

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 22, 1998 Revised: _____

Subject: Juveniles/Criminal Offenses

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	Dugger	Miller	CJ	Favorable/CS
2.	_____	_____	CF	_____
3.	_____	_____	WM	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The CS makes numerous changes in juvenile and criminal justice procedures for juvenile offenders in both the juvenile and adult systems. Provisions include:

- ▶ Making all juvenile court records public, expanding provisions for the retention of juvenile records, and merging such records with a person’s adult criminal record for adult sentencing purposes;
- ▶ Allowing a witness to be impeached on the basis of an adjudication of delinquency to the same extent as allowed for adult convictions;
- ▶ Adding attempts to commit an offense for purposes of transferring juvenile offenders to adult court by mandatory and discretionary waiver hearings and direct file procedures;
- ▶ Striking the current mandatory transfer provision for a juvenile offender who has three (3) prior separate adjudications for felonies with each resulting in placement in a DJJ residential commitment facility;
- ▶ Providing a new mandatory direct file provision and mandatory adult sentencing where a juvenile offender (age 16 or 17) has three (3) prior felony adjudications or adjudications withheld or six (6) misdemeanors or any combination of six (6) offenses, each act separated in time by 45 days or more from each other;
- ▶ Providing for mandatory waiver and the imposition of adult sanctions for a juvenile offender (age 14 and older) transferred for a felony or misdemeanor offense when the offender has a prior adjudication of delinquency for murder, sexual battery, robbery, car jacking, home invasion, aggravated battery or assault, and has been charged with a second violent offense or when the juvenile has three (3) prior felony adjudications, one of which involved a firearm or violence, and the current offense is a felony;

- ▶ Creating early intervention boot camps for youth 12 years of age or older who have no more than 2 prior felony cases nor more than 4 prior misdemeanor cases for a length of stay in the boot camp of no less than 10 days with 2 months of aftercare; and
- ▶ Requiring the DJJ's cost-benefit report to include specific cost and recidivism data.

This CS substantially amends, creates, or repeals the following sections of the Florida Statutes: 90.610, 921.0011, 921.0021, 943.0515, 985.03, 985.04, 985.31, 985.05, 985.211, 985.21, 985.213, 985.215, 985.208, 985.219, 985.2155, 985.218, 985.226, 985.227, 985.228, 985.231, 985.233, 985.225, 985.31, 985.309, 985.231, 985.31, 985.311, 985.314, and 985.404.

II. Present Situation:

The federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) reports that many states have weighed and are continuing to weigh the value of maintaining the confidentiality of juvenile records against the opening of juvenile records, and, in effect, treating juvenile records much like adult criminal records. In doing so, states weigh the protection of juvenile offenders against the protection of the community and the right to privacy versus the right to know.¹

In a OJJDP report entitled *Responses to Serious and Violent Juvenile Crime (1996)*, a summary is presented of current confidentiality provisions relating to serious or violent juvenile offenders in the states. Many states have opened juvenile court proceedings to the public for either crimes generally or for only violent or serious crimes. Also, many states now permit the publication of a minor's name and address if the minor was adjudicated delinquent for specified serious or violent crimes or repeat offenses. In the OJJDP report, the following information is presented:

- (1) 22 states have open hearings;
- (2) 39 states allow the release of juvenile names for certain offenses;
- (3) 45 states allow the release of court records under specified conditions;
- (4) 51 states allow the fingerprinting of juveniles;
- (5) 51 states allow the photographing of juveniles; and
- (6) 44 states maintain a statewide repository of juvenile records.

The Department of Juvenile Justice (DJJ), the courts, and the Florida Department of Law Enforcement (FDLE) are the primary agencies that maintain juvenile offender records. The DJJ may not destroy records for youth found guilty of committing a delinquent act except as provided in s. 985.04, F.S. The juvenile records are sealed by the court of jurisdiction and may be accessed in cases such as employment screening or by rules of the DJJ. The public may not inspect juvenile records maintained by the DJJ without first receiving authorization from the Secretary of the DJJ or his authorized agent. Disclosure is prohibited until sufficient reason is established and the conditions for their use is approved. s. 985.05, F.S.

¹ Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice, *State Responses to Serious and Violent Juvenile Crime (1996)*.

Section 985.04, F.S., stipulates that any juvenile record information collected by the following authorized agents and agencies in the discharge of official duty must remain confidential:

- ▶ A judge or employee of the court;
- ▶ An authorized agent of the DJJ;
- ▶ The Parole Commission;
- ▶ The Juvenile Justice Advisory Board (JJAB);
- ▶ The Department of Corrections;
- ▶ District juvenile justice boards;
- ▶ Any law enforcement agent; and
- ▶ Any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile.

The information may be disclosed to the authorized personnel of the above mentioned organizations or agencies or persons entitled to receive juvenile information. In addition, the information may be disclosed upon an order of the court.

The clerk of the court is required under s. 985.05, F.S., to maintain juvenile records until a youth reaches age 24 or age 26 for serious or habitual delinquent offenders, until 5 years after the last entry was made, or until 3 years after the death of a child, whichever is earlier. Then the records are destroyed.

Chapter 943, F.S., authorizes the FDLE to maintain criminal history records of adults and juveniles. Minors charged with or found to have committed an offense that would be a felony if committed by an adult are fingerprinted and the fingerprints submitted to the FDLE. s. 943.051, F.S. In addition, any minor charged with or found to have committed the following misdemeanors is fingerprinted and the fingerprints are sent to FDLE:

- ▶ Assault;
- ▶ Battery;
- ▶ Carrying a concealed weapon;
- ▶ Unlawful use of destructive devices or bombs;
- ▶ Negligent treatment of children;
- ▶ Assault or battery on a law enforcement officer, a firefighter or other specified officers as defined in s. 784.07(2)(a) and (b), F.S., relating to assault or battery of public officers and employees and other specified persons;
- ▶ Open carrying of a weapon;
- ▶ Exposure of sexual organs;
- ▶ Unlawful possession of a firearm;
- ▶ Petit theft;
- ▶ Cruelty to animals; and
- ▶ Arson.

Criminal history information is made available on a priority basis to criminal justice agencies for criminal justice purposes free of charge. Non-criminal justice agencies can receive record information at cost. Criminal records information is also provided to persons in the private sector for the cost of producing the record information. The information may be used only for the purpose stated in the original request. s. 943.053, F.S.

The FDLE retains the criminal history of a minor classified as a serious or habitual juvenile offender for 5 years after the date the offender reaches 21 years of age. Records of minors not classified as serious or habitual offenders are retained for 5 years after a minor reaches 19 years of age. The records are expunged unless a person 18 years of age or older is charged with or convicted of a forcible felony and the person's juvenile record has not been destroyed. If this is the case, the person's adult criminal history record must be merged with the juvenile record and be retained as the person's adult record. A person's juvenile record is also not expunged if a minor is adjudicated as an adult for a forcible felony, in which case the minor's criminal history record prior to the time of the minor's adjudication as an adult must be merged with his adult record. s. 985.0515, F.S.

Juvenile records are used during sentencing in adult criminal cases. However, other uses of a juvenile's record are limited. For example, evidence of juvenile adjudications cannot be used to attack the credibility of a witness in adult proceedings. The credibility of a witness may be attacked in adult proceedings if evidence is shown that the witness was convicted of a crime that was punishable either by death or imprisonment exceeding 1 year under the law under which the witness was convicted, or if the crime involved dishonesty or a false statement. s. 90.610, F.S.

Sections 921.0011 and 921.0021, F.S., relating to sentencing guidelines and the Criminal Punishment Code, define a "prior record" as a conviction for a crime committed by the offender, as an adult or a juvenile, prior to the time of the primary offense. Federal, out-of-state, military, foreign court convictions, and violations of county or municipal ordinances that incorporate by reference a penalty under state law, are included in an offender's prior record.

Juvenile dispositions of offenses committed by the offender within 3 years before the primary offense are included in the offender's prior record for purposes of adult sentencing when the offense would have been a crime if committed by an adult. Juvenile dispositions of sexual offenses committed by the offender which were committed 3 years or more before the primary offense are included in the offender's prior record if the offender has not maintained a conviction-free record, either as an adult or a juvenile, for 3 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later, to the date of the primary offense.

Methods of Transferring a Juvenile Offender to Adult Court -- Under Florida law, there are five ways that a juvenile offender charged with a criminal offense can have his or her case transferred to adult court. Once a juvenile offender is transferred to adult court and found guilty for the offense or lesser included offenses, the juvenile offender must be handled thereafter in every respect as an adult for any subsequent violation of state law, unless the adult court judge imposes juvenile sanctions pursuant to s. 985.233(4)(b), F.S. Transfer mechanisms include the following:

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- (1) A juvenile offender may demand to be tried as an adult. The juvenile court judge must transfer the case to adult court if prior to the start of an adjudicatory hearing, the juvenile offender, joined by a parent or legal guardian, demands in writing to be tried as an adult. This transfer mechanism is referred to as a voluntary waiver. s. 985.226(1), F.S.
 - (2) The state attorney has the discretion and may request the court to transfer a juvenile offender, 14 years-of-age or older, to adult court for criminal prosecution for any violation of law. If the juvenile offender has previously been adjudicated delinquent for murder, sexual battery, armed or strong armed robbery, carjacking, home invasion robbery, aggravated battery, or aggravated assault, and is charged with a second or subsequent violent crime against a person, the state attorney must file a motion with the juvenile court requesting the court to transfer the juvenile offender to adult court or proceed pursuant to s. 985.227(1), F.S., which gives the state attorney the discretion to file an information on the juvenile offender. s. 985.226(2)(a), F.S.
 - (3) If a juvenile offender is 14 years-of-age or older at the time of committing a fourth or subsequent felony offense and the juvenile offender was adjudicated for three previous felony offenses, of which one or more offenses involved the use or possession of a firearm or violence against a person, the state attorney must request the juvenile court to transfer the juvenile offender to adult court or provide reasons to the court for not making the request. Upon the state attorney's request to the juvenile court, the judge must either order the juvenile offender to be transferred to adult court or provide written reasons for not issuing such an order. The state attorney may also proceed pursuant to ss. 985.227(1) and s. 985.226(b), F.S.
 - (4) If a juvenile offender of any age is charged with a violation of law punishable by death or life imprisonment and a grand jury issues an indictment, the juvenile must be tried as an adult. s. 985.225(1), F.S.
 - (5) A. Under s. 985.227(1)(a), F.S. the state attorney may file an information on any juvenile offender age 14 or 15 at the time of the offense when in the state attorney's judgement the public interest requires that adult sanctions be considered or imposed and the juvenile offender is charged with one of the following offenses:
 - Arson;
 - Sexual battery;
 - Robbery;
 - Kidnaping;
 - Aggravated child abuse;
 - Aggravated assault;
 - Aggravated stalking;
 - Murder;
 - Manslaughter;
 - Throwing, placing or discharging a destructive device or bomb;

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- Armed burglary in violation of s. 810.02(2)(b), F.S.;
 - Burglary of a dwelling in violation of s. 810.02(2)(c), F.S.;
 - Aggravated battery;
 - Lewd or lascivious assault or act in the presence of a child;
 - Carrying, displaying, using, threatening or attempting to use a weapon or firearm during the commission of a felony; and
 - Grand theft in violation of s. 812.014(2)(a), F.S.
- B. The state attorney has the discretion to direct file a juvenile offender who is 16 or 17 at the time of the offense for any felony offense. If the juvenile offender has two previous adjudications or adjudications withheld for delinquency acts, of which one was a felony, the state attorney may direct file the juvenile offender to adult court for a misdemeanor offense. s. 985.227(1)(b), F.S.
- C. If a juvenile offender is 16 or 17 years-of-age and is currently charged with a second or subsequent violent crime against a person and the juvenile offender has a previous adjudication for murder, sexual battery, armed or strong-armed robbery, carjacking, home invasion robbery, aggravated battery, or aggravated assault, the state attorney must file an information that directly transfers the case to adult court. s. 985.227(2)(a), F.S.
- D. Regardless of the juvenile offender's age at the time of offense, the state attorney is required to direct file the juvenile offender to adult court if the juvenile offender has previously been adjudicated three or more times for felony offenses and three of the adjudications resulted in placement in a residential commitment facility. s. 985.227(2)(b), F.S.
- E. The state attorney is also required to direct file a juvenile offender to adult court, regardless of the juvenile offender's age at the time of the offense, if the juvenile offender is charged with an offense involving stealing a motor vehicle and while driving the motor vehicle caused the death or serious bodily injury to a person. s. 985.227(2)(c), F.S.

Section 985.227(4), F.S., requires state attorneys to develop and annually update written policies and guidelines to govern determinations for filing an information on a juvenile. These policies and guidelines are submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Juvenile Justice Advisory Board by January 1 of each year.

Number of Juvenile Offenders Transferred to Adult Court -- According to data from the DJJ, the number of cases transferred from juvenile court to adult court has fluctuated over the past 5 years from a high of 7,315 cases in FY 1995-96 to a low of 5,357 cases in FY 1996-97. The number of youth transferred to adult court has also followed the same pattern over the past 5 years. In FY 1995-96, the number of youth transferred to adult court was a high of 5,357 while the number of youth transferred in FY 1993-94 was a low of 4,636.

According to DJJ data, burglary is the most common charge for which a youth is transferred to adult court. Over the past 5 years, this offense accounted for between 21 percent and 23 percent of all cases transferred to adult court. The number of cases transferred for burglary has declined 15 percent over the past 5 years.

About 30 percent of the offenses for which youth are transferred consist of three offenses. Robbery accounted for 15 percent of the cases transferred, auto theft 6 percent, and aggravated assault 9 percent. The number of aggravated assault cases transferred to adult court declined 12 percent from FY 1995-96 to FY 1996-97. Auto theft cases transferred to adult court declined about 29 percent from FY 1995-96 to FY 1996-97. Over the past 5 years, auto theft cases transferred to adult court have declined 48 percent.

The number of felony drug offenses transferred to adult court has increased 23 percent over the past 5 years, accounting for about 13 percent of the total number of cases transferred to adult court in FY 1996-97. The number of felony marijuana cases has increased from 56 cases in FY 1992-93 to 105 cases in FY 1996-97, which is an increase of 88 percent.

Sentencing Options for Juvenile Offenders Transferred to Adult Court -- Section 985.233, F.S., defines sentencing options for juvenile offenders transferred to adult court. An offender found to have committed a violation of law may, as an alternative to adult dispositions, be committed to the DJJ for placement in a residential commitment program or be placed on DJJ community control. In determining whether to impose juvenile sanctions on a juvenile offender transferred to adult court, the court must consider the following factors:

- ▶ The seriousness of the offense and whether the community would best be protected by juvenile or adult sanctions;
- ▶ Whether the offense was committed in an aggressive, violent, premeditated, or willful manner;
- ▶ Whether the offense was against persons or against property, with greater weight being given to offenses against persons, specifically if personal injury resulted;
- ▶ The sophistication and maturity of the offender;
- ▶ The record and previous history of the offender (prior arrests, referrals, placements on community control or prior commitments to DJJ);
- ▶ The prospects for adequate protection of the public and the likelihood of deterrence and reasonable rehabilitation of the offender if assigned to services immediately available;
- ▶ Whether the DJJ has appropriate programs, facilities, and services immediately available; and

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

Section 985.233(2) and (3), F.S., require a presentence investigation report prepared by the Department of Corrections (DOC) with a recommendation by the DJJ on what sanctions would be appropriate following a finding of guilt. At the sentencing hearing, all parties are heard and the court may receive all relevant material related to sentencing the offender. Under current law, adopted in the 1997 Legislative session, the trial court can impose an adult sanction or a juvenile sanction and may not sentence the offender to a combination of adult and juvenile punishments. If the juvenile offender is given juvenile sanctions and the DJJ determines that the juvenile offender is not suitable for a community control program or placement in a residential commitment program, the court may revoke the previous adjudication, impose an adjudication of guilt, classify the offender as a youthful offender when appropriate and impose an adult sentence.

What Happens to Juvenile Offenders Transferred to Adult Court -- The DJJ does not maintain data on what happens to those youth who are transferred to adult court. However, based on data from the DOC, for FY 1996-97, there were 782 offenders under the age of 18 admitted to a state prison. Offenders this age are placed in one of thirteen DOC youthful offender facilities. Inmates under the age of 24 are either sentenced or classified by DOC as youthful offenders.

Youthful offenders who are between the ages 14 and 18 years old are separated from youthful offenders ages 19 to 24. There are currently two DOC correctional facilities for youthful offenders age 18 and below. They are the Indian River Correctional Institution (population 351 on 6/30/97) and the Hillsborough Correctional Institution (population 329 on 6/30/97).

In FY 1996-97, there were 1,664 offenders under the age of 18 placed on adult community supervision and on June 30, 1997, there were 1,039 offenders under the age of 18 on adult community supervision caseloads.

Speedy Trial Provision in Juvenile Court -- Section 16, Art. 1 of the State Constitution provides that in all criminal prosecutions, the accused has a right to a speedy and public trial. Section 918.015, F.S., provides that in all criminal prosecutions, the state and the defendant shall each have the right to a speedy trial. This section also requires the Supreme Court to provide procedures by which the right to a speedy trial will be realized.

Section 985.218(6), F.S., requires that if a petition has been filed alleging that a child has committed a delinquent act, the adjudicatory hearing on the petition must begin within 90 days after the earlier of the date the child is taken into custody or the date the petition is filed. A child shall be deemed to have been brought to trial if an adjudicatory hearing begins within the 90 days. If an adjudicatory hearing does not begin within the 90-day period or the court does not grant an extension, the petition is dismissed with prejudice. A judge may extend the 90-day period upon a motion by any party after a finding of good cause by the judge. Heavy workload before the court, lack of diligent preparation for the case, failure to obtain witnesses, or other avoidable or foreseeable delays are not sufficient causes for such an extension.

Rule 8.090 of the Florida Rules of Juvenile Procedure encompasses the speedy trial rule for juveniles. It provides for a number of reasons for a court to extend the 90-day period. These reasons include the following:

- ▶ An extension stipulated by the child's counsel.
- ▶ An extension by a written or recorded order of the court on the court's own motion or by motion by either party in exceptional circumstances which may include:
 - ▶ illness or unexpected incapacity or unavoidable absence of a person whose presence or testimony is uniquely necessary;
 - ▶ the state showing that the case is so unusual or complex that it is unreasonable to expect adequate preparation within the 90 day period;
 - ▶ the state demonstrating that specific evidence or testimony is not available, despite diligent efforts to secure it, but will be available at a later date;
 - ▶ the state or the child citing developments which could not have been anticipated and will be material at trial;
 - ▶ a showing by either party that a delay is necessary to accommodate a co-respondent; or
 - ▶ the state showing that the child has caused a major delay or disruption of preparation or proceedings or has prevented the attendance of witnesses.

Boot Camps — Section 985.309, F.S., authorizes the DJJ, contingent upon state appropriations, and counties and municipalities, contingent upon local funding, to operate juvenile boot camp programs which are required to provide intensive educational and physical training, as well as rehabilitative programs for appropriately screened youths. A youth is eligible to be placed in a boot camp if he has been committed to the DJJ, is between the ages of 14 and 18 years at the time of adjudication, and has committed any offense that would be a felony if committed by an adult, except a capital felony, a life felony, or a violent first-degree felony.

The statute requires a minimum length of stay in a boot camp as follows: at least two months in the boot camp component of the program and two months in the aftercare component if the youth is in a low-risk residential commitment program; and at least four months in the boot camp component of the program and four months in the aftercare component if the youth is in a moderate-risk residential commitment program. Most of the boot camp participants are classified as moderate-risk.

Currently, there are eight juvenile boot camps operating around the state in the following counties: Leon, Bay, Pinellas, Manatee, Polk, Orange, Martin, and Collier. All of them are operated through contract, primarily with the respective local sheriff's office. Another boot camp is under development in Monroe County and will be operational later this year.

Section 985.309, F.S., requires the DJJ to conduct quarterly inspections and evaluations of each county or municipal boot camp program to ensure that the program meets the department's

operational standards. A program failing to meet these standards is required to be terminated if a material deficiency is not corrected by the next quarterly inspection. The DJJ is authorized to charge a monitoring fee of 0.5 percent of the boot camp's direct operating costs. The DJJ is required to publish an outcome evaluation study of each boot camp program within 18 months after the fourth platoon has graduated from a program.

Juvenile Justice Cost-Benefit Analysis -- Presently, the DJJ consults with the Juvenile Justice Advisory Board (JJAB) and providers to develop a cost-benefit model and apply the model to each commitment program. A report ranking commitment programs based on cost-benefit is submitted to the appropriate substantive and appropriations committees of each house of the Legislature by December 31 of each year.

III. Effect of Proposed Changes:

The CS makes the following changes in juvenile and criminal justice procedures for juveniles in both the juvenile and adult systems.

Section 1. The CS amends existing language in the Florida Evidence Code, s. 90.610, F.S., permitting adjudications of delinquency for felony offenses as evidence when attacking the credibility of witnesses. Current law states that the credibility of a witness may be attacked if evidence is shown that the witness was convicted of a crime punishable by death or imprisonment exceeding 1 year under the law under which the witness was convicted. The credibility of witnesses may also be attacked if evidence is shown that a witnesses was convicted of crimes of dishonesty or false statements. Juvenile records are exempt from this provision.

The CS expands the current language to allow the credibility of any witness to be attacked if evidence is shown that the witness was adjudicated delinquent for an act that would be punishable by death or imprisonment exceeding 1 year if committed by an adult under the law under which the witness was delinquent or if the delinquent act involved dishonesty or a false statement.

Section 2. The CS amends the definition of "prior record" to include all of an offender's prior juvenile history of acts that would be crimes if committed by an adult. The crimes would be scored and considered to the same extent as offenses committed by an adult. An adjudication withheld or an adjudication of delinquency would be considered a conviction.

Presently, juvenile dispositions of offenses committed by the offender within 3 years before the primary offense are included in the offender's prior record when the offense would have been a crime had the offender been an adult. Juvenile dispositions of sexual offenses committed by the offender which were committed 3 years or more before the primary offense are included in the offender's prior record if the offender has not maintained a conviction-free record, either as an adult or a juvenile, for 3 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later, to the date of the primary offense.

Section 3. The amended definition of “prior records” expires October 1, 1998. This gives three months life span to prior records under the sentencing guidelines, at which time they will expire and be replaced by the Criminal Punishment Code.

Section 4. The definition of “prior record” is amended under the Criminal Punishment Code, s. 985.0021, F.S. This language is identical to the language in section 2 of the CS. The Criminal Punishment Code replaces the sentencing guidelines as of October 1, 1998.

Section 5. Criminal history retention of juvenile records under s. 943.0515, F.S., is amended by the CS. Under CS/SB 2008, if a person is charged as an adult for committing a felony and the person’s criminal history record as a minor has not been destroyed, the person’s record as a minor would be merged with the person’s adult criminal history record and would be retained as part of the person’s adult record. If at any time a minor is adjudicated as an adult for a felony (currently restricted to a forcible felony), the minor’s criminal history record prior to the time of the minor’s adjudication as an adult must be merged with his record as an adjudicated adult.

Section 6. The CS creates a definition of “violation of supervision” in s. 985.03, F.S., to mean a violation of community control or a violation of any other sanction imposed as a result of a disposition for a delinquent act, including furlough and aftercare.

Section 7. Under the CS, juvenile records are no longer considered confidential. The CS amends s. 985.04, F.S., by making all of a juvenile’s prior history of acts that would be crimes if committed by an adult and orders of disposition for such acts public records.

Section 8. Subsection (k) of s. 985.31, F.S., is reenacted for the purpose of incorporating the amendment to s. 985.04, F.S.

Section 9. The CS amends s. 985.05, F.S., by requiring that the court maintain juvenile records until a youth reaches age 24 or age 26 for serious or habitual delinquent offenders, or until 3 years after the death of a child, whichever is earlier. The CS deletes the option to destroy records 5 years after the last entry. The CS also states that if a defendant is sentenced for a felony committed before reaching age 24, the clerk is required to merge the defendant’s record of prior delinquent acts with his adult record. Those merged record are not confidential.

Section 10. The CS amends s. 985.228, F.S., to provide that, except as otherwise provided in law, an adjudication of delinquency shall not be equivalent to a conviction nor a finding of guilt.

Section 11. The CS amends s. 985.21, F.S., to provide that unless otherwise required by law, a state attorney has several options for handling a delinquency referral.

Section 12. The CS amends s. 985.211, F.S., to provide that a written report or probable cause affidavit be given to the DJJ for a youth taken into custody for a violation of supervision.

Section 13. The CS reenacts s. 985.208, F.S., for the purpose of incorporating the amendment to s. 985.215, F.S., relating to detention.

Sections 14. The CS adds a new subsection to s. 985.219, F.S., authorizing the court to assess a civil penalty of up to \$100 on a parent, legal guardian, or adult relative who receives a notice to appear, accepts custody of a child from a law enforcement officer or an authorized agent of the DJJ, and who fails to produce the child for any specified court proceeding. A civil penalty of up to \$100 may also be assessed upon any parent or legal guardian who fails to bring a child to a court appearance in response to a summons.

Section 15. The CS corrects a reference to s. 985.215, F.S., relating to detention.

Section 16. The CS makes technical corrections to s. 985.231, F.S., relating to powers of disposition, and provides that unless otherwise provided by law, a court may not commit a child to a jail or to a facility used primarily as a detention center or shelter.

Section 17. The CS repeals subsection (6) of s. 985.218, F.S., relating to speedy trial requirements for cases filed in juvenile court. The comprehensive speedy trial provisions in Fla.R.Juv.P. 8.090 will apply.

Section 18. The CS amends s. 985.226, F.S., by adding attempts to commit the enumerated offenses for which a juvenile offender must be transferred to adult court through a motion to waive juvenile court jurisdiction to adult court.

Section 19. Amends s. 985.227, F.S., by adding attempts to commit the enumerated offenses for which a juvenile offender is mandatorily direct filed or direct filed at the discretion of the state attorney. The CS also requires that a juvenile offender who is 16 years of age or older be mandatorily direct filed by a state attorney if the juvenile offender has three prior felonies, or six prior misdemeanors, or any combination of six offenses. Each of these offenses must be separated in time by 45 days or more from each other.

Section 20. The CS amends s. 985.233, F.S., to require that for juvenile offenders age 16 or 17 mandatorily transferred to adult court pursuant to section 19 above, the court may only sentence the offender to adult sanctions. It also requires mandatory adult sanctions for juvenile offenders age 14 and older who are mandatorily transferred to adult court for a felony or a misdemeanor offense when the offenders have a prior adjudication for the commission or attempt to commit murder, sexual battery, robbery, carjacking, home invasion, aggravated battery, or aggravated assault, and have been charged with a second violent crime or when the juvenile has three prior felony adjudications, one involving a firearm or violence, and the current offense is a felony.

Sections 21 and 22. Sections 985.225, and 985.31, F.S., are reenacted for the purpose of incorporating amendments to s. 985.233, F.S.

Section 23. The eligibility requirements for boot camps under s. 985.309, F.S., are expanded to include a youth 14 and older who has not entered a plea of guilty or nolo contendere or been adjudicated of a capital, life, or violent first degree felony.

Early intervention boot camps are also created for offenders at least 12 years of age. To be eligible, offenders cannot have entered a plea of guilty or nolo contendere to or been adjudicated of a capital, life, or violent first degree felony. In addition, a youth cannot have more than two prior cases involving acts that would be felonies if committed by an adult or more than four prior cases involving any combination of acts that would be either misdemeanors or felonies if committed by an adult.

The DJJ and county or municipal governments can operate an early intervention boot camp. The program would have a minimum 10-day residential component followed by at least two months of aftercare. Early intervention boot camps are classified as low-risk residential programs. Young offenders are discouraged from committing further offenses through intensive educational and physical training, discipline, and personal responsibility.

Sections 24-27. Sections 985.231, 985.31, 985.311, and 985.314, F.S., are reenacted to incorporate the amendment to s. 985.309, F.S.

Section 28. The CS amends s. 985.404, F.S., to require the DJJ and the JJAB to consider the following factors in the annual cost-benefit report:

- ▶ The recidivism rate measured by whether a juvenile has been arrested within 1 year of leaving a commitment program, regardless of whether the commitment program was successfully completed;
- ▶ The seriousness of the criminal history of the juveniles in the program;
- The program's cost per client; and
- The average age of the juveniles in the program.

Section 29. The CS provides an effective date of July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference met to consider the impact of this CS in April, 1998. The projected impact is as follows.

The DOC estimates that the additional workload resulting from the statutory changes proposed in this CS related to researching an offender's prior juvenile record would require 21 additional FTE's for a first year cost of \$1,035,386.

Also, the estimated impact on Punishment Code scores by opening up an offender's prior juvenile record is indeterminate but potentially significant. Since more of an offender's criminal/juvenile offense history will be scored resulting in higher Punishment Code scores, additional prison beds and probation officers will be needed.

The fiscal impact of the mandatory transfer provision is indeterminate but potentially significant since the only way that the DOC can quantify the impact is to estimate the minimum sentence (adult community supervision) for those juvenile offenders transferred to adult court. In FY 1996-97, there were 1,195 16 and 17-year-old offenders meeting the above criteria who were not transferred to adult court. The DOC assumes that about 25 percent of these offenders would not receive a DOC sentence. Should the remaining offenders receive a sentence of DOC community supervision, FY 1998-99 and FY 1999-00 total costs for DOC is estimated to be \$51,738,016. These costs are for 17 additional DOC correctional probation officer staff.

However, the DOC believes that a percentage of these offenders would receive a prison sentence. Assuming a prison sentence is given to 17 percent of this offender population, the DOC estimates that it will cost \$14,438,867 over the next 2 years, FY 1998-99 and FY 1999-00, to build and operate 279 additional youthful offender prison beds to house those juvenile offenders meeting the criteria for mandatory transfer to adult court.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
