her real or personal property, presently owned or
7 after-acquired, as security for the debt created by the
8 court's order requiring payment of attorney's fees or costs.
9 The lien must be recorded in the public records of the county
10 at no charge by the clerk of the circuit court and is
11 enforceable in the same manner as a mortgage.

12 (d) The board of county commissioners of the county
13 where the parent received the services of an appointed private
14 legal counsel is authorized to enforce, satisfy, compromise,
15 settle, subordinate, release, or otherwise dispose of any debt
16 or lien imposed under this section. A parent, who has been
17 ordered to pay attorney's fees or costs and who is not in
18 willful default in the payment thereof, may, at any time,
19 petition the court which entered the order for remission of
20 the payment of attorney's fees or costs or of any unpaid
21 portion thereof. If the court determines that payment of the
22 amount due will impose manifest hardship on the parent or
23 immediate family, the court may remit all or part of the
24 amount due in attorney's fees or costs or may modify the
25 method of payment.

26 (e) The board of county commissioners of the county
27 claiming the lien is authorized to contract with a collection
28 agency for collection of such debts or liens, provided the fee
29 for collection is on a contingent basis not to exceed 50
30 percent of the recovery. However, no fee may be paid to any
31 collection agency by reason of foreclosure proceedings against

1 real property or from the proceeds from the sale or other
2 disposition of real property.

3 Section 95. Section 984.09, Florida Statutes, is
4 created to read:

5 984.09 Punishment for contempt of court; alternative
6 sanctions.--

7 (1) CONTEMPT OF COURT; LEGISLATIVE INTENT.--The court
8 may punish any child for contempt for interfering with the
9 court or with court administration, or for violating any
10 provision of this chapter or order of the court relative
11 thereto. It is the intent of the Legislature that the court
12 restrict and limit the use of contempt powers with respect to
13 commitment of a child to a secure facility. A child who
14 commits direct contempt of court or indirect contempt of a
15 valid court order may be taken into custody and ordered to
16 serve an alternative sanction or placed in a secure facility,
17 as authorized in this section, by order of the court.

18 (2) PLACEMENT IN A SECURE FACILITY.--A child may be
19 placed in a secure facility for purposes of punishment for
20 contempt of court if alternative sanctions are unavailable or
21 inappropriate, or if the child has already been ordered to
22 serve an alternative sanction but failed to comply with the
23 sanction.

24 (a) A delinquent child who has been held in direct or
25 indirect contempt may be placed in a secure detention facility
26 for 5 days for a first offense or 15 days for a second or
27 subsequent offense, or in a secure residential commitment
28 facility.

29 (b) A child in need of services who has been held in
30 direct contempt or indirect contempt may be placed, for 5 days
31 for a first offense or 15 days for a second or subsequent

1 offense, in a staff-secure shelter or a staff-secure
 2 residential facility solely for children in need of services
 3 if such placement is available, or, if such placement is not
 4 available, the child may be placed in an appropriate mental
 5 health facility or substance abuse facility for assessment.

6 (3) ALTERNATIVE SANCTIONS.--Each judicial circuit
 7 shall have an alternative sanctions coordinator who shall
 8 serve under the chief administrative judge of the juvenile
 9 division of the circuit court, and who shall coordinate and
 10 maintain a spectrum of contempt sanction alternatives in
 11 conjunction with the circuit plan implemented in accordance
 12 with s. 790.22(4)(c). Upon determining that a child has
 13 committed direct contempt of court or indirect contempt of a
 14 valid court order, the court may immediately request the
 15 alternative sanctions coordinator to recommend the most
 16 appropriate available alternative sanction and shall order the
 17 child to perform up to 50 hours of community-service manual
 18 labor or a similar alternative sanction, unless an alternative
 19 sanction is unavailable or inappropriate, or unless the child
 20 has failed to comply with a prior alternative sanction.
 21 Alternative contempt sanctions may be provided by local
 22 industry or by any nonprofit organization or any public or
 23 private business or service entity that has entered into a
 24 contract with the Department of Juvenile Justice to act as an
 25 agent of the state to provide voluntary supervision of
 26 children on behalf of the state in exchange for the manual
 27 labor of children and limited immunity in accordance with s.
 28 768.28(11).

29 (4) CONTEMPT OF COURT SANCTIONS; PROCEDURE AND DUE
 30 PROCESS.--
 31

1 (a) If a child is charged with direct contempt of
2 court, including traffic court, the court may impose an
3 authorized sanction immediately.

4 (b) If a child is charged with indirect contempt of
5 court, the court must hold a hearing within 24 hours to
6 determine whether the child committed indirect contempt of a
7 valid court order. At the hearing, the following due process
8 rights must be provided to the child:

9 1. Right to a copy of the order to show cause alleging
10 facts supporting the contempt charge.

11 2. Right to an explanation of the nature and the
12 consequences of the proceedings.

13 3. Right to legal counsel and the right to have legal
14 counsel appointed by the court if the juvenile is indigent,
15 pursuant to s. 985.203.

16 4. Right to confront witnesses.

17 5. Right to present witnesses.

18 6. Right to have a transcript or record of the
19 proceeding.

20 7. Right to appeal to an appropriate court.

21
22 The child's parent or guardian may address the court regarding
23 the due process rights of the child. The court shall review
24 the placement of the child every 72 hours to determine whether
25 it is appropriate for the child to remain in the facility.

26 (c) The court may not order that a child be placed in
27 a secure facility for punishment for contempt unless the court
28 determines that an alternative sanction is inappropriate or
29 unavailable or that the child was initially ordered to an
30 alternative sanction and did not comply with the alternative
31 sanction. The court is encouraged to order a child to perform

1 community service, up to the maximum number of hours, where
 2 appropriate before ordering that the child be placed in a
 3 secure facility as punishment for contempt of court.

4 (5) ALTERNATIVE SANCTIONS COORDINATOR.--There is
 5 created the position of alternative sanctions coordinator
 6 within each judicial circuit, pursuant to subsection (3). Each
 7 alternative sanctions coordinator shall serve under the
 8 direction of the chief administrative judge of the juvenile
 9 division as directed by the chief judge of the circuit. The
 10 alternative sanctions coordinator shall act as the liaison
 11 between the judiciary and county juvenile justice councils,
 12 the local department officials, district school board
 13 employees, and local law enforcement agencies. The alternative
 14 sanctions coordinator shall coordinate within the circuit
 15 community-based alternative sanctions, including nonsecure
 16 detention programs, community service projects, and other
 17 juvenile sanctions, in conjunction with the circuit plan
 18 implemented in accordance with s. 790.22(4)(c).

19 Section 96. Section 39.423, Florida Statutes, 1996
 20 Supplement, is transferred, renumbered as section 984.10,
 21 Florida Statutes, and amended to read:

22 984.10 ~~39.423~~ Intake.--

23 (1) Intake shall be performed by the department. A
 24 report or complaint alleging that a child is from a family in
 25 need of services shall be made to the intake office operating
 26 in the county in which the child is found or in which the case
 27 arose. Any person or agency, including, but not limited to,
 28 the local school district, law enforcement agency, or
 29 Department of Children and Family ~~Health and Rehabilitative~~
 30 Services, having knowledge of the facts may make a report or
 31 complaint.

1 (2) A representative of the department shall make a
 2 preliminary determination as to whether the report or
 3 complaint is complete. The criteria for the completeness of a
 4 report or complaint with respect to a child alleged to be from
 5 a family in need of services while subject to compulsory
 6 school attendance shall be governed by s. 984.03(29)
 7 ~~39.01(73)~~. In any case in which the representative of the
 8 department finds that the report or complaint is incomplete,
 9 the representative of the department shall return the report
 10 or complaint without delay to the person or agency originating
 11 the report or complaint or having knowledge of the facts or to
 12 the appropriate law enforcement agency having investigative
 13 jurisdiction and request additional information in order to
 14 complete the report or complaint.

15 (3) If the representative of the department determines
 16 that in his or her judgment the interests of the family, the
 17 child, and the public will be best served by providing the
 18 family and child services and treatment voluntarily accepted
 19 by the child and the parents or legal custodians, the
 20 departmental representative may refer the family or child to
 21 an appropriate service and treatment provider.

22 (4) If the department has reasonable grounds to
 23 believe that the child has been abandoned, abused, or
 24 neglected, it shall proceed pursuant to the provisions of s.
 25 415.505 and ~~part III of this chapter 39~~.

26 Section 97. Section 39.424, Florida Statutes, 1996
 27 Supplement, is transferred, renumbered as section 984.11,
 28 Florida Statutes, and amended to read:

29 984.11 ~~39.424~~ Services to families in need of
 30 services.--

31

1 (1) Services and treatment to families in need of
2 services shall be by voluntary agreement of the parent or
3 legal guardian and the child or as directed by a court order
4 pursuant to s. 984.22 ~~39.442~~.

5 (2) These services may include, but need not be
6 limited to:

7 (a) Homemaker or parent aide services.

8 (b) Intensive crisis counseling.

9 (c) Parent training.

10 (d) Individual, group, or family counseling.

11 (e) Community mental health services.

12 (f) Prevention and diversion services.

13 (g) Services provided by voluntary or community
14 agencies.

15 (h) Runaway center services.

16 (i) Housekeeper services.

17 (j) Special educational, tutorial, or remedial
18 services.

19 (k) Vocational, job training, or employment services.

20 (l) Recreational services.

21 (m) Assessment.

22 (3) The department shall advise the parents or legal
23 guardian that they are responsible for contributing to the
24 cost of the child or family services and treatment to the
25 extent of their ability to pay. The department shall set and
26 charge fees for services and treatment provided to clients.

27 (4) The department may file a petition with the
28 circuit court to enforce the collection of fees for services
29 and treatment rendered to the child or the parent and other
30 legal custodians.

31

1 Section 98. Section 39.426, Florida Statutes, 1996
2 Supplement, is transferred and renumbered as section 984.12,
3 Florida Statutes.

4 Section 99. Section 39.421, Florida Statutes, 1996
5 Supplement, is transferred, renumbered as section 984.13,
6 Florida Statutes, and amended to read:

7 984.13 ~~39.421~~ Taking into custody a child alleged to
8 be from a family in need of services or to be a child in need
9 of services.--

10 (1) A child may be taken into custody:

11 (a) By a law enforcement officer when the officer has
12 reasonable grounds to believe that the child has run away from
13 his or her parents, guardian, or other legal custodian.

14 (b) By a law enforcement officer when the officer has
15 reasonable grounds to believe that the child is absent from
16 school without authorization, for the purpose of delivering
17 the child without unreasonable delay to the school system.
18 For the purpose of this paragraph, "school system" includes,
19 but is not limited to, a center approved by the superintendent
20 of schools for the purpose of counseling students and
21 referring them back to the school system.

22 (c) Pursuant to an order of the circuit court based
23 upon sworn testimony before or after a petition is filed under
24 s. 984.15 ~~39.436~~.

25 (d) By a law enforcement officer when the child
26 voluntarily agrees to or requests services pursuant to this
27 chapter ~~part~~ or placement in a shelter.

28 (2) The person taking the child into custody shall:

29 (a) Release the child to a parent, guardian, legal
30 custodian, or responsible adult relative or to a
31 department-approved family-in-need-of-services and

1 child-in-need-of-services provider if the person taking the
2 child into custody has reasonable grounds to believe the child
3 has run away from a parent, guardian, or legal custodian; is
4 truant; or is beyond the control of the parent, guardian, or
5 legal custodian; following such release, the person taking the
6 child into custody shall make a full written report to the
7 intake office of the department within 3 days; or

8 (b) Deliver the child to the department, stating the
9 facts by reason of which the child was taken into custody and
10 sufficient information to establish probable cause that the
11 child is from a family in need of services.

12 (3) If the child is taken into custody by, or is
13 delivered to, the department, the appropriate representative
14 of the department shall review the facts and make such further
15 inquiry as necessary to determine whether the child shall
16 remain in custody or be released. Unless shelter is required
17 as provided in s. 984.14(1)~~39.422(1)~~, the department shall:

18 (a) Release the child to his or her parent, guardian,
19 or legal custodian, to a responsible adult relative, to a
20 responsible adult approved by the department, or to a
21 department-approved family-in-need-of-services and
22 child-in-need-of-services provider; or

23 (b) Authorize temporary services and treatment that
24 would allow the child alleged to be from a family in need of
25 services to remain at home.

26 Section 100. Section 39.422, Florida Statutes, 1996
27 Supplement, is transferred, renumbered as section 984.14,
28 Florida Statutes, and amended to read:

29 984.14 ~~39.422~~ Shelter placement; hearing of a child
30 ~~from a family in need of services or a child in need of~~
31 ~~services in a shelter.--~~

1 (1) Unless ordered by the court pursuant to the
2 provisions of this chapter part, or upon voluntary consent to
3 placement by the child and the child's parent, legal guardian,
4 or custodian, a child taken into custody shall not be placed
5 in a shelter prior to a court hearing unless a determination
6 has been made that the provision of appropriate and available
7 services will not eliminate the need for placement and that
8 such placement is required:

9 (a) To provide an opportunity for the child and family
10 to agree upon conditions for the child's return home, when
11 immediate placement in the home would result in a substantial
12 likelihood that the child and family would not reach an
13 agreement; or

14 (b) Because a parent, custodian, or guardian is
15 unavailable to take immediate custody of the child.

16 (2) If the department determines that placement in a
17 shelter is necessary according to the provisions of subsection
18 (1), the departmental representative shall authorize placement
19 of the child in a shelter provided by the community
20 specifically for runaways and troubled youth who are children
21 in need of services or members of families in need of services
22 and shall immediately notify the parents or legal custodians
23 that the child was taken into custody.

24 (3) A child who is involuntarily placed in a shelter
25 shall be given a shelter hearing within 24 hours after being
26 taken into custody to determine whether shelter placement is
27 required. The shelter petition filed with the court shall
28 address each condition required to be determined in subsection
29 (1).

30 (4) A child may not be held involuntarily in a shelter
31 longer than 24 hours unless an order so directing is made by

1 the court after a shelter hearing finding that placement in a
2 shelter is necessary based on the criteria in subsection (1)
3 and that the department has made reasonable efforts to prevent
4 or eliminate the need for removal of the child from the home.

5 (5) Under the provisions of this chapter part,
6 placement in a shelter of a child in need of services or a
7 child from a family in need of services shall be for no longer
8 than 35 days.

9 (6) When any child is placed in a shelter pursuant to
10 court order following a shelter hearing, the court shall order
11 the natural or adoptive parents of such child, the natural
12 father of such child born out of wedlock who has acknowledged
13 his paternity in writing before the court, or the guardian of
14 such child's estate, if possessed of assets which under law
15 may be disbursed for the care, support, and maintenance of the
16 child, to pay, to the department, fees as established by the
17 department. When the order affects the guardianship estate, a
18 certified copy of the order shall be delivered to the judge
19 having jurisdiction of the guardianship estate.

20 (7) A child who is adjudicated a child in need of
21 services or alleged to be from a family in need of services or
22 a child in need of services may not be placed in a secure
23 detention facility or jail or any other commitment program for
24 delinquent children under any circumstances.

25 (8) The court may order the placement of a child in
26 need of services into a staff-secure facility for no longer
27 than 5 days for the purpose of evaluation and assessment.

28 Section 101. Section 39.436, Florida Statutes, 1996
29 Supplement, is transferred, renumbered as section 984.15,
30 Florida Statutes, and amended to read:

31

1 984.15 ~~39.436~~ Petition for a child in need of
2 services.--

3 (1) All proceedings seeking an adjudication that a
4 child is a child in need of services shall be initiated by the
5 filing of a petition by an attorney representing the
6 department. If a child in need of services has been placed in
7 a shelter pursuant to s. 984.14 ~~39.422~~, the petition shall be
8 filed immediately and contain notice of arraignment pursuant
9 to s. 984.20 ~~39.44~~.

10 (2) The department shall file a petition for a child
11 in need of services if the case manager or staffing committee
12 requests that a petition be filed and:

13 (a) The family and child have in good faith, but
14 unsuccessfully, used the services and process described in ss.
15 984.11 and 984.12 ~~39.424 and 39.426~~; or

16 (b) The family or child have refused all services
17 described in ss. 984.11 and 984.12 ~~39.424 and 39.426~~ after
18 reasonable efforts by the department to involve the family and
19 child in services and treatment.

20 (3) Effective January 1, 1997, once the requirements
21 in subsection (2) have been met, the department shall file a
22 petition for a child in need of services within 45 days.

23 (4) The petition shall be in writing, shall state the
24 specific grounds under s. 984.03(9) ~~39.01(12)~~ by which the
25 child is designated a child in need of services, and shall
26 certify that the conditions prescribed in subsection (2) have
27 been met. The petition shall be signed by the petitioner
28 under oath stating good faith in filing the petition and shall
29 be signed by an attorney for the department.

30 (5) The form of the petition and its contents shall be
31 determined by rules of procedure adopted by the Supreme Court.

1 (6) The department may withdraw a petition at any time
2 prior to the child being adjudicated a child in need of
3 services.

4 Section 102. Section 39.437, Florida Statutes, 1996
5 Supplement, is transferred and renumbered as section 984.16,
6 Florida Statutes.

7 Section 103. Section 39.438, Florida Statutes, 1996
8 Supplement, is transferred and renumbered as section 984.17,
9 Florida Statutes.

10 Section 104. Section 39.4431, Florida Statutes, 1996
11 Supplement, is transferred and renumbered as section 984.18,
12 Florida Statutes.

13 Section 105. Section 39.446, Florida Statutes, 1996
14 Supplement, is transferred, renumbered as section 984.19,
15 Florida Statutes, and amended to read:

16 984.19 ~~39.446~~ Medical, psychiatric, and psychological
17 examination and treatment of child; physical or mental
18 examination of parent, guardian, or person requesting custody
19 of child.--

20 (1) When any child is to be placed in shelter care,
21 the department is authorized to have a medical screening
22 performed on the child without authorization from the court
23 and without consent from a parent or guardian. Such medical
24 screening shall be performed by a licensed health care
25 professional and shall be to examine the child for injury,
26 illness, and communicable diseases. In no case does this
27 subsection authorize the department to consent to medical
28 treatment for such children.

29 (2) When the department has performed the medical
30 screening authorized by subsection (1) or when it is otherwise
31 determined by a licensed health care professional that a child

1 is in need of medical treatment, consent for medical treatment
2 shall be obtained in the following manner:

3 (a)1. Consent to medical treatment shall be obtained
4 from a parent or guardian of the child; or
5 2. A court order for such treatment shall be obtained.

6 (b) If a parent or guardian of the child is
7 unavailable and his or her whereabouts cannot be reasonably
8 ascertained and it is after normal working hours so that a
9 court order cannot reasonably be obtained, an authorized agent
10 of the department or its provider has the authority to consent
11 to necessary medical treatment for the child. The authority
12 of the department to consent to medical treatment in this
13 circumstance is limited to the time reasonably necessary to
14 obtain court authorization.

15 (c) If a parent or guardian of the child is available
16 but refuses to consent to the necessary treatment, a court
17 order is required, unless the situation meets the definition
18 of an emergency in s. 743.064 or the treatment needed is
19 related to suspected abuse or neglect of the child by the
20 parent or guardian. In such case, the department has the
21 authority to consent to necessary medical treatment. This
22 authority is limited to the time reasonably necessary to
23 obtain court authorization.

24
25 In no case may the department consent to sterilization,
26 abortion, or termination of life support.

27 (3) A judge may order that a child alleged to be or
28 adjudicated a child in need of services be examined by a
29 licensed health care professional. The judge may also order
30 such child to be evaluated by a psychiatrist or a
31 psychologist, by a district school board educational needs

1 assessment team, or, if a developmental disability is
 2 suspected or alleged, by the developmental disability
 3 diagnostic and evaluation team of the Department of Children
 4 and Family ~~Health and Rehabilitative~~ Services. The judge may
 5 order a family assessment if that assessment was not completed
 6 at an earlier time. If it is necessary to place a child in a
 7 residential facility for such evaluation, then the criteria
 8 and procedure established in s. 394.463(2) or chapter 393
 9 shall be used, whichever is applicable. The educational needs
 10 assessment provided by the district school board educational
 11 needs assessment team shall include, but not be limited to,
 12 reports of intelligence and achievement tests, screening for
 13 learning disabilities and other handicaps, and screening for
 14 the need for alternative education pursuant to s. 230.2316.

15 (4) A judge may order that a child alleged to be or
 16 adjudicated a child in need of services be treated by a
 17 licensed health care professional. The judge may also order
 18 such child to receive mental health or retardation services
 19 from a psychiatrist, psychologist, or other appropriate
 20 service provider. If it is necessary to place the child in a
 21 residential facility for such services, then the procedures
 22 and criteria established in s. 394.467 or chapter 393 shall be
 23 used, whichever is applicable. A child may be provided mental
 24 health or retardation services in emergency situations,
 25 pursuant to the procedures and criteria contained in s.
 26 394.463(1) or chapter 393, whichever is applicable.

27 (5) When there are indications of physical injury or
 28 illness, a licensed health care professional shall be
 29 immediately called or the child shall be taken to the nearest
 30 available hospital for emergency care.

31

1 (6) Except as otherwise provided herein, nothing in
2 this section shall be deemed to eliminate the right of a
3 parent, a guardian, or the child to consent to examination or
4 treatment for the child.

5 (7) Except as otherwise provided herein, nothing in
6 this section shall be deemed to alter the provisions of s.
7 743.064.

8 (8) A court shall not be precluded from ordering
9 services or treatment to be provided to the child by a duly
10 accredited practitioner who relies solely on spiritual means
11 for healing in accordance with the tenets and practices of a
12 church or religious organization, when required by the child's
13 health and when requested by the child.

14 (9) Nothing in this section shall be construed to
15 authorize the permanent sterilization of the child, unless
16 such sterilization is the result of or incidental to medically
17 necessary treatment to protect or preserve the life of the
18 child.

19 (10) For the purpose of obtaining an evaluation or
20 examination or receiving treatment as authorized pursuant to
21 this section, no child alleged to be or found to be a child
22 from a family in need of services or a child in need of
23 services shall be placed in a detention facility or other
24 program used primarily for the care and custody of children
25 alleged or found to have committed delinquent acts.

26 (11) The parents or guardian of a child alleged to be
27 or adjudicated a child in need of services remain financially
28 responsible for the cost of medical treatment provided to the
29 child even if one or both of the parents or if the guardian
30 did not consent to the medical treatment. After a hearing,
31 the court may order the parents or guardian, if found able to

1 do so, to reimburse the department or other provider of
2 medical services for treatment provided.

3 (12) Nothing in this section alters the authority of
4 the department to consent to medical treatment for a child who
5 has been committed to the department pursuant to s. 984.22(3)
6 and (4)~~39.442(3) and (4)~~and of whom the department has
7 become the legal custodian.

8 (13) At any time after the filing of a petition for a
9 child in need of services, when the mental or physical
10 condition, including the blood group, of a parent, guardian,
11 or other person requesting custody of a child is in
12 controversy, the court may order the person to submit to a
13 physical or mental examination by a qualified professional.
14 The order may be made only upon good cause shown and pursuant
15 to notice and procedures as set forth by the Florida Rules of
16 Juvenile Procedure.

17 Section 106. Section 39.44, Florida Statutes, 1996
18 Supplement, is transferred and renumbered as section 984.20,
19 Florida Statutes.

20 Section 107. Section 39.441, Florida Statutes, is
21 transferred and renumbered as section 984.21, Florida
22 Statutes.

23 Section 108. Section 39.442, Florida Statutes, 1996
24 Supplement, is transferred, renumbered as section 984.22,
25 Florida Statutes, and amended to read:

26 984.22 ~~39.442~~ Powers of disposition.--

27 (1) If the court finds that services and treatment
28 have not been provided or utilized by a child or family, the
29 court having jurisdiction of the child shall have the power to
30 direct the least intrusive and least restrictive disposition,
31 as follows:

1 (a) Order the parent, guardian, or custodian and the
2 child to participate in treatment, services, and any other
3 alternative identified as necessary.

4 (b) Order the parent, guardian, or custodian to pay a
5 fine or fee based on the recommendations of the department.

6 (2) When any child is adjudicated by the court to be a
7 child in need of services, the court having jurisdiction of
8 the child and parent, guardian, or custodian shall have the
9 power, by order, to:

10 (a) Place the child under the supervision of the
11 department's contracted provider of programs and services for
12 children in need of services and families in need of services.
13 "Supervision," for the purposes of this section, means
14 services as defined by the contract between the department and
15 the provider.

16 (b) Place the child in the temporary legal custody of
17 an adult willing to care for the child.

18 (c) Commit the child to a licensed child-caring agency
19 willing to receive the child and to provide services without
20 compensation from the department.

21 (d) Order the child, and, if the court finds it
22 appropriate, the parent, guardian, or custodian of the child,
23 to render community service in a public service program.

24 (3) When any child is adjudicated by the court to be a
25 child in need of services and temporary legal custody of the
26 child has been placed with an adult willing to care for the
27 child, a licensed child-caring agency, the Department of
28 Juvenile Justice, or the Department of Children and Family
29 ~~Health and Rehabilitative~~ Services, the court shall order the
30 natural or adoptive parents of such child, including the
31 natural father of such child born out of wedlock who has

1 acknowledged his paternity in writing before the court, or the
 2 guardian of such child's estate if possessed of assets which
 3 under law may be disbursed for the care, support, and
 4 maintenance of such child, to pay child support to the adult
 5 relative caring for the child, the licensed child-caring
 6 agency, the Department of Juvenile Justice, or the Department
 7 of Children and Family ~~Health and Rehabilitative~~ Services.
 8 When such order affects the guardianship estate, a certified
 9 copy of such order shall be delivered to the judge having
 10 jurisdiction of such guardianship estate. If the court
 11 determines that the parent is unable to pay support, placement
 12 of the child shall not be contingent upon issuance of a
 13 support order.

14 (4) All payments of fees made to the department
 15 pursuant to this chapter ~~part~~, or child support payments made
 16 to the department pursuant to subsection (3) ~~(5)~~, shall be
 17 deposited in the General Revenue Fund. In cases in which the
 18 child is placed in foster care with the Department of Children
 19 and Family ~~Health and Rehabilitative~~ Services, such child
 20 support payments shall be deposited in the Foster Care, Group
 21 Home, Developmental Training, and Supported Employment
 22 Programs Trust Fund.

23 (5) In carrying out the provisions of this chapter
 24 ~~part~~, the court shall order the child, family, parent,
 25 guardian, or custodian of a child who is found to be a child
 26 in need of services to participate in family counseling and
 27 other professional counseling activities or other alternatives
 28 deemed necessary for the rehabilitation of the child.

29 (6) The participation and cooperation of the family,
 30 parent, guardian, or custodian, and the child with
 31 court-ordered services, treatment, or community service are

1 mandatory, not merely voluntary. The court may use its
2 contempt powers to enforce its order.

3 Section 109. Section 39.4375, Florida Statutes, is
4 transferred and renumbered as section 984.23, Florida
5 Statutes.

6 Section 110. Section 39.4441, Florida Statutes, 1996
7 Supplement, is transferred and renumbered as section 984.24,
8 Florida Statutes.

9 Section 111. Section 39.01, Florida Statutes, 1996
10 Supplement, is amended to read:

11 39.01 Definitions.--When used in this chapter:

12 (1) "Abandoned" means a situation in which the parent
13 or legal custodian of a child or, in the absence of a parent
14 or legal custodian, the person responsible for the child's
15 welfare, while being able, makes no provision for the child's
16 support and makes no effort to communicate with the child,
17 which situation is sufficient to evince a willful rejection of
18 parental obligations. If the efforts of such parent or legal
19 custodian, or person primarily responsible for the child's
20 welfare to support and communicate with the child are, in the
21 opinion of the court, only marginal efforts that do not evince
22 a settled purpose to assume all parental duties, the court may
23 declare the child to be abandoned. The term "abandoned" does
24 not include a "child in need of services" as defined in
25 chapter 984 subsection (12) or a "family in need of services"
26 as defined in chapter 984 subsection (30). The incarceration
27 of a parent, legal custodian, or person responsible for a
28 child's welfare does not constitute a bar to a finding of
29 abandonment.

30 (2) "Abuse" means any willful act that results in any
31 physical, mental, or sexual injury that causes or is likely to

1 cause the child's physical, mental, or emotional health to be
2 significantly impaired. Corporal discipline of a child by a
3 parent or guardian for disciplinary purposes does not in
4 itself constitute abuse when it does not result in harm to the
5 child as defined in s. 415.503.

6 (3) "Addictions receiving facility" means a substance
7 abuse service provider as defined in chapter 397.

8 (4) "Adjudicatory hearing" means a hearing for the
9 court to determine whether or not the facts support the
10 allegations stated in the petition as is provided for under ~~s.~~
11 ~~39.052(1), in delinquency cases~~ ~~or~~ s. 39.408(2), in dependency
12 cases, ~~or~~ s. 39.44(2), in child-in-need-of-services cases ~~or~~ s.
13 39.467, in termination of parental rights cases.

14 (5) "Adult" means any natural person other than a
15 child.

16 (6) "Arbitration" means a process whereby a neutral
17 third person or panel, called an arbitrator or an arbitration
18 panel, considers the facts and arguments presented by the
19 parties and renders a decision which may be binding or
20 nonbinding.

21 (7) "Authorized agent" or "designee" of the department
22 means a person or agency assigned or designated by the
23 Department of Juvenile Justice or the Department of Children
24 and Family ~~Health and Rehabilitative~~ Services, as appropriate,
25 to perform duties or exercise powers pursuant to this chapter
26 and includes contract providers and their employees for
27 purposes of providing services to and managing cases of
28 children in need of services and families in need of services.

29 (8) "Caretaker/homemaker" means an authorized agent of
30 the Department of Children and Family ~~Health and~~
31 ~~Rehabilitative~~ Services who shall remain in the child's home

1 with the child until a parent, legal guardian, or relative of
2 the child enters the home and is capable of assuming and
3 agrees to assume charge of the child.

4 (9) "Case plan" or "plan" means a document, as
5 described in s. 39.4031, prepared by the department, that
6 follows the child from the provision of voluntary services
7 through any dependency, foster care, or termination of
8 parental rights proceeding or related activity or process
9 ~~under part III, part V, or part VI.~~

10 (10) "Child" or "juvenile" or "youth" means any
11 unmarried person under the age of 18 who has not been
12 emancipated by order of the court and who has been found or
13 alleged to be dependent, in need of services, or from a family
14 in need of services; or any married or unmarried person who is
15 charged with a violation of law occurring prior to the time
16 that person reached the age of 18 years.

17 ~~(11) "Child eligible for an intensive residential~~
18 ~~treatment program for offenders less than 13 years of age"~~
19 ~~means a child who has been found to have committed a~~
20 ~~delinquent act or a violation of law in the case currently~~
21 ~~before the court and who meets at least one of the following~~
22 ~~criteria:~~

23 ~~(a) The child is less than 13 years of age at the time~~
24 ~~of the disposition for the current offense and has been~~
25 ~~adjudicated on the current offense for:~~

- 26 ~~1. Arson;~~
- 27 ~~2. Sexual battery;~~
- 28 ~~3. Robbery;~~
- 29 ~~4. Kidnapping;~~
- 30 ~~5. Aggravated child abuse;~~
- 31 ~~6. Aggravated assault;~~

1 ~~7. Aggravated stalking;~~
2 ~~8. Murder;~~
3 ~~9. Manslaughter;~~
4 ~~10. Unlawful throwing, placing, or discharging of a~~
5 ~~destructive device or bomb;~~
6 ~~11. Armed burglary;~~
7 ~~12. Aggravated battery;~~
8 ~~13. Lewd or lascivious assault or act in the presence~~
9 ~~of a child; or~~
10 ~~14. Carrying, displaying, using, threatening, or~~
11 ~~attempting to use a weapon or firearm during the commission of~~
12 ~~a felony.~~
13 ~~(b) The child is less than 13 years of age at the time~~
14 ~~of the disposition, the current offense is a felony, and the~~
15 ~~child has previously been committed at least once to a~~
16 ~~delinquency commitment program.~~
17 ~~(c) The child is less than 13 years of age and is~~
18 ~~currently committed for a felony offense and transferred from~~
19 ~~a moderate-risk or high-risk residential commitment placement.~~
20 ~~(12) "Child in need of services" means a child for~~
21 ~~whom there is no pending investigation into an allegation or~~
22 ~~suspicion of abuse, neglect, or abandonment; no pending~~
23 ~~referral alleging the child is delinquent; or no current~~
24 ~~supervision by the Department of Juvenile Justice or the~~
25 ~~Department of Health and Rehabilitative Services for an~~
26 ~~adjudication of dependency or delinquency. The child must~~
27 ~~also, pursuant to this chapter, be found by the court;~~
28 ~~(a) To have persistently run away from the child's~~
29 ~~parents or legal custodians despite reasonable efforts of the~~
30 ~~child, the parents or legal custodians, and appropriate~~
31 ~~agencies to remedy the conditions contributing to the~~

1 ~~behavior. Reasonable efforts shall include voluntary~~
2 ~~participation by the child's parents or legal custodians and~~
3 ~~the child in family mediation, services, and treatment offered~~
4 ~~by the Department of Juvenile Justice or the Department of~~
5 ~~Health and Rehabilitative Services;~~

6 ~~(b) To be habitually truant from school, while subject~~
7 ~~to compulsory school attendance, despite reasonable efforts to~~
8 ~~remedy the situation pursuant to s. 232.19 and through~~
9 ~~voluntary participation by the child's parents or legal~~
10 ~~custodians and by the child in family mediation, services, and~~
11 ~~treatment offered by the Department of Juvenile Justice or the~~
12 ~~Department of Health and Rehabilitative Services; or~~

13 ~~(c) To have persistently disobeyed the reasonable and~~
14 ~~lawful demands of the child's parents or legal custodians, and~~
15 ~~to be beyond their control despite efforts by the child's~~
16 ~~parents or legal custodians and appropriate agencies to remedy~~
17 ~~the conditions contributing to the behavior. Reasonable~~
18 ~~efforts may include such things as good faith participation in~~
19 ~~family or individual counseling.~~

20 ~~(13) "Child who has been found to have committed a~~
21 ~~delinquent act" means a child who, pursuant to the provisions~~
22 ~~of this chapter, is found by a court to have committed a~~
23 ~~violation of law or to be in direct or indirect contempt of~~
24 ~~court, except that this definition shall not include an act~~
25 ~~constituting contempt of court arising out of a dependency~~
26 ~~proceeding or a proceeding pursuant to part IV of this~~
27 ~~chapter.~~

28 (11)~~(14)~~ "Child who is found to be dependent" means a
29 child who, pursuant to this chapter, is found by the court:

30 (a) To have been abandoned, abused, or neglected by
31 the child's parents or other custodians.

1 (b) To have been surrendered to the Department of
2 Children and Family Services, the former Department of Health
3 and Rehabilitative Services, or a licensed child-placing
4 agency for purpose of adoption.

5 (c) To have been voluntarily placed with a licensed
6 child-caring agency, a licensed child-placing agency, an adult
7 relative, the Department of Children and Family Services, or
8 the former Department of Health and Rehabilitative Services,
9 after which placement, under the requirements of part II ~~V~~ of
10 this chapter, a case plan has expired and the parent or
11 parents have failed to substantially comply with the
12 requirements of the plan.

13 (d) To have been voluntarily placed with a licensed
14 child-placing agency for the purposes of subsequent adoption
15 and a natural parent or parents signed a consent pursuant to
16 the Florida Rules of Juvenile Procedure.

17 (e) To have no parent, legal custodian, or responsible
18 adult relative to provide supervision and care.

19 (f) To be at substantial risk of imminent abuse or
20 neglect by the parent or parents or the custodian.

21 (12)~~(15)~~ "Child support" means a court-ordered
22 obligation, enforced under chapter 61 and ss.
23 409.2551-409.2597, for monetary support for the care,
24 maintenance, training, and education of a child.

25 ~~(16) "Community control" means the legal status of~~
26 ~~probation created by law and court order in cases involving a~~
27 ~~child who has been found to have committed a delinquent act.~~
28 ~~Community control is an individualized program in which the~~
29 ~~freedom of the child is limited and the child is restricted to~~
30 ~~noninstitutional quarters or restricted to the child's home in~~

1 ~~lieu of commitment to the custody of the Department of~~
2 ~~Juvenile Justice.~~

3 (13) "Circuit" means any of the 20 judicial circuits
4 as set forth in s. 26.021.

5 (14)~~(17)~~ "Comprehensive assessment" or "assessment"
6 means the gathering of information for the evaluation of a
7 juvenile offender's or a child's physical, psychological,
8 educational, vocational, and social condition and family
9 environment as they relate to the child's need for
10 rehabilitative and treatment services, including substance
11 abuse treatment services, mental health services,
12 developmental services, literacy services, medical services,
13 family services, and other specialized services, as
14 appropriate.

15 (15)~~(18)~~ "Court," unless otherwise expressly stated,
16 means the circuit court assigned to exercise jurisdiction
17 under this chapter.

18 ~~(19)(a) "Delinquency program" means any intake,~~
19 ~~community control and furlough, or similar program; regional~~
20 ~~detention center or facility; or community-based program,~~
21 ~~whether owned and operated by or contracted by the Department~~
22 ~~of Juvenile Justice, or institution owned and operated by or~~
23 ~~contracted by the Department of Juvenile Justice, which~~
24 ~~provides intake, supervision, or custody and care of children~~
25 ~~who are alleged to be or who have been found to be delinquent~~
26 ~~pursuant to part II.~~

27 ~~(b) "Delinquency program staff" means supervisory and~~
28 ~~direct care staff of a delinquency program as well as support~~
29 ~~staff who have direct contact with children in a delinquency~~
30 ~~program.~~

31

1 ~~(c) "Delinquency prevention programs" means programs~~
 2 ~~designed for the purpose of reducing the occurrence of~~
 3 ~~delinquency, including youth and street gang activity, and~~
 4 ~~juvenile arrests. The term excludes arbitration, diversionary~~
 5 ~~or mediation programs, and community service work or other~~
 6 ~~treatment available subsequent to a child committing a~~
 7 ~~delinquent act.~~

8 ~~(16)(20) "Department," as used in this chapter parts~~
 9 ~~III, V, and VI, means the Department of Children and Family~~
 10 ~~Health and Rehabilitative Services. As used in parts II and~~
 11 ~~IV, the term means the Department of Juvenile Justice.~~

12 ~~(21) "Designated facility" or "designated treatment~~
 13 ~~facility" means any facility designated by the Department of~~
 14 ~~Juvenile Justice to provide treatment to juvenile offenders.~~

15 ~~(22) "Detention care" means the temporary care of a~~
 16 ~~child in secure, nonsecure, or home detention, pending a court~~
 17 ~~adjudication or disposition or execution of a court order.~~
 18 ~~There are three types of detention care, as follows:~~

19 ~~(a) "Secure detention" means temporary custody of the~~
 20 ~~child while the child is under the physical restriction of a~~
 21 ~~detention center or facility pending adjudication,~~
 22 ~~disposition, or placement.~~

23 ~~(b) "Nonsecure detention" means temporary custody of~~
 24 ~~the child while the child is in a residential home in the~~
 25 ~~community in a physically nonrestrictive environment under the~~
 26 ~~supervision of the Department of Juvenile Justice pending~~
 27 ~~adjudication, disposition, or placement.~~

28 ~~(c) "Home detention" means temporary custody of the~~
 29 ~~child while the child is released to the custody of the~~
 30 ~~parent, guardian, or custodian in a physically nonrestrictive~~
 31 ~~environment under the supervision of the Department of~~

1 ~~Juvenile Justice staff pending adjudication, disposition, or~~
2 ~~placement.~~

3 ~~(23) "Detention center or facility" means a facility~~
4 ~~used pending court adjudication or disposition or execution of~~
5 ~~court order for the temporary care of a child alleged or found~~
6 ~~to have committed a violation of law. A detention center or~~
7 ~~facility may provide secure or nonsecure custody. A facility~~
8 ~~used for the commitment of adjudicated delinquents shall not~~
9 ~~be considered a detention center or facility.~~

10 ~~(24) "Detention hearing" means a hearing for the court~~
11 ~~to determine if a child should be placed in temporary custody,~~
12 ~~as provided for under ss. 39.042 and 39.044, in delinquency~~
13 ~~cases, or s. 39.402, in dependency cases.~~

14 (17)~~(25)~~ "Diligent efforts by a parent" means a course
15 of conduct which results in a reduction in risk to the child
16 in the child's home that would allow the child to be safely
17 placed permanently back in the home as set forth in the case
18 plan.

19 (18)~~(26)~~ "Diligent efforts of social service agency"
20 means reasonable efforts to provide social services or
21 reunification services made by any social service agency as
22 defined in this section that is a party to a case plan.

23 (19)~~(27)~~ "Diligent search" means the efforts of a
24 social service agency in accordance with the requirements of
25 s. 39.4051(6) to locate a parent or prospective parent whose
26 identity or location is unknown, initiated as soon as the
27 agency is made aware of the existence of such a parent, with
28 the search progress reported at each court hearing until the
29 parent is either identified and located or the court excuses
30 further search.

31

1 ~~(20)(28)~~ "Disposition hearing" means a hearing in
2 which the court determines the most appropriate dispositional
3 services in the least restrictive available setting provided
4 for under ~~s. 39.052(4), in delinquency cases~~; ~~s. 39.408(3), in~~
5 ~~dependency cases,~~ s. 39.44(3), in child-in-need-of-services
6 ~~cases~~; or s. 39.469, in termination of parental rights cases.

7 (21) "District administrator" means the chief
8 operating officer of each service district of the Department
9 of Children and Family Services as defined in s. 20.19(6) and,
10 where appropriate, includes each district administrator whose
11 service district falls within the boundaries of a judicial
12 circuit.

13 ~~(22)(29)~~ "Family" means a collective body of persons,
14 consisting of a child and a parent, guardian, adult custodian,
15 or adult relative, in which:

16 (a) The persons reside in the same house or living
17 unit; or

18 (b) The parent, guardian, adult custodian, or adult
19 relative has a legal responsibility by blood, marriage, or
20 court order to support or care for the child.

21 ~~(30) "Family in need of services" means a family that~~
22 ~~has a child for whom there is no pending investigation into an~~
23 ~~allegation of abuse, neglect, or abandonment or no current~~
24 ~~supervision by the Department of Juvenile Justice or the~~
25 ~~Department of Health and Rehabilitative Services for an~~
26 ~~adjudication of dependency or delinquency. The child must also~~
27 ~~have been referred to a law enforcement agency or the~~
28 ~~Department of Juvenile Justice for:~~

29 ~~(a) Running away from parents or legal custodians;~~
30
31

1 ~~(b) Persistently disobeying reasonable and lawful~~
2 ~~demands of parents or legal custodians, and being beyond their~~
3 ~~control; or~~

4 ~~(c) Habitual truancy from school.~~

5 (23)~~(31)~~ "Foster care" means care provided a child in
6 a foster family or boarding home, group home, agency boarding
7 home, child care institution, or any combination thereof.

8 ~~(32) "Halfway house" means a community-based~~
9 ~~residential program for 10 or more committed delinquents at~~
10 ~~the moderate-risk restrictiveness level that is operated or~~
11 ~~contracted by the Department of Juvenile Justice.~~

12 ~~(33) "Intake" means the initial acceptance and~~
13 ~~screening by the Department of Juvenile Justice of a complaint~~
14 ~~or a law enforcement report or probable cause affidavit of~~
15 ~~delinquency, family in need of services, or child in need of~~
16 ~~services to determine the recommendation to be taken in the~~
17 ~~best interests of the child, the family, and the community.~~
18 ~~The emphasis of intake is on diversion and the least~~
19 ~~restrictive available services. Consequently, intake includes~~
20 ~~such alternatives as:~~

21 ~~(a) The disposition of the complaint, report, or~~
22 ~~probable cause affidavit without court or public agency action~~
23 ~~or judicial handling when appropriate.~~

24 ~~(b) The referral of the child to another public or~~
25 ~~private agency when appropriate.~~

26 ~~(c) The recommendation by the intake counselor or case~~
27 ~~manager of judicial handling when appropriate and warranted.~~

28 ~~(34) "Intake counselor" or "case manager" means the~~
29 ~~authorized agent of the Department of Juvenile Justice~~
30 ~~performing the intake or case management function for a child~~

31

1 ~~alleged to be delinquent or in need of services, or from a~~
2 ~~family in need of services.~~

3 (24) "Health and human services board" means the body
4 created in each service district of the Department of Children
5 and Family Services pursuant to the provisions of s. 20.19(7).

6 ~~(25)(35) "Judge" means the circuit judge exercising~~
7 ~~jurisdiction pursuant to this chapter.~~

8 ~~(36) "Juvenile sexual offender" means:~~

9 ~~(a) A juvenile who has been found by the court~~
10 ~~pursuant to s. 39.053 to have committed a violation of chapter~~
11 ~~794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;~~

12 ~~(b) A juvenile found to have committed any violation~~
13 ~~of law or delinquent act involving juvenile sexual abuse.~~

14 ~~"Juvenile sexual abuse" means any sexual behavior which occurs~~
15 ~~without consent, without equality, or as a result of coercion.~~

16 ~~For purposes of this subsection, the following definitions~~
17 ~~apply:~~

18 ~~1. "Coercion" means the exploitation of authority, use~~
19 ~~of bribes, threats of force, or intimidation to gain~~
20 ~~cooperation or compliance.~~

21 ~~2. "Equality" means two participants operating with~~
22 ~~the same level of power in a relationship, neither being~~
23 ~~controlled nor coerced by the other.~~

24 ~~3. "Consent" means an agreement including all of the~~
25 ~~following:~~

26 ~~a. Understanding what is proposed based on age,~~
27 ~~maturity, developmental level, functioning, and experience.~~

28 ~~b. Knowledge of societal standards for what is being~~
29 ~~proposed.~~

30 ~~c. Awareness of potential consequences and~~
31 ~~alternatives.~~

1 ~~d. Assumption that agreement or disagreement will be~~
2 ~~accepted equally.~~

3 ~~e. Voluntary decision.~~

4 ~~f. Mental competence.~~

5
6 ~~Juvenile sexual offender behavior ranges from noncontact~~
7 ~~sexual behavior such as making obscene phone calls,~~
8 ~~exhibitionism, voyeurism, and the showing or taking of lewd~~
9 ~~photographs to varying degrees of direct sexual contact, such~~
10 ~~as frottage, fondling, digital penetration, rape, fellatio,~~
11 ~~sodomy, and various other sexually aggressive acts.~~

12 ~~(26)(37)~~ "Legal custody" means a legal status created
13 by court order or letter of guardianship which vests in a
14 custodian of the person or guardian, whether an agency or an
15 individual, the right to have physical custody of the child
16 and the right and duty to protect, train, and discipline the
17 child and to provide him or her with food, shelter, education,
18 and ordinary medical, dental, psychiatric, and psychological
19 care.

20 ~~(27)(38)~~ "Licensed child-caring agency" means a
21 person, society, association, or agency licensed by the
22 Department of Children and Family ~~Health and Rehabilitative~~
23 Services to care for, receive, and board children.

24 ~~(28)(39)~~ "Licensed child-placing agency" means a
25 person, society, association, or institution licensed by the
26 Department of Children and Family ~~Health and Rehabilitative~~
27 Services to care for, receive, or board children and to place
28 children in a licensed child-caring institution or a foster or
29 adoptive home.

30 ~~(29)(40)~~ "Licensed health care professional" means a
31 physician licensed under chapter 458, an osteopathic physician

1 licensed under chapter 459, a nurse licensed under chapter
 2 464, a physician assistant certified under chapter 458, or a
 3 dentist licensed under chapter 466.

4 (30)~~(41)~~ "Likely to injure oneself" means that, as
 5 evidenced by violent or other actively self-destructive
 6 behavior, it is more likely than not that within a 24-hour
 7 period the child will attempt to commit suicide or inflict
 8 serious bodily harm on himself or herself.

9 (31)~~(42)~~ "Likely to injure others" means that it is
 10 more likely than not that within a 24-hour period the child
 11 will inflict serious and unjustified bodily harm on another
 12 person.

13 (32)~~(43)~~ "Long-term relative custodian" means an adult
 14 who is a party to a long-term custodial relationship created
 15 by a court order pursuant to s. 39.41(2)(a)5. ~~39.41(1)(a)3.a.~~

16 (33)~~(44)~~ "Long-term relative custody" or "long-term
 17 custodial relationship" means the relationship that a juvenile
 18 court order creates between a child and an adult relative of
 19 the child or an adult nonrelative approved by the court when
 20 the child cannot be placed in the custody of a natural parent
 21 and termination of parental rights is not deemed to be in the
 22 best interest of the child. Long-term relative custody confers
 23 upon the long-term relative or nonrelative custodian the right
 24 to physical custody of the child, a right which will not be
 25 disturbed by the court except upon request of the custodian or
 26 upon a showing that a material change in circumstances
 27 necessitates a change of custody for the best interest of the
 28 child. A long-term relative or nonrelative custodian shall
 29 have all of the rights of a natural parent, including, but not
 30 limited to, the right and duty to protect, train, and
 31 discipline the child and to provide the child with food,

1 shelter, and education, and ordinary medical, dental,
 2 psychiatric, and psychological care, unless these rights and
 3 duties are otherwise enlarged or limited by the court order
 4 establishing the long-term custodial relationship.

5 (34)~~(45)~~ "Mediation" means a process whereby a neutral
 6 third person called a mediator acts to encourage and
 7 facilitate the resolution of a dispute between two or more
 8 parties. It is an informal and nonadversarial process with
 9 the objective of helping the disputing parties reach a
 10 mutually acceptable and voluntary agreement. In mediation,
 11 decisionmaking authority rests with the parties. The role of
 12 the mediator includes, but is not limited to, assisting the
 13 parties in identifying issues, fostering joint problem
 14 solving, and exploring settlement alternatives.

15 (35)~~(46)~~ "Necessary medical treatment" means care
 16 which is necessary within a reasonable degree of medical
 17 certainty to prevent the deterioration of a child's condition
 18 or to alleviate immediate pain of a child.

19 (36)~~(47)~~ "Neglect" occurs when the parent or legal
 20 custodian of a child or, in the absence of a parent or legal
 21 custodian, the person primarily responsible for the child's
 22 welfare deprives a child of, or allows a child to be deprived
 23 of, necessary food, clothing, shelter, or medical treatment or
 24 permits a child to live in an environment when such
 25 deprivation or environment causes the child's physical,
 26 mental, or emotional health to be significantly impaired or to
 27 be in danger of being significantly impaired. The foregoing
 28 circumstances shall not be considered neglect if caused
 29 primarily by financial inability unless actual services for
 30 relief have been offered to and rejected by such person. A
 31 parent or guardian legitimately practicing religious beliefs

1 in accordance with a recognized church or religious
2 organization who thereby does not provide specific medical
3 treatment for a child shall not, for that reason alone, be
4 considered a negligent parent or guardian; however, such an
5 exception does not preclude a court from ordering the
6 following services to be provided, when the health of the
7 child so requires:

8 (a) Medical services from a licensed physician,
9 dentist, optometrist, podiatrist, or other qualified health
10 care provider; or

11 (b) Treatment by a duly accredited practitioner who
12 relies solely on spiritual means for healing in accordance
13 with the tenets and practices of a well-recognized church or
14 religious organization.

15 (37)~~(48)~~ "Parent" means a woman who gives birth to a
16 child and a man whose consent to the adoption of the child
17 would be required under s. 63.062(1)(b). If a child has been
18 legally adopted, the term "parent" means the adoptive mother
19 or father of the child. The term does not include an
20 individual whose parental relationship to the child has been
21 legally terminated, or an alleged or prospective parent,
22 unless the parental status falls within the terms of either s.
23 39.4051(7) or s. 63.062(1)(b).

24 (38)~~(49)~~ "Participant," for purposes of a shelter
25 proceeding, dependency proceeding, or termination of parental
26 rights proceeding, means any person who is not a party but who
27 should receive notice of hearings involving the child,
28 including foster parents, identified prospective parents,
29 grandparents entitled to priority for adoption consideration
30 under s. 63.0425, actual custodians of the child, and any
31 other person whose participation may be in the best interest

1 of the child. Participants may be granted leave by the court
 2 to be heard without the necessity of filing a motion to
 3 intervene.

4 (39)~~(50)~~ "Party," for purposes of a shelter
 5 proceeding, dependency proceeding, or termination of parental
 6 rights proceeding, means the parent of the child, the
 7 petitioner, the department, the guardian ad litem when one has
 8 been appointed, and the child. The presence of the child may
 9 be excused by order of the court when presence would not be in
 10 the child's best interest. Notice to the child may be excused
 11 by order of the court when the age, capacity, or other
 12 condition of the child is such that the notice would be
 13 meaningless or detrimental to the child.

14 (40)~~(51)~~ "Preliminary screening" means the gathering
 15 of preliminary information to be used in determining a child's
 16 need for further evaluation or assessment or for referral for
 17 other substance abuse services through means such as
 18 psychosocial interviews; urine and breathalyzer screenings;
 19 and reviews of available educational, delinquency, and
 20 dependency records of the child.

21 (41)~~(52)~~ "Preventive services" means social services
 22 and other supportive and rehabilitative services provided to
 23 the parent of the child, the legal guardian of the child, or
 24 the custodian of the child and to the child for the purpose of
 25 averting the removal of the child from the home or disruption
 26 of a family which will or could result in the placement of a
 27 child in foster care. Social services and other supportive
 28 and rehabilitative services shall promote the child's need for
 29 a safe, continuous, stable, living environment and shall
 30 promote family autonomy and shall strengthen family life as
 31 the first priority whenever possible.

1 ~~(42)(53)~~ "Prospective parent" means a person who
 2 claims to be, or has been identified as, a person who may be a
 3 mother or a father of a child.

4 ~~(43)(54)~~ "Protective investigation" means the
 5 acceptance of a report alleging child abuse or neglect, as
 6 defined in s. 415.503, by the central abuse hotline registry
 7 ~~and tracking system~~ or the acceptance of a report of other
 8 dependency by the local children, youth, and families office
 9 of the Department of Children and Family Health and
 10 ~~Rehabilitative Services~~; the investigation and classification
 11 of each report; the determination of whether action by the
 12 court is warranted; the determination of the disposition of
 13 each report without court or public agency action when
 14 appropriate; the referral of a child to another public or
 15 private agency when appropriate; and the recommendation by the
 16 protective investigator of court action when appropriate.

17 ~~(44)(55)~~ "Protective investigator" means an authorized
 18 agent of the Department of Children and Family Health and
 19 ~~Rehabilitative Services~~ who receives, investigates, and
 20 classifies reports of child abuse or neglect as defined in s.
 21 415.503; who, as a result of the investigation, may recommend
 22 that a dependency petition be filed for the child under the
 23 criteria of paragraph(11)(a)~~(14)(a)~~; and who performs other
 24 duties necessary to carry out the required actions of the
 25 protective investigation function.

26 ~~(45)(56)~~ "Protective supervision" means a legal status
 27 in dependency cases, child-in-need-of-services cases, or
 28 family-in-need-of-services cases which permits the child to
 29 remain in his or her own home or other placement under the
 30 supervision of an agent of the Department of Juvenile Justice
 31 or the Department of Children and Family Health and

1 ~~Rehabilitative~~ Services, subject to being returned to the
2 court during the period of supervision.

3 (46)~~(57)~~ "Protective supervision case plan" means a
4 document that is prepared by the protective supervision
5 counselor of the Department of Children and Family Health and
6 ~~Rehabilitative~~ Services, is based upon the voluntary
7 protective supervision of a case pursuant to s. 39.403(2)(b),
8 or a disposition order entered pursuant to s. 39.41(2)(a)3.
9 ~~39.41(1)(a)1.~~, and that:

10 (a) Is developed in conference with the parent,
11 guardian, or custodian of the child and, if appropriate, the
12 child and any court-appointed guardian ad litem.

13 (b) Is written simply and clearly in the principal
14 language, to the extent possible, of the parent, guardian, or
15 custodian of the child and in English.

16 (c) Is subject to modification based on changing
17 circumstances and negotiations among the parties to the plan
18 and includes, at a minimum:

19 1. All services and activities ordered by the court.
20 2. Goals and specific activities to be achieved by all
21 parties to the plan.

22 3. Anticipated dates for achieving each goal and
23 activity.

24 4. Signatures of all parties to the plan.

25 (d) Is submitted to the court in cases where a
26 dispositional order has been entered pursuant to s.
27 39.41(2)(a)3.~~39.41(1)(a)1.~~

28 (47)~~(58)~~ "Relative" means a grandparent,
29 great-grandparent, sibling, first cousin, aunt, uncle,
30 great-aunt, great-uncle, niece, or nephew, whether related by
31

1 the whole or half blood, by affinity, or by adoption. The term
2 does not include a stepparent.

3 ~~(59) "Restrictiveness level" means the level of~~
4 ~~custody provided by programs that service the custody and care~~
5 ~~needs of committed children. There shall be five~~
6 ~~restrictiveness levels:~~

7 ~~(a) Minimum-risk nonresidential.--Youth assessed and~~
8 ~~classified for placement in programs at this restrictiveness~~
9 ~~level represent a minimum risk to themselves and public safety~~
10 ~~and do not require placement and services in residential~~
11 ~~settings. Programs or program models in this restrictiveness~~
12 ~~level include: community counselor supervision programs,~~
13 ~~special intensive group programs, nonresidential marine~~
14 ~~programs, nonresidential training and rehabilitation centers,~~
15 ~~and other local community nonresidential programs.~~

16 ~~(b) Low-risk residential.--Youth assessed and~~
17 ~~classified for placement in programs at this level represent a~~
18 ~~low risk to themselves and public safety and do require~~
19 ~~placement and services in residential settings. Programs or~~
20 ~~program models in this restrictiveness level include: Short~~
21 ~~Term Offender Programs (STOP), group treatment homes, family~~
22 ~~group homes, proctor homes, and Short Term Environmental~~
23 ~~Programs (STEP).~~

24 ~~(c) Moderate-risk residential.--Youth assessed and~~
25 ~~classified for placement in programs in this restrictiveness~~
26 ~~level represent a moderate risk to public safety. Programs~~
27 ~~are designed for children who require close supervision but do~~
28 ~~not need placement in facilities that are physically secure.~~
29 ~~Programs in the moderate-risk residential restrictiveness~~
30 ~~level provide 24-hour awake supervision, custody, care, and~~
31 ~~treatment. Upon specific appropriation, a facility at this~~

1 ~~restrictiveness level may have a security fence around the~~
 2 ~~perimeter of the grounds of the facility and may be~~
 3 ~~hardware-secure or staff-secure. The staff at a facility at~~
 4 ~~this restrictiveness level may seclude a child who is a~~
 5 ~~physical threat to himself or others. Mechanical restraint~~
 6 ~~may also be used when necessary. Programs or program models in~~
 7 ~~this restrictiveness level include: halfway houses, START~~
 8 ~~Centers, the Dade Intensive Control Program, licensed~~
 9 ~~substance abuse residential programs, and moderate-term~~
 10 ~~wilderness programs designed for committed delinquent youth~~
 11 ~~that are operated or contracted by the Department of Juvenile~~
 12 ~~Justice. Section 39.061 applies to children in moderate-risk~~
 13 ~~residential programs.~~

14 ~~(d) High-risk residential.--Youth assessed and~~
 15 ~~classified for this level of placement require close~~
 16 ~~supervision in a structured residential setting that provides~~
 17 ~~24-hour-per-day secure custody, care, and supervision.~~
 18 ~~Placement in programs in this level is prompted by a concern~~
 19 ~~for public safety that outweighs placement in programs at~~
 20 ~~lower restrictiveness levels. Programs or program models in~~
 21 ~~this level are staff or physically secure residential~~
 22 ~~commitment facilities and include: training schools, intensive~~
 23 ~~halfway houses, residential sex offender programs, long-term~~
 24 ~~wilderness programs designed exclusively for committed~~
 25 ~~delinquent youth, boot camps, secure halfway house programs,~~
 26 ~~and the Broward Control Treatment Center. Section 39.061~~
 27 ~~applies to children placed in programs in this restrictiveness~~
 28 ~~level.~~

29 ~~(e) Maximum-risk residential.--Youth assessed and~~
 30 ~~classified for this level of placement require close~~
 31 ~~supervision in a maximum security residential setting that~~

1 ~~provides 24-hour-per-day secure custody, care, and~~
 2 ~~supervision. Placement in a program in this level is prompted~~
 3 ~~by a demonstrated need to protect the public. Programs or~~
 4 ~~program models in this level are maximum-secure-custody,~~
 5 ~~long-term residential commitment facilities that are intended~~
 6 ~~to provide a moderate overlay of educational, vocational, and~~
 7 ~~behavioral modification services. Section 39.061 applies to~~
 8 ~~children placed in programs in this restrictiveness level.~~

9 (48)~~(60)~~ "Reunification services" means social
 10 services and other supportive and rehabilitative services
 11 provided to the parent of the child, the legal guardian of the
 12 child, or the custodian of the child, whichever is applicable,
 13 the child, and where appropriate the foster parents of the
 14 child for the purpose of enabling a child who has been placed
 15 in foster care to return to his or her family at the earliest
 16 possible time. Social services and other supportive and
 17 rehabilitative services shall promote the child's need for a
 18 safe, continuous, stable, living environment and shall promote
 19 family autonomy and strengthen family life as a first priority
 20 whenever possible.

21 ~~(61) "Secure detention center or facility" means a~~
 22 ~~physically restricting facility for the temporary care of~~
 23 ~~children, pending adjudication, disposition, or placement.~~

24 ~~(62) "Serious or habitual juvenile offender," for~~
 25 ~~purposes of commitment to a residential facility and for~~
 26 ~~purposes of records retention, means a child who has been~~
 27 ~~found to have committed a delinquent act or a violation of~~
 28 ~~law, in the case currently before the court, and who meets at~~
 29 ~~least one of the following criteria:~~

30
 31

1 ~~(a) The youth is at least 13 years of age at the time~~
2 ~~of the disposition for the current offense and has been~~
3 ~~adjudicated on the current offense for:~~

- 4 ~~1. Arson;~~
- 5 ~~2. Sexual battery;~~
- 6 ~~3. Robbery;~~
- 7 ~~4. Kidnapping;~~
- 8 ~~5. Aggravated child abuse;~~
- 9 ~~6. Aggravated assault;~~
- 10 ~~7. Aggravated stalking;~~
- 11 ~~8. Murder;~~
- 12 ~~9. Manslaughter;~~
- 13 ~~10. Unlawful throwing, placing, or discharging of a~~
14 ~~destructive device or bomb;~~
- 15 ~~11. Armed burglary;~~
- 16 ~~12. Aggravated battery;~~
- 17 ~~13. Lewd or lascivious assault or act in the presence~~
18 ~~of a child; or~~
- 19 ~~14. Carrying, displaying, using, threatening, or~~
20 ~~attempting to use a weapon or firearm during the commission of~~
21 ~~a felony.~~

22 ~~(b) The youth is at least 13 years of age at the time~~
23 ~~of the disposition, the current offense is a felony, and the~~
24 ~~child has previously been committed at least two times to a~~
25 ~~delinquency commitment program.~~

26 ~~(c) The youth is at least 13 years of age and is~~
27 ~~currently committed for a felony offense and transferred from~~
28 ~~a moderate-risk or high-risk residential commitment placement.~~

29 ~~(63) "Serious or habitual juvenile offender program"~~
30 ~~means the program established in s. 39.058.~~

31

1 (49)~~(64)~~ "Shelter" means a place for the temporary
 2 care of a child who is alleged to be or who has been found to
 3 be dependent, a child from a family in need of services, or a
 4 child in need of services, pending court disposition before or
 5 after adjudication or after execution of a court order.
 6 "Shelter" may include a facility which provides 24-hour
 7 continual supervision for the temporary care of a child who is
 8 placed pursuant to s. 984.14 ~~39.422~~.

9 (50)~~(65)~~ "Shelter hearing" means a hearing provided
 10 for under s. 984.14 ~~39.422~~ in family-in-need-of-services cases
 11 or child-in-need-of-services cases.

12 (51)~~(66)~~ "Social service agency" means the Department
 13 of Children and Family ~~Health and Rehabilitative~~ Services, a
 14 licensed child-caring agency, or a licensed child-placing
 15 agency.

16 (52)~~(67)~~ "Staff-secure shelter" means a facility in
 17 which a child is supervised 24 hours a day by staff members
 18 who are awake while on duty. The facility is for the temporary
 19 care and assessment of a child who has been found to be
 20 dependent, who has violated a court order and been found in
 21 contempt of court, or whom the Department of Children and
 22 Family ~~Health and Rehabilitative~~ Services is unable to
 23 properly assess or place for assistance within the continuum
 24 of services provided for dependent children.

25 (53)~~(68)~~ "Substance abuse" means using, without
 26 medical reason, any psychoactive or mood-altering drug,
 27 including alcohol, in such a manner as to induce impairment
 28 resulting in dysfunctional social behavior.

29 (54)~~(69)~~ "Substantial compliance" means that the
 30 circumstances which caused the placement in foster care have
 31 been significantly remedied to the extent that the well-being

1 and safety of the child will not be endangered upon the
 2 child's being returned to the child's parent or guardian.

3 (55)~~(70)~~ "Taken into custody" means the status of a
 4 child immediately when temporary physical control over the
 5 child is attained by a person authorized by law, pending the
 6 child's release, detention, placement, or other disposition as
 7 authorized by law.

8 (56)~~(71)~~ "Temporary legal custody" means the
 9 relationship that a juvenile court creates between a child and
 10 an adult relative of the child, adult nonrelative approved by
 11 the court, or other person until a more permanent arrangement
 12 is ordered. Temporary legal custody confers upon the custodian
 13 the right to have temporary physical custody of the child and
 14 the right and duty to protect, train, and discipline the child
 15 and to provide the child with food, shelter, and education,
 16 and ordinary medical, dental, psychiatric, and psychological
 17 care, unless these rights and duties are otherwise enlarged or
 18 limited by the court order establishing the temporary legal
 19 custody relationship.

20 ~~(72) "Temporary release" means the terms and~~
 21 ~~conditions under which a child is temporarily released from a~~
 22 ~~commitment facility or allowed home visits. If the temporary~~
 23 ~~release is from a moderate-risk residential facility, a~~
 24 ~~high-risk residential facility, or a maximum-risk residential~~
 25 ~~facility, the terms and conditions of the temporary release~~
 26 ~~must be approved by the child, the court, and the facility.~~
 27 ~~The term includes periods during which the child is supervised~~
 28 ~~pursuant to a reentry program or an aftercare program or a~~
 29 ~~period during which the child is supervised by a case manager~~
 30 ~~or other nonresidential staff of the department or staff~~
 31 ~~employed by an entity under contract with the department. A~~

1 ~~child placed in a postcommitment community control program by~~
2 ~~order of the court is not considered to be on temporary~~
3 ~~release and is not subject to the terms and conditions of~~
4 ~~temporary release.~~

5 ~~(73) "To be habitually truant" means that:~~

6 ~~(a) The child has 15 unexcused absences within 90 days~~
7 ~~with or without the knowledge or justifiable consent of the~~
8 ~~child's parent or legal guardian and is not exempt from~~
9 ~~attendance by virtue of being over the age of compulsory~~
10 ~~school attendance or by meeting the criteria in s. 232.06, s.~~
11 ~~232.09, or any other exemptions specified by law or the rules~~
12 ~~of the State Board of Education;~~

13 ~~(b) In addition to the actions described in s. 232.17,~~
14 ~~the school administration has completed the following~~
15 ~~escalating activities to determine the cause, and to attempt~~
16 ~~the remediation, of the child's truant behavior:~~

17 ~~1. After a minimum of 3 and prior to 15 unexcused~~
18 ~~absences within 90 days, one or more meetings have been held,~~
19 ~~either in person or by phone, between a school attendance~~
20 ~~assistant or school social worker, the child's parent or~~
21 ~~guardian, and the child, if necessary, to report and to~~
22 ~~attempt to solve the truancy problem. However, if the school~~
23 ~~attendance assistant or school social worker has documented~~
24 ~~the refusal of the parent or guardian to participate in the~~
25 ~~meetings, then this requirement has been met;~~

26 ~~2. Educational counseling has been provided to~~
27 ~~determine whether curriculum changes would help solve the~~
28 ~~truancy problem, and, if any changes were indicated, such~~
29 ~~changes were instituted but proved unsuccessful in remedying~~
30 ~~the truant behavior. Such curriculum changes may include~~
31 ~~enrollment of the child in an alternative education program~~

1 ~~that meets the specific educational and behavioral needs of~~
2 ~~the child, including a second chance school, as provided for~~
3 ~~in s. 230.2316, designed to resolve truant behavior;~~

4 ~~3. Educational evaluation, pursuant to the~~
5 ~~requirements of s. 232.19(3)(b)3., has been provided; and~~

6 ~~4. The school social worker, the attendance assistant,~~
7 ~~or the school superintendent's designee if there is no school~~
8 ~~social worker or attendance assistant has referred the student~~
9 ~~and family to the children-in-need-of-services and~~
10 ~~families-in-need-of-services provider or the case staffing~~
11 ~~committee, established pursuant to s. 39.426, as determined by~~
12 ~~the cooperative agreement required in s. 232.19(3). The case~~
13 ~~staffing committee may request the department or its designee~~
14 ~~to file a child-in-need-of-services petition based upon the~~
15 ~~report and efforts of the school district or other community~~
16 ~~agency or may seek to resolve the truancy behavior through the~~
17 ~~school or community-based organizations or agencies.~~

18
19 ~~If a child within the compulsory school attendance age is~~
20 ~~responsive to the interventions described in this paragraph~~
21 ~~and has completed the necessary requirements to pass the~~
22 ~~current grade as indicated in the district pupil progression~~
23 ~~plan, the child shall not be determined to be habitually~~
24 ~~truant. If a child within the compulsory school attendance age~~
25 ~~has 15 unexcused absences or fails to enroll in school, the~~
26 ~~State Attorney may file a child-in-need-of-services petition.~~
27 ~~Prior to filing a petition, the child must be referred to the~~
28 ~~appropriate agency for evaluation. After consulting with the~~
29 ~~evaluating agency, the State Attorney may elect to file a~~
30 ~~child-in-need-of-services petition.~~

31

1 ~~(c) A school social worker or other person designated~~
 2 ~~by the school administration, if the school does not have a~~
 3 ~~school social worker, and an intake counselor or case manager~~
 4 ~~of the Department of Juvenile Justice have jointly~~
 5 ~~investigated the truancy problem or, if that was not feasible,~~
 6 ~~have performed separate investigations to identify conditions~~
 7 ~~which may be contributing to the truant behavior; and if,~~
 8 ~~after a joint staffing of the case to determine the necessity~~
 9 ~~for services, such services were determined to be needed, the~~
 10 ~~persons who performed the investigations met jointly with the~~
 11 ~~family and child to discuss any referral to appropriate~~
 12 ~~community agencies for economic services, family or individual~~
 13 ~~counseling, or other services required to remedy the~~
 14 ~~conditions that are contributing to the truant behavior; and~~

15 ~~(d) The failure or refusal of the parent or legal~~
 16 ~~guardian or the child to participate, or make a good faith~~
 17 ~~effort to participate, in the activities prescribed to remedy~~
 18 ~~the truant behavior, or the failure or refusal of the child to~~
 19 ~~return to school after participation in activities required by~~
 20 ~~this subsection, or the failure of the child to stop the~~
 21 ~~truant behavior after the school administration and the~~
 22 ~~Department of Juvenile Justice have worked with the child as~~
 23 ~~described in s. 232.19(3) shall be handled as prescribed in s.~~
 24 ~~232.19.~~

25 ~~(74) "Training school" means one of the following~~
 26 ~~facilities: the Arthur G. Dozier School or the Eckerd Youth~~
 27 ~~Development Center.~~

28 ~~(75) "Violation of law" or "delinquent act" means a~~
 29 ~~violation of any law of this state, the United States, or any~~
 30 ~~other state which is a misdemeanor or a felony or a violation~~
 31

1 ~~of a county or municipal ordinance which would be punishable~~
2 ~~by incarceration if the violation were committed by an adult.~~

3 ~~(76) "Waiver hearing" means a hearing provided for~~
4 ~~under s. 39.052(2).~~

5 Section 112. Sections 39.0205 and 39.0206, Florida
6 Statutes, are repealed.

7 Section 113. Section 39.061, Florida Statutes, 1996
8 Supplement, is transferred and renumbered as section 944.401,
9 Florida Statutes.

10 Section 114. Section 39.419, Florida Statutes, is
11 repealed.

12 Section 115. Sections 39.027, 39.028, 39.029, 39.033,
13 39.034, 39.035, and 39.036, Florida Statutes, are repealed.

14 Section 116. Section 39.052, Florida Statutes, as
15 amended by section 3 of chapter 96-232, Laws of Florida,
16 section 1 of chapter 96-234, Laws of Florida, section 11 of
17 chapter 96-260, Laws of Florida, section 33 of chapter 96-388,
18 Laws of Florida, and sections 3 and 7 of chapter 96-398, Laws
19 of Florida; and sections 39.053, 39.054, and 39.059, Florida
20 Statutes, are repealed.

21 Section 117. Section 39.05842, Florida Statutes, as
22 created by section 36 of chapter 96-398, Laws of Florida;
23 section 39.05843, Florida Statutes, as created by section 37
24 of chapter 96-398, Laws of Florida; section 39.05844, Florida
25 Statutes, as created by section 38 of chapter 96-398, Laws of
26 Florida; and section 39.05845, Florida Statutes, as created by
27 section 39 of chapter 96-398, Laws of Florida, are repealed.

28 Section 118. Section 39.056, Florida Statutes, is
29 repealed.

30 Section 119. Section 39.002, Florida Statutes, is
31 amended to read:

1 39.002 Legislative intent for the juvenile justice
2 system.--

3 (1) GENERAL PROTECTIONS FOR CHILDREN.--It is a purpose
4 of the Legislature that the children of this state be provided
5 with the following protections:

6 (a) Protection from abuse, neglect, and exploitation.

7 (b) A permanent and stable home.

8 (c) A safe and nurturing environment which will
9 preserve a sense of personal dignity and integrity.

10 (d) Adequate nutrition, shelter, and clothing.

11 (e) Effective treatment to address physical, social,
12 and emotional needs, regardless of geographical location.

13 (f) Equal opportunity and access to quality and
14 effective education, which will meet the individual needs of
15 each child, and to recreation and other community resources to
16 develop individual abilities.

17 (g) Access to preventive services.

18 (h) An independent, trained advocate, when
19 intervention is necessary and a skilled guardian or caretaker
20 in a safe environment when alternative placement is necessary.

21 (2) SUBSTANCE ABUSE SERVICES.--The Legislature finds
22 that children in the care of the state's dependency and
23 delinquency systems need appropriate health care services,
24 that the impact of substance abuse on health indicates the
25 need for health care services to include substance abuse
26 services where appropriate, and that it is in the state's best
27 interest that such children be provided the services they need
28 to enable them to become and remain independent of state care.
29 In order to provide these services, the state's dependency and
30 delinquency systems must have the ability to identify and
31 provide appropriate intervention and treatment for children

1 with personal or family-related substance abuse problems. It
2 is therefore the purpose of the Legislature to provide
3 authority for the state to contract with community substance
4 abuse treatment providers for the development and operation of
5 specialized support and overlay services for the dependency
6 and delinquency systems, which will be fully implemented and
7 utilized as resources permit.

8 ~~(3) JUVENILE JUSTICE AND DELINQUENCY PREVENTION. It~~
9 ~~is the policy of the state with respect to juvenile justice~~
10 ~~and delinquency prevention to first protect the public from~~
11 ~~acts of delinquency. In addition, it is the policy of the~~
12 ~~state to:~~

13 ~~(a) Develop and implement effective methods of~~
14 ~~preventing and reducing acts of delinquency, with a focus on~~
15 ~~maintaining and strengthening the family as a whole so that~~
16 ~~children may remain in their homes or communities.~~

17 ~~(b) Develop and implement effective programs to~~
18 ~~prevent delinquency, to divert children from the traditional~~
19 ~~juvenile justice system, to intervene at an early stage of~~
20 ~~delinquency, and to provide critically needed alternatives to~~
21 ~~institutionalization and deep-end commitment.~~

22 ~~(c) Provide well-trained personnel, high-quality~~
23 ~~services, and cost-effective programs within the juvenile~~
24 ~~justice system.~~

25 ~~(d) Increase the capacity of local governments and~~
26 ~~public and private agencies to conduct rehabilitative~~
27 ~~treatment programs and to provide research, evaluation, and~~
28 ~~training services in the field of juvenile delinquency~~
29 ~~prevention.~~

30
31

1 ~~The Legislature intends that detention care, in addition to~~
 2 ~~providing secure and safe custody, will promote the health and~~
 3 ~~well-being of the children committed thereto and provide an~~
 4 ~~environment that fosters their social, emotional,~~
 5 ~~intellectual, and physical development.~~

6 ~~(4) DETENTION.--~~

7 ~~(a) The Legislature finds that there is a need for a~~
 8 ~~secure placement for certain children alleged to have~~
 9 ~~committed a delinquent act. The Legislature finds that~~
 10 ~~detention under part II should be used only when less~~
 11 ~~restrictive interim placement alternatives prior to~~
 12 ~~adjudication and disposition are not appropriate. The~~
 13 ~~Legislature further finds that decisions to detain should be~~
 14 ~~based in part on a prudent assessment of risk and be limited~~
 15 ~~to situations where there is clear and convincing evidence~~
 16 ~~that a child presents a risk of failing to appear or presents~~
 17 ~~a substantial risk of inflicting bodily harm on others as~~
 18 ~~evidenced by recent behavior; presents a history of committing~~
 19 ~~a serious property offense prior to adjudication, disposition,~~
 20 ~~or placement; has acted in direct or indirect contempt of~~
 21 ~~court; or requests protection from imminent bodily harm.~~

22 ~~(b) The Legislature intends that a juvenile found to~~
 23 ~~have committed a delinquent act understands the consequences~~
 24 ~~and the serious nature of such behavior. Therefore, the~~
 25 ~~Legislature finds that secure detention is appropriate to~~
 26 ~~provide punishment that discourages further delinquent~~
 27 ~~behavior. The Legislature also finds that certain juveniles~~
 28 ~~have committed a sufficient number of criminal acts, including~~
 29 ~~acts involving violence to persons, to represent sufficient~~
 30 ~~danger to the community to warrant sentencing and placement~~
 31 ~~within the adult system. It is the intent of the Legislature~~

1 ~~to establish clear criteria in order to identify these~~
2 ~~juveniles and remove them from the juvenile system.~~

3 ~~(5) SERIOUS OR HABITUAL JUVENILE OFFENDERS.--The~~
4 ~~Legislature finds that fighting crime effectively requires a~~
5 ~~multipronged effort focusing on particular classes of~~
6 ~~delinquent children and the development of particular~~
7 ~~programs. Florida's juvenile justice system has an inadequate~~
8 ~~number of beds for serious or habitual juvenile offenders and~~
9 ~~an inadequate number of community and residential programs for~~
10 ~~a significant number of children whose delinquent behavior is~~
11 ~~due to or connected with illicit substance abuse. In addition,~~
12 ~~a significant number of children have been adjudicated in~~
13 ~~adult criminal court and placed in Florida's prisons where~~
14 ~~programs are inadequate to meet their rehabilitative needs and~~
15 ~~where space is needed for adult offenders. Recidivism rates~~
16 ~~for each of these classes of offenders exceed those tolerated~~
17 ~~by the Legislature and by the citizens of this state.~~

18 ~~(6) SITING OF FACILITIES.--~~

19 ~~(a) The Legislature finds that timely siting and~~
20 ~~development of needed residential facilities for juvenile~~
21 ~~offenders is critical to the public safety of the citizens of~~
22 ~~this state and to the effective rehabilitation of juvenile~~
23 ~~offenders.~~

24 ~~(b) It is the purpose of the Legislature to guarantee~~
25 ~~that such facilities are sited and developed within reasonable~~
26 ~~timeframes after they are legislatively authorized and~~
27 ~~appropriated.~~

28 ~~(c) The Legislature further finds that such facilities~~
29 ~~must be located in areas of the state close to the home~~
30 ~~communities of the children they house in order to ensure the~~
31

1 ~~most effective rehabilitation efforts and the most intensive~~
2 ~~postrelease supervision and case management.~~

3 ~~(d) It is the intent of the Legislature that all other~~
4 ~~departments and agencies of the state shall cooperate fully~~
5 ~~with the Department of Juvenile Justice to accomplish the~~
6 ~~siting of facilities for juvenile offenders.~~

7
8 ~~The supervision, counseling, rehabilitative treatment, and~~
9 ~~punitive efforts of the juvenile justice system should avoid~~
10 ~~the inappropriate use of correctional programs and large~~
11 ~~institutions. The Legislature finds that detention services~~
12 ~~should exceed the primary goal of providing safe and secure~~
13 ~~custody pending adjudication and disposition.~~

14 (3)~~(7)~~ PARENTAL, CUSTODIAL, AND GUARDIAN
15 RESPONSIBILITIES.--Parents, custodians, and guardians are
16 deemed by the state to be responsible for providing their
17 children with sufficient support, guidance, and supervision to
18 deter their participation in delinquent acts. The state
19 further recognizes that the ability of parents, custodians,
20 and guardians to fulfill those responsibilities can be greatly
21 impaired by economic, social, behavioral, emotional, and
22 related problems. It is therefore the policy of the
23 Legislature that it is the state's responsibility to ensure
24 that factors impeding the ability of caretakers to fulfill
25 their responsibilities are identified through the delinquency
26 intake process and that appropriate recommendations to address
27 those problems are considered in any judicial or nonjudicial
28 proceeding.

29 Section 120. Section 39.012, Florida Statutes, is
30 amended to read:

31

1 39.012 Rules for implementation.--~~The Department of~~
 2 ~~Juvenile Justice shall adopt rules for the efficient and~~
 3 ~~effective management of all programs, services, facilities,~~
 4 ~~and functions necessary for implementing parts II and IV of~~
 5 ~~this chapter, and the Department of Children and Family Health~~
 6 ~~and Rehabilitative Services shall adopt rules for the~~
 7 ~~efficient and effective management of all programs, services,~~
 8 ~~facilities, and functions necessary for implementing parts~~
 9 ~~III, V, and VI of this chapter. Such rules may not conflict~~
 10 ~~with the Florida Rules of Juvenile Procedure. All rules and~~
 11 ~~policies must conform to accepted standards of care and~~
 12 ~~treatment.~~

13 Section 121. Sections 985.01-985.08, Florida Statutes,
 14 are designated as part I of chapter 985, Florida Statutes, and
 15 entitled "General Provisions." Sections 985.201-985.236,
 16 Florida Statutes, are designated as part II of chapter 985,
 17 Florida Statutes, and entitled "Delinquency Case Processing."
 18 Sections 985.301-985.316, Florida Statutes, are designated as
 19 part III of chapter 985, Florida Statutes, and entitled
 20 "Juvenile Justice Continuum." Sections 985.401-985.419,
 21 Florida Statutes, are designated as part IV of chapter 985,
 22 Florida Statutes, and entitled "Juvenile Justice System
 23 Administration." Sections 985.501-985.507, Florida Statutes,
 24 are designated as part V of chapter 985, Florida Statutes, and
 25 entitled "Interstate Compact on Juveniles."

26 Section 122. (1) It is the intent of the Legislature
 27 that chapter 39, Florida Statutes, be reserved for sections of
 28 statute relating to dependency, children in foster care, and
 29 termination of parental rights; that chapter 985, Florida
 30 Statutes, be reserved for sections of statute relating to
 31 delinquency and the interstate compact on juveniles; and that

1 chapter 984, Florida Statutes, be reserved for sections of
2 statute relating to children in need of services and families
3 in need of services.

4 (2) It is further the intent of the Legislature that
5 any legislation enacted during the 1997 Regular Session
6 affecting chapter 39, Florida Statutes, either before or after
7 the passage of this legislation, shall, upon becoming law
8 either before or after this act becomes law, be given full
9 force and effect substantively, but such new substantive
10 provisions of law shall be integrated into the new statutory
11 framework created in this act, and shall be assigned to the
12 appropriate chapter of statute, as follows:

13 (a) Laws amending any provision of part I of chapter
14 39, Florida Statutes, shall receive duplicate assignment to
15 appropriate parallel provisions in chapters 39, 984, and 985,
16 Florida Statutes, unless a contrary intention is expressed;

17 (b) Laws amending any provision of part II of chapter
18 39, Florida Statutes, shall be deemed to amend appropriate
19 parallel provisions in chapter 985, Florida Statutes, unless a
20 contrary intention is expressed. Any statutes sections created
21 within part II of chapter 39 in the 1997 Regular Session,
22 shall be renumbered and placed in chapter 985, as appropriate,
23 unless a contrary intention is expressed;

24 (c) Laws amending any provision of part III of chapter
25 39, Florida Statutes, shall be unaffected by this legislation
26 unless a contrary intention is expressed;

27 (d) Laws amending any provision of part IV of chapter
28 39, Florida Statutes, shall be deemed to amend appropriate
29 parallel provisions in chapter 984, Florida Statutes, unless a
30 contrary intention is expressed. Any statutes sections created
31 within part IV of chapter 39 in the 1997 Regular Session,

1 shall be renumbered and placed in chapter 984, as appropriate,
2 unless a contrary intention is expressed;

3 (e) Laws amending any provision of part V of chapter
4 39, Florida Statutes, shall be unaffected by this legislation
5 unless a contrary intention is expressed;

6 (f) Laws amending any provision of part VI of chapter
7 39, Florida Statutes, shall be unaffected by this legislation
8 unless a contrary intention is expressed; and

9 (g) Laws amending any provision of part VII of chapter
10 39, Florida Statutes, shall receive duplicate assignment to
11 appropriate parallel provisions in chapters 39, 984, and 985,
12 Florida Statutes, unless a contrary intention is expressed.

13 (3) In the preparation of the 1997 Florida Statutes,
14 pursuant to section 11.242, Florida Statutes, the Division of
15 Statutory Revision is directed to incorporate the
16 reorganization of the content of chapter 39, Florida Statutes,
17 into the three separate chapters of statute as provided in
18 this act and in accordance with the legislative intent
19 expressed in this section.

20 Section 123. (1) The Juvenile Justice Advisory Board
21 and the Department of Juvenile Justice shall develop, in
22 cooperation with contract providers of aftercare services, an
23 agreement for the purpose of conducting research to determine
24 which aftercare program models are most effective. The
25 agreement shall, at a minimum, include:

26 (a) Which questions will be answered by the research;

27 (b) Which aftercare models will be tested;

28 (c) The research design;

29 (d) Responsibilities for carrying out the research,
30 including data collection, among the board, the department,
31

1 contract providers of aftercare services, and third party
2 consultants;
3 (e) Procedures for selecting consultants; and
4 (f) The timetable for completing the project and
5 reporting results to the Legislature.
6 (2) The Juvenile Justice Advisory Board and the
7 Department of Juvenile Justice shall submit an interim report
8 on the development of an agreement on an aftercare research
9 project to the Legislature on or before November 1, 1997. The
10 Juvenile Justice Advisory Board and the Department of Juvenile
11 Justice shall submit a final report on the aftercare research
12 project to the Legislature on or before December 31, 1998.
13 Section 124. This act shall take effect October 1,
14 1997.