

By the Committee on Criminal Justice and Senator Lee

307-2202A-98

1 A bill to be entitled
2 An act relating to delinquent acts or criminal
3 offenses committed by juveniles; amending s.
4 90.610, F.S., relating to conviction of certain
5 crimes as impeachment; providing that certain
6 adjudications of delinquency are admissible
7 into evidence for impeachment purposes;
8 amending s. 921.0011, F.S.; redefining the term
9 "prior record" with respect to specified
10 provisions relating to sentencing; providing
11 for scoring as adult offenses an offender's
12 prior juvenile offenses that would be crimes if
13 committed by an adult; providing for a
14 withholding of an adjudication of delinquency
15 or an adjudication of guilt to be considered a
16 conviction for certain purposes relating to
17 sentencing; providing for expiration; amending
18 s. 921.0021, F.S.; redefining the term "prior
19 record" with respect to specified provisions
20 relating to sentencing; providing for scoring
21 as adult offenses an offender's prior juvenile
22 offenses that would be crimes if committed by
23 an adult; amending s. 943.0515, F.S., relating
24 to retention of criminal history records of
25 minors; providing for an offender's criminal
26 history record of forcible or nonforcible
27 felonies charged as an adult to be merged and
28 retained as a part of the person's adult
29 criminal history record, under specified
30 circumstances; amending s. 985.03, F.S.;
31 defining "violation of supervision" with

1 respect to specified provisions relating to
2 delinquency; amending s. 985.04, F.S., relating
3 to oaths, records, and confidential
4 information; providing for public disclosure of
5 all of a juvenile's prior history of acts that
6 would be crimes if committed by an adult, and
7 of orders of disposition for such acts;
8 providing for a withholding of an adjudication
9 of delinquency or an adjudication of guilt to
10 be considered a conviction for certain purposes
11 relating to disclosure of the records;
12 reenacting s. 985.31(4)(k), F.S., relating to
13 serious or habitual juvenile offenders, to
14 incorporate said amendment in a reference;
15 amending s. 985.05, F.S., relating to court
16 records; providing for nonapplicability of
17 certain recordkeeping requirements to
18 nonconfidential juvenile history records;
19 providing for admissibility in other civil or
20 criminal proceedings of certain court records
21 of juvenile proceedings; providing for merger
22 of a defendant's record of prior delinquent
23 acts with the defendant's adult record, under
24 specified circumstances; amending s. 985.211,
25 F.S., relating to release or delivery from
26 custody; providing for reference to violation
27 of supervision in certain written reports or
28 probable cause affidavits; amending s. 985.21,
29 F.S., relating to intake and case management;
30 providing that the state attorney may take
31 certain actions unless otherwise required by

1 law; amending s. 985.213, F.S., relating to use
2 of detention; conforming references; reenacting
3 s. 985.208(1), relating to detention of
4 furloughed child or escapee on authority of the
5 department, and s. 985.219(5), relating to
6 process and service, to incorporate said
7 amendment in references; amending s. 985.219,
8 F.S.; providing a civil penalty for any parent,
9 legal guardian, or adult relative who fails to
10 produce a child for a court appearance;
11 repealing s. 985.218(6), F.S., relating to
12 petitions for delinquency; removing provisions
13 requiring the dismissal of a petition with
14 prejudice when the adjudicatory hearing is not
15 commenced within 90 days; removing provisions
16 authorizing the court to extend the 90-day
17 period; amending s. 985.226, F.S., relating to
18 criteria for discretionary waiver and mandatory
19 waiver of juvenile court jurisdiction;
20 providing for the state attorney to file a
21 motion requesting the court to transfer a child
22 of at least 14 years of age for criminal
23 prosecution, under specified circumstances;
24 providing for exceptions; amending s. 985.227,
25 F.S., relating to discretionary direct-file
26 criteria and mandatory direct-file criteria;
27 permitting the filing of an information when a
28 child was 14 or 15 years of age at the time the
29 child attempted to commit any one of specified
30 offenses; requiring the state attorney to file
31 an information for certain illegal acts when

1 the child committing the act is at least 16
2 years of age and has a specified history of
3 delinquent acts; revising duties of the court
4 and guidelines for transfer of cases pertaining
5 to the child when a child is transferred for
6 adult prosecution; removing a requirement for
7 annual updating by the state attorney of
8 direct-file policies and guidelines; providing
9 that the information filed pursuant to
10 specified provisions may include all charges
11 that are based on the same act, criminal
12 episode, or transaction as the primary offense;
13 amending s. 985.228, F.S., relating to
14 adjudicatory hearings, to conform an exception
15 to the construction of "conviction"; amending
16 s. 985.231, F.S.; revising powers of
17 disposition in delinquency cases; conforming
18 references; providing for exceptions to conform
19 to changes made by the act; amending s.
20 985.233, F.S., relating to sentencing powers,
21 procedures, and dispositional alternatives for
22 juveniles prosecuted as adults; revising
23 sentencing alternatives in cases when a child
24 is prosecuted on indictment and other cases;
25 providing that a court may withhold
26 adjudication of guilt and place the child on
27 probation or community control to be supervised
28 by the Department of Corrections, under
29 specified circumstances; providing for
30 completion of a commitment program recommended
31 by the Department of Juvenile Justice as a

1 special condition of the probation or community
2 control; authorizing a judge in adult court to
3 access the juvenile commitment programs for
4 sentencing purposes; providing that the
5 juvenile would not be required to pay
6 supervision costs to the Department of
7 Corrections while participating in a Department
8 of Juvenile Justice commitment program;
9 prohibiting imposition of juvenile sanctions
10 when the state attorney's motion to transfer
11 and certify the child for prosecution as an
12 adult is granted under specified provisions;
13 revising guidelines for sentencing to juvenile
14 sanctions; removing a requirement that the
15 court stay adjudication of guilt when the child
16 is sentenced to juvenile sanctions under
17 specified provisions; removing provisions that
18 the adjudication of delinquency shall not be
19 deemed to be a conviction or operate to impose
20 civil disabilities resulting from a conviction;
21 removing a prohibition against the imposition
22 of a combination of juvenile and adult
23 sanctions; reenacting s. 985.225(3) and (4),
24 relating to indictment of a juvenile, and s.
25 985.31(3)(k), relating to serious or habitual
26 juvenile offenders, to incorporate said
27 amendment in references; amending s. 985.309,
28 F.S., relating to criteria for placement of a
29 child in a boot camp program; providing for
30 boot camp placement of a child at least 14
31 years of age who has not entered a plea of

1 guilty or nolo contendere to, or been
2 adjudicated of, a capital felony, life felony,
3 or violent felony of the first degree;
4 providing for early-intervention boot camp
5 placement of a child at least 12 years of age
6 under specified circumstances; providing for
7 certain minimum periods of participation in
8 aftercare; authorizing operation of an
9 early-intervention boot camp program by the
10 Department of Juvenile Justice, or a county or
11 municipality; providing purpose of program;
12 providing criteria for disqualification from
13 participation in the early-intervention boot
14 camp program; reenacting s. 985.231(1)(j),
15 relating to powers of disposition in
16 delinquency cases, s. 985.31(3)(i), relating to
17 serious or habitual juvenile offenders, s.
18 985.311(3)(i), relating to intensive
19 residential treatment programs for offenders
20 less than 13 years of age, and s.
21 985.314(1)(a), relating to commitment programs
22 for juvenile felony offenders, to incorporate
23 said amendment in references; amending s.
24 985.404, F.S., relating to administration of
25 the juvenile justice continuum; specifying
26 factors to be considered in the report ranking
27 commitment programs; amending s. 984.307, F.S.;
28 postponing the date on which the authority of
29 the Department of Juvenile Justice to create or
30 operate juvenile assignment centers is
31

1 scheduled to expire; providing an effective
2 date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 90.610, Florida Statutes, is
7 amended to read:

8 90.610 Conviction of certain crimes or adjudication of
9 delinquency as impeachment.--

10 (1) A party may attack the credibility of any witness,
11 including an accused, by evidence that the witness has been
12 convicted of a crime if the crime was punishable by death or
13 imprisonment in excess of 1 year under the law under which the
14 witness was convicted, or if the crime involved dishonesty or
15 a false statement regardless of the punishment. However, with
16 the following exceptions:

17 ~~(a) evidence of any such conviction is inadmissible in~~
18 ~~a civil trial if it is so remote in time as to have no bearing~~
19 ~~on the present character of the witness.~~

20 ~~(b) Evidence of juvenile adjudications are~~
21 ~~inadmissible under this subsection.~~

22 (2) A party may attack the credibility of any witness,
23 including an accused, by evidence of an adjudication of
24 delinquency for an act that would be punishable by death or
25 imprisonment in excess of 1 year if the act were committed by
26 an adult under the law under which the witness was adjudicated
27 delinquent, or if the delinquent act involved dishonesty or a
28 false statement regardless of punishment. However, evidence of
29 any such adjudication of delinquency is inadmissible in a
30 civil trial if it is so remote in time as to have no bearing
31 on the present character of the witness.

1 ~~(3)(2)~~ The pendency of an appeal or the granting of a
2 pardon relating to such crime or delinquent act does not
3 render evidence of the conviction or adjudication of
4 delinquency from which the appeal was taken or for which the
5 pardon was granted inadmissible. Evidence of the pendency of
6 the appeal is admissible.

7 ~~(4)(3)~~ Nothing in this section affects the
8 admissibility of evidence under s. 90.404 or s. 90.608.

9 Section 2. Subsection (5) of section 921.0011, Florida
10 Statutes, is amended to read:

11 921.0011 Definitions.--As used in this chapter, the
12 term:

13 (5) "Prior record" means a conviction for a crime
14 committed by the offender, as an adult or a juvenile, prior to
15 the time of the primary offense. Convictions by federal,
16 out-of-state, military, or foreign courts, and convictions for
17 violations of county or municipal ordinances that incorporate
18 by reference a penalty under state law, are included in the
19 offender's prior record. Convictions for offenses committed
20 by the offender more than 10 years before the primary offense
21 are not included in the offender's prior record if the
22 offender has not been convicted of any other crime for a
23 period of 10 consecutive years from the most recent date of
24 release from confinement, supervision, or sanction, whichever
25 is later, to the date of the primary offense. All of an
26 offender's prior juvenile history of acts that would be crimes
27 if committed by an adult shall be scored and considered to the
28 same extent as offenses committed by an adult. For the
29 purposes of this subsection, a withholding of adjudication of
30 delinquency or a withholding of adjudication of guilt shall be
31 considered a conviction.~~Juvenile dispositions of offenses~~

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

12 Section 3. Section 921.0011, Florida Statutes, as
13 amended by this act, expires October 1, 1998.

14 Section 4. Subsection (5) of section 921.0021, Florida
15 Statutes, is amended to read:

16 921.0021 Definitions.--As used in this chapter, the
17 term:

18 (5) "Prior record" means a conviction for a crime
19 committed by the offender, as an adult or a juvenile, prior to
20 the time of the primary offense. Convictions by federal,
21 out-of-state, military, or foreign courts, and convictions for
22 violations of county or municipal ordinances that incorporate
23 by reference a penalty under state law, are included in the
24 offender's prior record. Convictions for offenses committed
25 by the offender more than 10 years before the primary offense
26 are not included in the offender's prior record if the
27 offender has not been convicted of any other crime for a
28 period of 10 consecutive years from the most recent date of
29 release from confinement, supervision, or sanction, whichever
30 is later, to the date of the primary offense. All of an
31 offender's prior juvenile history of acts that would be crimes

1 if committed by an adult shall be scored and considered to the
2 same extent as offenses committed by an adult. For the
3 purposes of this subsection, a withholding of adjudication of
4 delinquency or a withholding of adjudication of guilt shall be
5 considered a conviction.~~Juvenile dispositions of offenses~~
6 ~~committed by the offender within 3 years before the primary~~
7 ~~offense are included in the offender's prior record when the~~
8 ~~offense would have been a crime had the offender been an adult~~
9 ~~rather than a juvenile. Juvenile dispositions of sexual~~
10 ~~offenses committed by the offender which were committed 3~~
11 ~~years or more before the primary offense are included in the~~
12 ~~offender's prior record if the offender has not maintained a~~
13 ~~conviction-free record, either as an adult or a juvenile, for~~
14 ~~a period of 3 consecutive years from the most recent date of~~
15 ~~release from confinement, supervision, or sanction, whichever~~
16 ~~is later, to the date of the primary offense.~~

17 Section 5. Paragraphs (a) and (b) of subsection (2) of
18 section 943.0515, Florida Statutes, are amended to read:

19 943.0515 Retention of criminal history records of
20 minors.--

21 (1)(a) The Division of Criminal Justice Information
22 Systems shall retain the criminal history record of a minor
23 who is classified as a serious or habitual juvenile offender
24 under chapter 39 for 5 years after the date the offender
25 reaches 21 years of age, at which time the record shall be
26 expunged unless it meets the criteria of paragraph (2)(a) or
27 paragraph (2)(b).

28 (b) If the minor is not classified as a serious or
29 habitual juvenile under chapter 39, the division shall retain
30 the minor's criminal history record for 5 years after the date
31 the minor reaches 19 years of age, at which time the record

1 shall be expunged unless it meets the criteria of paragraph
2 (2)(a) or paragraph (2)(b).

3 (2)(a) If a person is charged as an adult for
4 committing a 18 years of age or older is charged with or
5 convicted of a forcible felony and the person's criminal
6 history record as a minor has not yet been destroyed, the
7 person's record as a minor must be merged with the person's
8 adult criminal history record and must be retained as a part
9 of the person's adult record.

10 (b) If, at any time, a minor is adjudicated as an
11 adult for a ~~forcible~~ felony, the minor's criminal history
12 record prior to the time of the minor's adjudication as an
13 adult must be merged with his or her record as an adjudicated
14 adult.

15 Section 6. Subsection (59) is added to section 985.03,
16 Florida Statutes, to read:

17 985.03 Definitions.--When used in this chapter, the
18 term:

19 (59) "Violation of supervision" means a violation of
20 community control or a violation of any other sanction that is
21 imposed as a result of a disposition of a delinquent act,
22 including, but not limited to, furlough or aftercare.

23 Section 7. Subsection (3) of section 985.04, Florida
24 Statutes, is amended, and subsection (9) is added to said
25 section, to read:

26 985.04 Oaths; records; confidential information.--

27 (3) Except as provided in subsections (2), (4), (5),
28 ~~and (6), and (9)~~ and s. 943.053, all information obtained
29 under this part in the discharge of official duty by any
30 judge, any employee of the court, any authorized agent of the
31 Department of Juvenile Justice, the Parole Commission, the

1 Juvenile Justice Advisory Board, the Department of
2 Corrections, the district juvenile justice boards, any law
3 enforcement agent, or any licensed professional or licensed
4 community agency representative participating in the
5 assessment or treatment of a juvenile is confidential and may
6 be disclosed only to the authorized personnel of the court,
7 the Department of Juvenile Justice and its designees, the
8 Department of Corrections, the Parole Commission, the Juvenile
9 Justice Advisory Board, law enforcement agents, school
10 superintendents and their designees, any licensed professional
11 or licensed community agency representative participating in
12 the assessment or treatment of a juvenile, and others entitled
13 under this chapter to receive that information, or upon order
14 of the court. Within each county, the sheriff, the chiefs of
15 police, the district school superintendent, and the department
16 shall enter into an interagency agreement for the purpose of
17 sharing information about juvenile offenders among all
18 parties. The agreement must specify the conditions under which
19 summary criminal history information is to be made available
20 to appropriate school personnel, and the conditions under
21 which school records are to be made available to appropriate
22 department personnel. Such agreement shall require
23 notification to any classroom teacher of assignment to the
24 teacher's classroom of a juvenile who has been placed in a
25 community control or commitment program for a felony offense.
26 The agencies entering into such agreement must comply with s.
27 943.0525, and must maintain the confidentiality of information
28 that is otherwise exempt from s. 119.07(1), as provided by
29 law.

30 (9) Notwithstanding any other provision to the
31 contrary, records of all of a juvenile's prior history of acts

1 that would be crimes if committed by an adult, and orders of
2 disposition for such acts, are public records and not
3 confidential.

4 Section 8. For the purpose of incorporating the
5 amendment to s. 985.04, Florida Statutes, in a reference
6 thereto, paragraph (k) of subsection (4) of section 985.31,
7 Florida Statutes, is reenacted to read:

8 985.31 Serious or habitual juvenile offender.--

9 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

10 (k) Assessment and treatment records are confidential
11 as described in this paragraph and exempt from the provisions
12 of s. 119.07(1) and s. 24(a), Art. I of the State
13 Constitution.

14 1. The department shall have full access to the
15 assessment and treatment records to ensure coordination of
16 services to the child.

17 2. The principles of confidentiality of records as
18 provided in s. 985.04 shall apply to the assessment and
19 treatment records of serious or habitual juvenile offenders.

20 Section 9. Subsection (1) of section 985.05, Florida
21 Statutes, is amended, and paragraph (f) is added to subsection
22 (4) of said section, to read:

23 985.05 Court records.--

24 (1) The clerk of the court shall make and keep records
25 of all cases brought before it pursuant to this part. The
26 court shall preserve the records pertaining to a child charged
27 with committing a delinquent act or violation of law until the
28 child reaches 24 years of age or reaches 26 years of age if he
29 or she is a serious or habitual delinquent child, ~~until 5~~
30 ~~years after the last entry was made,~~ or until 3 years after
31 the death of the child, whichever is earlier, and may then

1 destroy them, except that records made of traffic offenses in
2 which there is no allegation of delinquency may be destroyed
3 as soon as this can be reasonably accomplished. If a defendant
4 is sentenced for a felony committed before reaching 24 years
5 of age, the clerk must merge the defendant's record of prior
6 delinquent acts with his or her adult record. Records merged
7 pursuant to this section are not confidential.The court shall
8 make official records of all petitions and orders filed in a
9 case arising pursuant to this part and of any other pleadings,
10 certificates, proofs of publication, summonses, warrants, and
11 writs that are filed pursuant to the case.

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

15 (f) Records that are not confidential as provided in
16 s. 985.04(9) are admissible to the same extent that records of
17 offenses committed by adults are admissible.

18 Section 10. Subsection (6) of section 985.228, Florida
19 Statutes, is amended to read:

20 985.228 Adjudicatory hearings; withheld adjudications;
21 orders of adjudication.--

22 (6) Except as the term "conviction" is used in chapter
23 322, and except for use in a subsequent proceeding under this
24 chapter, or as otherwise provided by law,an adjudication of
25 delinquency by a court with respect to any child who has
26 committed a delinquent act or violation of law shall not be
27 deemed a conviction; nor shall the child be deemed to have
28 been found guilty or to be a criminal by reason of that
29 adjudication; nor shall that adjudication operate to impose
30 upon the child any of the civil disabilities ordinarily
31 imposed by or resulting from conviction or to disqualify or

1 prejudice the child in any civil service application or
2 appointment, with the exception of the use of records of
3 proceedings under this part as provided in s. 985.05(4).

4 Section 11. Paragraph (e) of subsection (4) of section
5 985.21, Florida Statutes, is amended to read:

6 985.21 Intake and case management.--

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

22 (e) The state attorney may in all cases take action
23 independent of the action or lack of action of the intake
24 counselor or case manager, and shall determine the action
25 which is in the best interest of the public and the child. If
26 the child meets the criteria requiring prosecution as an adult
27 pursuant to s. 985.226, the state attorney shall request the
28 court to transfer and certify the child for prosecution as an
29 adult or shall provide written reasons to the court for not
30 making such request. In all other cases, the state attorney,
31 unless otherwise required by law, may:

- 1 1. File a petition for dependency;
- 2 2. File a petition pursuant to chapter 984;
- 3 3. File a petition for delinquency;
- 4 4. File a petition for delinquency with a motion to
- 5 transfer and certify the child for prosecution as an adult;
- 6 5. File an information pursuant to s. 985.227;
- 7 6. Refer the case to a grand jury;
- 8 7. Refer the child to a diversionary, pretrial
- 9 intervention, arbitration, or mediation program, or to some
- 10 other treatment or care program if such program commitment is
- 11 voluntarily accepted by the child or the child's parents or
- 12 legal guardians; or
- 13 8. Decline to file.

14 Section 12. Paragraph (b) of subsection (4) of section
15 985.211, Florida Statutes, is amended to read:

16 985.211 Release or delivery from custody.--

17 (2) Unless otherwise ordered by the court pursuant to
18 s. 985.215, and unless there is a need to hold the child, a
19 person taking a child into custody shall attempt to release
20 the child as follows:

21 (a) To the child's parent, guardian, or legal
22 custodian or, if the child's parent, guardian, or legal
23 custodian is unavailable, unwilling, or unable to provide
24 supervision for the child, to any responsible adult. Prior to
25 releasing the child to a responsible adult, other than the
26 parent, guardian, or legal custodian, the person taking the
27 child into custody may conduct a criminal history background
28 check of the person to whom the child is to be released. If
29 the person has a prior felony conviction, or a conviction for
30 child abuse, drug trafficking, or prostitution, that person is
31 not a responsible adult for the purposes of this section. The

1 person to whom the child is released shall agree to inform the
2 department or the person releasing the child of the child's
3 subsequent change of address and to produce the child in court
4 at such time as the court may direct, and the child shall join
5 in the agreement.

6 (b) Contingent upon specific appropriation, to a
7 shelter approved by the department or to an authorized agent
8 pursuant to s. 39.401(2)(b).

9 (c) If the child is believed to be suffering from a
10 serious physical condition which requires either prompt
11 diagnosis or prompt treatment, to a law enforcement officer
12 who shall deliver the child to a hospital for necessary
13 evaluation and treatment.

14 (d) If the child is believed to be mentally ill as
15 defined in s. 394.463(1), to a law enforcement officer who
16 shall take the child to a designated public receiving facility
17 as defined in s. 394.455 for examination pursuant to the
18 provisions of s. 394.463.

19 (e) If the child appears to be intoxicated and has
20 threatened, attempted, or inflicted physical harm on himself
21 or herself or another, or is incapacitated by substance abuse,
22 to a law enforcement officer who shall deliver the child to a
23 hospital, addictions receiving facility, or treatment
24 resource.

25 (f) If available, to a juvenile assessment center
26 equipped and staffed to assume custody of the child for the
27 purpose of assessing the needs of the child in custody. The
28 center may then release or deliver the child pursuant to this
29 section with a copy of the assessment.

30 (4) A person taking a child into custody who
31 determines, pursuant to s. 985.215, that the child should be

1 detained or released to a shelter designated by the
2 department, shall make a reasonable effort to immediately
3 notify the parent, guardian, or legal custodian of the child
4 and shall, without unreasonable delay, deliver the child to
5 the appropriate intake counselor or case manager or, if the
6 court has so ordered pursuant to s. 985.215, to a detention
7 center or facility. Upon delivery of the child, the person
8 taking the child into custody shall make a written report or
9 probable cause affidavit to the appropriate intake counselor
10 or case manager. Such written report or probable cause
11 affidavit must:

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

14 (b) Establish that the child was legally taken into
15 custody, with sufficient information to establish the
16 jurisdiction of the court and to make a prima facie showing
17 that the child has committed a violation of law or a violation
18 of supervision.

19 Section 13. For the purpose of incorporating the
20 amendment made by this act to section 985.215, Florida
21 Statutes, in a reference thereto, subsection (1) of section
22 985.208, Florida Statutes, is reenacted to read:

23 985.208 Detention of furloughed child or escapee on
24 authority of the department.--

25 (1) If an authorized agent of the department has
26 reasonable grounds to believe that any delinquent child
27 committed to the department has escaped from a facility of the
28 department or from being lawfully transported thereto or
29 therefrom, the agent may take the child into active custody
30 and may deliver the child to the facility or, if it is closer,
31 to a detention center for return to the facility. However, a

1 child may not be held in detention longer than 24 hours,
2 excluding Saturdays, Sundays, and legal holidays, unless a
3 special order so directing is made by the judge after a
4 detention hearing resulting in a finding that detention is
5 required based on the criteria in s. 985.215(2). The order
6 shall state the reasons for such finding. The reasons shall be
7 reviewable by appeal or in habeas corpus proceedings in the
8 district court of appeal.

9 Section 14. For the purpose of incorporating the
10 amendment made by this act to section 985.215, Florida
11 Statutes, in a reference thereto, subsection (5) of section
12 985.219, Florida Statutes, is reenacted, and subsection (12)
13 is added to that section, to read:

14 985.219 Process and service.--

15 (5) If the petition alleges that the child has
16 committed a delinquent act or violation of law and the judge
17 deems it advisable to do so, pursuant to the criteria of s.
18 985.215, the judge may, by endorsement upon the summons and
19 after the entry of an order in which valid reasons are
20 specified, order the child to be taken into custody
21 immediately, and in such case the person serving the summons
22 shall immediately take the child into custody.

23 (12) Any parent, legal guardian, or adult relative who
24 receives a notice to appear, accepts custody of a child from a
25 law enforcement officer or an authorized agent of the
26 department, and fails to produce the child for the specified
27 court proceeding, or any parent or legal guardian who fails to
28 produce the child for a court appearance in response to a
29 summons, may, in addition to any other penalty provided by
30 law, be assessed a civil penalty in an amount of \$100 or less,
31 payable to the clerk of the circuit court.

1 Section 15. Paragraph (b) of subsection (2) of section
2 985.213, Florida Statutes, is amended to read:

3 985.213 Use of detention.--

4 (2)

5 (b)1. The risk assessment instrument for detention
6 care placement determinations and orders shall be developed by
7 the Department of Juvenile Justice in agreement with
8 representatives appointed by the following associations: the
9 Conference of Circuit Judges of Florida, the Prosecuting
10 Attorneys Association, and the Public Defenders Association.

11 Each association shall appoint two individuals, one
12 representing an urban area and one representing a rural area.

13 The parties involved shall evaluate and revise the risk
14 assessment instrument as is considered necessary using the
15 method for revision as agreed by the parties. The risk
16 assessment instrument shall take into consideration, but need
17 not be limited to, prior history of failure to appear, prior
18 offenses, offenses committed pending adjudication, any
19 unlawful possession of a firearm, theft of a motor vehicle or
20 possession of a stolen motor vehicle, and community control
21 status at the time the child is taken into custody. The risk
22 assessment instrument shall also take into consideration
23 appropriate aggravating and mitigating circumstances, and
24 shall be designed to target a narrower population of children
25 than s. 985.215(2). The risk assessment instrument shall also
26 include any information concerning the child's history of
27 abuse and neglect. The risk assessment shall indicate whether
28 detention care is warranted, and, if detention care is
29 warranted, whether the child should be placed into secure,
30 nonsecure, or home detention care.

31

1 2. If, at the detention hearing, the court finds a
2 material error in the scoring of the risk assessment
3 instrument, the court may amend the score to reflect factual
4 accuracy.

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

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

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

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

14
15 The child may not be held in secure detention under this
16 subparagraph for more than 48 hours unless ordered by the
17 court. After 48 hours, the court shall hold a hearing if the
18 state attorney or victim requests that secure detention be
19 continued. The child may continue to be held in secure
20 detention if the court makes a specific, written finding that
21 secure detention is necessary to protect the victim from
22 further injury. However, the child may not be held in secure
23 detention beyond the time limits set forth in s. 985.215
24 ~~39.044~~.

25 Section 16. Paragraph (a) of subsection (1) of section
26 985.231, Florida Statutes, is amended to read:

27 985.231 Powers of disposition in delinquency cases.--

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

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

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

1 that the duration of such supervision or program for an
2 offense that is a misdemeanor of the second degree, or is
3 equivalent to a misdemeanor of the second degree, may be for a
4 period not to exceed 6 months. When restitution is ordered by
5 the court, the amount of restitution may not exceed an amount
6 the child and the parent or guardian could reasonably be
7 expected to pay or make. A child who participates in any work
8 program under this part is considered an employee of the state
9 for purposes of liability, unless otherwise provided by law.

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

17 c. If the conditions of the community control program
18 or the aftercare program are violated, the agent supervising
19 the program as it relates to the child involved, or the state
20 attorney, may bring the child before the court on a petition
21 alleging a violation of the program. Any child who violates
22 the conditions of community control or aftercare must be
23 brought before the court if sanctions are sought. A child
24 taken into custody under s. 985.207 ~~39-037~~ for violating the
25 conditions of community control or aftercare shall be held in
26 a consequence unit if such a unit is available. The child
27 shall be afforded a hearing within 24 hours after being taken
28 into custody to determine the existence of probable cause that
29 the child violated the conditions of community control or
30 aftercare. A consequence unit is a secure facility
31 specifically designated by the department for children who are

1 taken into custody under s. 985.207 for violating community
2 control or aftercare, or who have been found by the court to
3 have violated the conditions of community control or
4 aftercare. If the violation involves a new charge of
5 delinquency, the child may be detained under s. 985.215 in a
6 facility other than a consequence unit. If the child is not
7 eligible for detention for the new charge of delinquency, the
8 child may be held in the consequence unit pending a hearing
9 and is subject to the time limitations specified in s.
10 985.215. If the child denies violating the conditions of
11 community control or aftercare, the court shall appoint
12 counsel to represent the child at the child's request. Upon
13 the child's admission, or if the court finds after a hearing
14 that the child has violated the conditions of community
15 control or aftercare, the court shall enter an order revoking,
16 modifying, or continuing community control or aftercare. In
17 each such case, the court shall enter a new disposition order
18 and, in addition to the sanctions set forth in this paragraph,
19 may impose any sanction the court could have imposed at the
20 original disposition hearing. If the child is found to have
21 violated the conditions of community control or aftercare, the
22 court may:

23 (I) Place the child in a consequence unit in that
24 judicial circuit, if available, for up to 5 days for a first
25 violation, and up to 15 days for a second or subsequent
26 violation.

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

30 (III) Modify or continue the child's community control
31 program or aftercare program.

1 (IV) Revoke community control or aftercare and commit
2 the child to the department.

3 d. Notwithstanding s. 743.07 and paragraph (d), and
4 except as provided in s. 985.31, the term of any order placing
5 a child in a community control program must be until the
6 child's 19th birthday unless he or she is released by the
7 court, on the motion of an interested party or on its own
8 motion.

9 2. Commit the child to a licensed child-caring agency
10 willing to receive the child, ~~but~~ The court may not commit
11 the child to a jail or to a facility used primarily as a
12 detention center or facility or shelter unless otherwise
13 provided by law.

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

24 4. Revoke or suspend the driver's license of the
25 child.

26 5. Require the child and, if the court finds it
27 appropriate, the child's parent or guardian together with the
28 child, to render community service in a public service
29 program.

30 6. As part of the community control program to be
31 implemented by the Department of Juvenile Justice, or, in the

1 case of a committed child, as part of the community-based
2 sanctions ordered by the court at the disposition hearing or
3 before the child's release from commitment, order the child to
4 make restitution in money, through a promissory note cosigned
5 by the child's parent or guardian, or in kind for any damage
6 or loss caused by the child's offense in a reasonable amount
7 or manner to be determined by the court. The clerk of the
8 circuit court shall be the receiving and dispensing agent. In
9 such case, the court shall order the child or the child's
10 parent or guardian to pay to the office of the clerk of the
11 circuit court an amount not to exceed the actual cost incurred
12 by the clerk as a result of receiving and dispensing
13 restitution payments. The clerk shall notify the court if
14 restitution is not made, and the court shall take any further
15 action that is necessary against the child or the child's
16 parent or guardian. A finding by the court, after a hearing,
17 that the parent or guardian has made diligent and good faith
18 efforts to prevent the child from engaging in delinquent acts
19 absolves the parent or guardian of liability for restitution
20 under this subparagraph.

21 7. Order the child and, if the court finds it
22 appropriate, the child's parent or guardian together with the
23 child, to participate in a community work project, either as
24 an alternative to monetary restitution or as part of the
25 rehabilitative or community control program.

26 8. Commit the child to the Department of Juvenile
27 Justice for placement in a program or facility for serious or
28 habitual juvenile offenders in accordance with s. 985.31. Any
29 commitment of a child to a program or facility for serious or
30 habitual juvenile offenders must be for an indeterminate
31 period of time, but the time may not exceed the maximum term

1 of imprisonment that an adult may serve for the same offense.
2 The court may retain jurisdiction over such child until the
3 child reaches the age of 21, specifically for the purpose of
4 the child completing the program.

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

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

26 Section 17. Subsection (6) of section 985.218, Florida
27 Statutes, is repealed.

28 Section 18. Subsection (2) of section 985.226, Florida
29 Statutes, is amended to read:

30
31

1 985.226 Criteria for waiver of juvenile court
2 jurisdiction; hearing on motion to transfer for prosecution as
3 an adult.--

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

17 (2) INVOLUNTARY WAIVER.--

18 (a) Discretionary ~~involuntary~~ waiver.--Except as
19 provided in paragraph (b),the state attorney may file a
20 motion requesting the court to transfer the child for criminal
21 prosecution if the child was 14 years of age or older at the
22 time the alleged delinquent act or violation of law was
23 committed.

24 (b) Mandatory waiver.--

25 1. If the child was 14 years of age or older; and if
26 the child has been previously adjudicated delinquent for an
27 act classified as a felony, which adjudication was for the
28 commission of, or attempt to commit,murder, sexual battery,
29 armed or strong-armed robbery, carjacking, home-invasion
30 robbery, aggravated battery, or aggravated assault, and the
31 child is currently charged with a second or subsequent violent

1 ~~crime against a person; or, the state attorney shall file a~~
2 ~~motion requesting the court to transfer and certify the~~
3 ~~juvenile for prosecution as an adult, or proceed pursuant to~~
4 ~~s. 985.227(1).~~

5 2.(b) ~~Mandatory involuntary waiver.~~--If the child was
6 14 years of age or older at the time of commission of a fourth
7 or subsequent alleged felony offense and the child was
8 previously adjudicated delinquent or had adjudication withheld
9 for or was found to have committed, or to have attempted or
10 conspired to commit, three offenses that are felony offenses
11 if committed by an adult, and one or more of such felony
12 offenses involved the use or possession of a firearm or
13 violence against a person;7

14
15 the state attorney shall request the court to transfer and
16 certify the child for prosecution as an adult or shall provide
17 written reasons to the court for not making such request, or
18 proceed pursuant to s. 985.227(1). Upon the state attorney's
19 request, the court shall either enter an order transferring
20 the case and certifying the case for trial as if the child
21 were an adult or provide written reasons for not issuing such
22 an order.

23 (4) EFFECT OF ORDER WAIVING JURISDICTION.--If the
24 court finds, after a waiver hearing under subsection (3), that
25 a juvenile who was 14 years of age or older at the time the
26 alleged violation of state law was committed should be charged
27 and tried as an adult, the court shall enter an order
28 transferring the case and certifying the case for trial as if
29 the child were an adult. The child shall thereafter be subject
30 to prosecution, trial, and sentencing as if the child were an
31 adult but subject to the provisions of s. 985.233. Once a

1 child has been transferred for criminal prosecution pursuant
2 to an involuntary waiver hearing and has been found to have
3 committed the presenting offense or a lesser included offense,
4 the child shall thereafter be handled in every respect as an
5 adult for any subsequent violation of state law, unless the
6 court imposes juvenile sanctions under s. 985.233.

7 Section 19. Subsections (1), (2), (3), and (4) of
8 section 985.227, Florida Statutes, are amended, and new
9 subsection (5) is added to said section, to read:

10 985.227 Prosecution of juveniles as adults by the
11 direct filing of an information in the criminal division of
12 the circuit court; discretionary criteria; mandatory
13 criteria.--

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

15 (a) With respect to any child who was 14 or 15 years
16 of age at the time the alleged offense was committed, the
17 state attorney may file an information when in the state
18 attorney's judgment and discretion the public interest
19 requires that adult sanctions be considered or imposed and
20 when the offense charged is for the commission of, or attempt
21 to commit:

- 22 1. Arson;
- 23 2. Sexual battery;
- 24 3. Robbery;
- 25 4. Kidnapping;
- 26 5. Aggravated child abuse;
- 27 6. Aggravated assault;
- 28 7. Aggravated stalking;
- 29 8. Murder;
- 30 9. Manslaughter;

31

1 10. Unlawful throwing, placing, or discharging of a
2 destructive device or bomb;

3 11. Armed burglary in violation of s. 810.02(2)(b) or
4 specified burglary of a dwelling or structure in violation of
5 s. 810.02(2)(c);

6 12. Aggravated battery;

7 13. Lewd or lascivious assault or act in the presence
8 of a child;

9 14. Carrying, displaying, using, threatening, or
10 attempting to use a weapon or firearm during the commission of
11 a felony; or

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

13 (b) Except as provided in subsection (2),with respect
14 to any child who was 16 or 17 years of age at the time the
15 alleged offense was committed, the state attorney may file an
16 information when in the state attorney's judgment and
17 discretion the public interest requires that adult sanctions
18 be considered or imposed. Except as provided in subsection
19 (2),~~However,~~the state attorney may not file an information
20 on a child charged with a misdemeanor, unless the child has
21 had at least two previous adjudications or adjudications
22 withheld for delinquent acts, one of which involved an offense
23 classified as a felony under state law.

24 (2) MANDATORY DIRECT FILE.--

25 (a) With respect to any child who was 16 or 17 years
26 of age at the time the alleged offense was committed, the
27 state attorney shall file an information if the child has been
28 previously adjudicated delinquent for an act classified as a
29 felony, which adjudication was for the commission of, or
30 attempt to commit,murder, sexual battery, armed or
31 strong-armed robbery, carjacking, home-invasion robbery,

1 aggravated battery, or aggravated assault, and the child is
2 currently charged with a second or subsequent violent crime
3 against a person.

4 (b) The state attorney must file an information
5 charging a person as an adult for an offense committed by any
6 child if the child is 16 years of age or older at the time of
7 the offense that would be a misdemeanor or a felony, if
8 committed by an adult, and either:

9 1. The child has received adjudications of delinquency
10 or withholdings of adjudication of delinquency for three acts
11 that would be felonies if committed by an adult; or

12 2. The child has received adjudications of delinquency
13 or withholdings of adjudication of delinquency for six acts
14 that would be either felonies or misdemeanors if committed by
15 an adult.

16
17 However, an act shall not be counted as an additional act
18 under this paragraph if it occurred within 45 days of another
19 act that is counted towards the maximum number of offenses
20 under this paragraph that a juvenile may commit before adult
21 sanctions must be imposed. Multiple counts within a case shall
22 be considered one offense for the purposes of this paragraph.
23 ~~Notwithstanding subsection (1), regardless of the child's age~~
24 ~~at the time the alleged offense was committed, the state~~
25 ~~attorney must file an information with respect to any child~~
26 ~~who previously has been adjudicated for offenses which, if~~
27 ~~committed by an adult, would be felonies and such~~
28 ~~adjudications occurred at three or more separate delinquency~~
29 ~~adjudicatory hearings, and three of which resulted in~~
30 ~~residential commitments as defined in s. 985.03(45).~~

31

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

20 (3) EFFECT OF DIRECT FILE.--

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

28 (b) When a child is transferred for criminal
29 prosecution as an adult, the court shall immediately transfer
30 and certify to the circuit ~~appropriate~~ court all felony
31 ~~preadjudicatory~~ cases that have not yet resulted in a plea, or

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

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

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

25 (5) An information filed pursuant to this section may
26 include all charges that are based on the same act, criminal
27 episode, or transaction as the primary offenses.

28 Section 20. Subsection (4) of section 985.233, Florida
29 Statutes, is amended to read:

30 985.233 Sentencing powers; procedures; alternatives
31 for juveniles prosecuted as adults.--

1 (4) SENTENCING ALTERNATIVES.--
2 (a) Sentencing to adult sanctions.--
3 1. Cases prosecuted on indictment.--If the child is
4 found to have committed the offense punishable by death or
5 life imprisonment, the child shall be sentenced as an adult.
6 If the juvenile is not found to have committed the indictable
7 offense but is found to have committed a lesser included
8 offense or any other offense for which he or she was indicted
9 as a part of the criminal episode, the court may sentence as
10 follows:
11 a. As an adult ~~pursuant to this section;~~
12 b. Pursuant to chapter 958, ~~notwithstanding any other~~
13 ~~provision of that chapter to the contrary;~~ or
14 c. As a juvenile pursuant to this section.
15 2. Other cases.--If a child who has been transferred
16 for criminal prosecution pursuant to information or waiver of
17 juvenile court jurisdiction is found to have committed a
18 violation of state law or a lesser included offense for which
19 he or she was charged as a part of the criminal episode, the
20 court may sentence as follows:
21 a. As an adult ~~pursuant to this section;~~
22 b. Pursuant to chapter 958, ~~notwithstanding any other~~
23 ~~provision of that chapter to the contrary;~~ or
24 c. As a juvenile pursuant to this section.
25 3. Notwithstanding any other provision to the
26 contrary, if the state attorney is required to file a motion
27 to transfer and certify the juvenile for prosecution as an
28 adult pursuant to s. 985.226(2)(b) and that motion is granted,
29 or if the state attorney is required to file an information
30 pursuant to s. 985.227(2)(a) or (b), the court may not impose
31 juvenile sanctions.

1 ~~4.3.~~ Any sentence imposing adult sanctions is presumed
2 appropriate, and the court is not required to set forth
3 specific findings or enumerate the criteria in this subsection
4 as any basis for its decision to impose adult sanctions.

5 ~~5.4.~~ When a child has been transferred for criminal
6 prosecution as an adult and has been found to have committed a
7 violation of state law, the disposition of the case may
8 include the enforcement of any restitution ordered in any
9 juvenile proceeding.

10 (b) Sentencing to juvenile sanctions.--For juveniles
11 transferred to adult court but who do not qualify for such
12 transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or
13 (b), the court may impose juvenile sanctions under this
14 paragraph. The court shall ~~In order to use this paragraph, the~~
15 ~~court shall stay adjudication of guilt and instead shall~~
16 ~~adjudge the child to have committed a delinquent act.~~
17 ~~Adjudication of delinquency shall not be deemed a conviction,~~
18 ~~nor shall it operate to impose any of the civil disabilities~~
19 ~~ordinarily resulting from a conviction. The court shall impose~~
20 ~~an adult sanction or a juvenile sanction and may not sentence~~
21 ~~the child to a combination of adult and juvenile punishments.~~
22 ~~An adult sanction or a juvenile sanction may include~~
23 ~~enforcement of an order of restitution or community control~~
24 ~~previously ordered in any juvenile proceeding. However, if the~~
25 ~~court imposes a juvenile sanction and the department~~
26 ~~determines that the sanction is unsuitable for the child, the~~
27 ~~department shall return custody of the child to the sentencing~~
28 ~~court for further proceedings, including the imposition of~~
29 ~~adult sanctions.~~ Upon adjudicating a child delinquent under
30 subsection (1), the court may:
31

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

5 2. Commit the child to the department for treatment in
6 an appropriate program for children for an indeterminate
7 period of time until the child is 21 or sooner if discharged
8 by the department. The department shall notify the court of
9 its intent to discharge no later than 14 days prior to
10 discharge. Failure of the court to timely respond to the
11 department's notice shall be considered approval for
12 discharge.

13 3. Order disposition pursuant to s. 985.231 as an
14 alternative to youthful offender or adult sentencing if the
15 court determines not to impose youthful offender or adult
16 sanctions.

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

25 (d) Recoupment of cost of care in juvenile justice
26 facilities.--When the court orders commitment of a child to
27 the Department of Juvenile Justice for treatment in any of the
28 department's programs for children, the court shall order the
29 natural or adoptive parents of such child, the natural father
30 of such child born out of wedlock who has acknowledged his
31 paternity in writing before the court, or guardian of such

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

18 (e) Further proceedings heard in adult court.--When a
19 child is sentenced to juvenile sanctions, further proceedings
20 involving those sanctions shall continue to be heard in the
21 adult court.

22 (f) Scope of sanction; custody return to sentencing
23 court.--An adult sanction or a juvenile sanction may include
24 enforcement of an order of restitution or community control
25 previously ordered in any juvenile proceeding. However, if the
26 court imposes a juvenile sanction and the department
27 determines that the sanction is unsuitable for the child, the
28 department shall return custody of the child to the sentencing
29 court for further proceedings, including the imposition of
30 adult sanctions.

31

1 It is the intent of the Legislature that the criteria and
2 guidelines in this subsection are mandatory and that a
3 determination of disposition under this subsection is subject
4 to the right of the child to appellate review under s.
5 985.234.

6 Section 21. For the purpose of incorporating the
7 amendment made by this act to section 985.233, Florida
8 Statutes, in references thereto, subsections (3) and (4) of
9 section 985.225, Florida Statutes, are reenacted to read:

10 985.225 Indictment of a juvenile.--

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 22. For the purpose of incorporating the
26 amendment made by this act to section 985.233, Florida
27 Statutes, in a reference thereto, paragraph (k) of subsection
28 (3) of section 985.31, Florida Statutes, is reenacted to read:

29 985.31 Serious or habitual juvenile offender.--

30 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
31 TREATMENT.--

1 (k) Any commitment of a child to the department for
2 placement in a serious or habitual juvenile offender program
3 or facility shall be for an indeterminate period of time, but
4 the time shall not exceed the maximum term of imprisonment
5 which an adult may serve for the same offense. Notwithstanding
6 the provisions of ss. 743.07 and 985.231(1)(d), a serious or
7 habitual juvenile offender shall not be held under commitment
8 from a court pursuant to this section, s. 985.231, or s.
9 985.233 after becoming 21 years of age. This provision shall
10 apply only for the purpose of completing the serious or
11 habitual juvenile offender program pursuant to this chapter
12 and shall be used solely for the purpose of treatment.

13 Section 23. Subsections (3) and (6) of section
14 985.309, Florida Statutes, are amended to read:

15 985.309 Boot camp for children.--

16 (3) A child may be placed in a boot camp program if he
17 or she is at least 14 years of age and has not entered a plea
18 of guilty or nolo contendere to, or been adjudicated of,~~but~~
19 ~~less than 18 years of age at the time of adjudication and has~~
20 ~~been committed to the department for any offense that, if~~
21 ~~committed by an adult, would be a felony, other than a capital~~
22 ~~felony, a life felony, or a violent felony of the first~~
23 ~~degree. A child may be placed in an early-intervention boot~~
24 camp program if he or she is at least 12 years of age, has not
25 entered a plea of guilty or nolo contendere to, or been
26 adjudicated of, a capital felony, a life felony, or a violent
27 felony of the first degree, and otherwise qualifies pursuant
28 to paragraph (6)(c).

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

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

4 (b) A participant in a moderate-risk residential
5 program must spend at least 4 months in the boot camp
6 component of the program and at least 4 months in aftercare.

7 (c) The department, a county, or a municipality may
8 operate an early-intervention boot camp program consisting of
9 at least a 10-day residential boot camp component, followed by
10 at least 2 months in aftercare. The purpose of an
11 early-intervention boot camp program is to discourage young
12 offenders from having further contact with the criminal
13 justice system through emphasis on intensive educational and
14 physical training, discipline, and personal responsibility.
15 Any participation in an early-intervention boot camp,
16 regardless of whether the juvenile successfully completes it,
17 automatically disqualifies a juvenile from future
18 participation in an early-intervention boot camp. A
19 participant in an early-intervention boot camp program may not
20 have more than two prior cases involving acts that would be
21 felonies if committed by an adult, nor may a participant in an
22 early-intervention boot camp program have more than four prior
23 cases involving any combination of acts that would be either
24 misdemeanors or felonies if committed by an adult.

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

31

1 Section 24. For the purpose of incorporating the
2 amendment made by this act to section 985.309, Florida
3 Statutes, in a reference thereto, paragraph (j) of subsection
4 (1) of section 985.231, Florida Statutes, is reenacted to
5 read:

6 985.231 Powers of disposition in delinquency cases.--

7 (1)

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

10 1. Upon a first adjudication for a grand theft of a
11 motor vehicle, may place the youth in a boot camp, unless the
12 child is ineligible pursuant to s. 985.309, and shall order
13 the youth to complete a minimum of 50 hours of community
14 service.

15 2. Upon a second adjudication for grand theft of a
16 motor vehicle which is separate and unrelated to the previous
17 adjudication, may place the youth in a boot camp, unless the
18 child is ineligible pursuant to s. 985.309, and shall order
19 the youth to complete a minimum of 100 hours of community
20 service.

21 3. Upon a third adjudication for grand theft of a
22 motor vehicle which is separate and unrelated to the previous
23 adjudications, shall place the youth in a boot camp or other
24 treatment program, unless the child is ineligible pursuant to
25 s. 985.309, and shall order the youth to complete a minimum of
26 250 hours of community service.

27 Section 25. For the purpose of incorporating the
28 amendment made by this act to section 985.309, Florida
29 Statutes, in a reference thereto, paragraph (i) of subsection
30 (3) of section 985.31, Florida Statutes, is reenacted to read:

31 985.31 Serious or habitual juvenile offender.--

1 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
2 TREATMENT.--

3 (i) The treatment and placement recommendations shall
4 be submitted to the court for further action pursuant to this
5 paragraph:

6 1. If it is recommended that placement in a serious or
7 habitual juvenile offender program or facility is
8 inappropriate, the court shall make an alternative disposition
9 pursuant to s. 985.309 or other alternative sentencing as
10 applicable, utilizing the recommendation as a guide.

11 2. If it is recommended that placement in a serious or
12 habitual juvenile offender program or facility is appropriate,
13 the court may commit the child to the department for placement
14 in the restrictiveness level designated for serious or
15 habitual delinquent children programs.

16 Section 26. For the purpose of incorporating the
17 amendment made by this act to section 985.309, Florida
18 Statutes, in a reference thereto, paragraph (i) of subsection
19 (3) of section 985.311, Florida Statutes, is reenacted to
20 read:

21 985.311 Intensive residential treatment program for
22 offenders less than 13 years of age.--

23 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
24 TREATMENT.--

25 (i) The treatment and placement recommendations shall
26 be submitted to the court for further action pursuant to this
27 paragraph:

28 1. If it is recommended that placement in an intensive
29 residential treatment program for offenders less than 13 years
30 of age is inappropriate, the court shall make an alternative
31 disposition pursuant to s. 985.309 or other alternative

1 sentencing as applicable, utilizing the recommendation as a
2 guide.

3 2. If it is recommended that placement in an intensive
4 residential treatment program for offenders less than 13 years
5 of age is appropriate, the court may commit the child to the
6 department for placement in the restrictiveness level
7 designated for intensive residential treatment program for
8 offenders less than 13 years of age.

9 Section 27. For the purpose of incorporating the
10 amendment made by this act to section 985.309, Florida
11 Statutes, in a reference thereto, paragraph (a) of subsection
12 (1) of section 985.314, Florida Statutes, is reenacted to
13 read:

14 985.314 Commitment programs for juvenile felony
15 offenders.--

16 (1) Notwithstanding any other law and regardless of
17 the child's age, a child who is adjudicated delinquent, or for
18 whom adjudication is withheld, for an act that would be a
19 felony if committed by an adult, shall be committed to:

20 (a) A boot camp program under s. 985.309 if the child
21 has participated in an early delinquency intervention program
22 as provided in s. 985.305.

23 Section 28. Subsection (11) of section 985.404,
24 Florida Statutes, is amended to read:

25 985.404 Administering the juvenile justice
26 continuum.--

27 (11) The Department of Juvenile Justice in
28 consultation with the Juvenile Justice Advisory Board and
29 providers shall develop a cost-benefit model and apply the
30 model to each commitment program. Program recommitment rates
31 shall be a component of the model. The cost-benefit model

1 shall compare program costs to benefits. A report ranking
2 commitment programs based on cost-benefit shall be submitted
3 to the appropriate substantive and appropriations committees
4 of each house of the Legislature, no later than December 31 of
5 each year. The report must consider at least the following
6 factors:

7 (a) The recidivism rate measured by whether a juvenile
8 has been arrested within 1 year of leaving a commitment
9 program, regardless of whether the commitment program was
10 successfully completed.

11 (b) The seriousness of the criminal history of the
12 juveniles in the program.

13 (c) The program's cost-per-client.

14 (d) The average age of the juveniles in the program.

15
16 It is the intent of the Legislature that continual development
17 efforts take place to improve the validity and reliability of
18 the cost-benefit model.

19 Section 29. Subsection (6) of section 985.307, Florida
20 Statutes, is amended to read:

21 985.307 Juvenile assignment centers.--

22 (6) Notwithstanding any provision to the contrary,
23 this section expires July 1, 2002 ~~1998~~, unless reenacted by
24 the Legislature. The department may not create or operate a
25 juvenile assignment center after July 1, 2002 ~~1998~~, without
26 further legislative authority. Unless reenacted by the
27 Legislature, any juvenile assignment center created under this
28 section shall be converted to a high-level or maximum-level
29 residential commitment program, subject to availability of
30 funds.

31 Section 30. This act shall take effect July 1, 1998.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2008

- 4 1. Adds a new subsection to s. 985.219, F.S., authorizing
5 the court to assess a civil penalty of up to \$100 upon a
6 parent, legal guardian, or adult relative who receives a
7 notice to appear, accepts custody of a child from a law
8 enforcement officer or an authorized agent of the
9 Department of Juvenile Justice (DJJ), and who fails to
10 produce the child for any specified court proceeding. A
11 civil penalty of up to \$100 may also be assessed upon any
12 parent or legal guardian who fails to bring a child to a
13 court appearance in response to a summons.
- 14 2. Removes the provision that a juvenile offender may be
15 placed in secure detention for up to 14 days for failing
16 to appear for a hearing on a violation of community
17 supervision if the hearing is set within 14 days at the
18 time of the detention hearing.
- 19 3. Removes the provision that technical (non-law) violations
20 of community supervision be counted as though they were
21 misdemeanors for purposes of determining whether a
22 juvenile offender should be transferred to adult court.
- 23 4. Removes the provision that a juvenile offender
24 transferred to adult court may be sentenced to adult
25 probation or community control with a special condition
26 that the offender be placed in a DJJ residential
27 commitment facility.
- 28 5. Allows the adult court judge to withhold adjudication of
29 guilt for juvenile offenders mandatorily transferred to
30 adult court.
- 31 6. Clarifies that juvenile prior records will be scored and
considered to the same extent as adult records.