

By the Committees on Children, Families and Seniors, Criminal Justice and Senator Gutman

300-2101-98

1                                   A bill to be entitled  
2           An act relating to juvenile justice; amending  
3           s. 943.053, F.S.; authorizing the release of  
4           certain juvenile criminal history records to a  
5           private entity under contract with the  
6           Department of Juvenile Justice; providing that  
7           such records remain confidential and exempt  
8           from the public records law; amending s.  
9           984.03, F.S.; revising definitions; providing  
10          for a juvenile probation officer to perform  
11          certain duties formerly performed by an intake  
12          counselor or case manager; amending s. 985.03,  
13          F.S.; revising definitions; providing for a  
14          juvenile probation officer to perform certain  
15          duties formerly performed by an intake  
16          counselor or case manager; providing that  
17          penalties imposed for an escape from detention  
18          or a commitment facility apply to a juvenile  
19          who escapes from a maximum-risk residential  
20          facility; conforming cross-references to  
21          changes made by the act; amending ss. 985.207,  
22          985.208, F.S., relating to conditions for  
23          taking a juvenile into custody and detention;  
24          conforming provisions to changes made by the  
25          act; amending s. 985.209, F.S.; providing for  
26          the Department of Juvenile Justice to establish  
27          juvenile assessment centers; providing for the  
28          centers to be operated through cooperative  
29          agreements with other state agencies; providing  
30          for intake and screening services; amending ss.  
31          985.21, 985.211, F.S.; providing for certain

1 functions formerly considered case-management  
2 functions to be probation functions; amending  
3 s. 985.215, F.S.; conforming terminology to  
4 changes made by the act; requiring that a  
5 juvenile held in secure detention awaiting  
6 dispositional placement meet certain criteria  
7 for detention; amending s. 985.216, F.S.;  
8 deleting a provision authorizing placement of a  
9 juvenile in a secure residential commitment  
10 facility for direct or indirect contempt of  
11 court; amending s. 985.223, F.S.; revising  
12 procedures for determining competency in  
13 juvenile delinquency cases; prescribing duties  
14 of courts, the Department of Juvenile Justice,  
15 and the Department of Children and Family  
16 Services; amending ss. 985.226, 985.23, F.S.,  
17 relating to criteria for waiver of jurisdiction  
18 and disposition hearings in delinquency cases;  
19 conforming provisions to changes made by the  
20 act; amending s. 985.231, F.S.; providing for  
21 placing a juvenile on home detention with  
22 electronic monitoring if a residential  
23 consequence unit is not available; amending ss.  
24 985.301, 985.304, F.S., relating to civil  
25 citations and community arbitration; conforming  
26 provisions to changes made by the act; deleting  
27 certain references to case-management services;  
28 amending s. 985.307, F.S.; extending the period  
29 during which the Department of Juvenile Justice  
30 is authorized to operate juvenile assignment  
31 centers; amending ss. 985.31, 985.311, F.S.,

1 relating to serious or habitual juvenile  
2 offenders and intensive residential treatment  
3 programs for offenders less than 13 years of  
4 age; conforming provisions to changes made by  
5 the act; transferring, renumbering, and  
6 amending s. 944.401, F.S., relating to the  
7 offense of escaping from secure detention or a  
8 residential commitment facility; conforming a  
9 cross-reference; amending s. 985.406, F.S.,  
10 relating to juvenile justice training  
11 academies; conforming provisions to changes  
12 made by the act; amending s. 985.412, F.S.;  
13 deleting a duty of the department's inspector  
14 general with respect to quality assurance;  
15 amending s. 985.413, F.S.; increasing the  
16 number of consecutive terms that may be served  
17 by a member of a district juvenile justice  
18 board; deleting an exemption from such  
19 limitation; amending s. 985.414, F.S.;  
20 specifying the parties to be included in an  
21 interagency agreement for developing a county  
22 juvenile justice plan; amending s. 985.415,  
23 F.S.; revising eligibility requirements for a  
24 Community Juvenile Justice Partnership Grant;  
25 providing effective dates.

26  
27 Be It Enacted by the Legislature of the State of Florida:

28  
29 Section 1. Subsection (8) is added to section 943.053,  
30 Florida Statutes, to read:

31

1           943.053 Dissemination of criminal justice information;  
2 fees.--

3           (8) Notwithstanding s. 943.0525 or any user agreement  
4 adopted under s. 943.0525, and notwithstanding the  
5 confidentiality of sealed records provided in s. 943.059, the  
6 Department of Juvenile Justice and any other state or local  
7 criminal justice agency may provide a copy of the Florida  
8 criminal history records of a juvenile offender currently or  
9 formerly detained or housed in a contracted juvenile  
10 assessment center or detention facility or treated through a  
11 treatment program, or the Florida criminal history records of  
12 an employee or other individual who has access to a contracted  
13 juvenile assessment center, detention facility, or treatment  
14 program, only to an entity under direct contract with the  
15 Department of Juvenile Justice to operate a juvenile  
16 assessment center, detention facility, or treatment program.  
17 The criminal justice agency may assess a charge for providing  
18 the records as provided in chapter 119. A sealed record  
19 received by a private entity under this subsection remains  
20 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
21 of the State Constitution. Information provided under this  
22 subsection may be used only for the criminal justice purpose  
23 for which it was requested and may not be further  
24 disseminated.

25           Section 2. Paragraph (c) of subsection (29), paragraph  
26 (c) of subsection (30), and subsections (31), (32), and (33)  
27 of section 984.03, Florida Statutes, are amended to read:

28           984.03 Definitions.--When used in this chapter, the  
29 term:

30           (29) "Habitually truant" means that:  
31

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

15 (30) "Intake" means the initial acceptance and  
16 screening by the Department of Juvenile Justice of a complaint  
17 or a law enforcement report or probable cause affidavit of  
18 delinquency, family in need of services, or child in need of  
19 services to determine the recommendation to be taken in the  
20 best interests of the child, the family, and the community.  
21 The emphasis of intake is on diversion and the least  
22 restrictive available services. Consequently, intake includes  
23 such alternatives as:

24 (c) The recommendation by the juvenile probation  
25 officer ~~intake counselor or case manager~~ of judicial handling  
26 when appropriate and warranted.

27 ~~(31) "Intake counselor" or "case manager" means the~~  
28 ~~authorized agent of the Department of Juvenile Justice~~  
29 ~~performing the intake or case management function for a child~~  
30 ~~alleged to be delinquent or in need of services, or from a~~  
31 ~~family in need of services.~~

1           ~~(31)(32)~~ "Judge" means the circuit judge exercising  
2 jurisdiction pursuant to this chapter.

3           ~~(32)(33)~~ "Juvenile justice continuum" includes, but is  
4 not limited to, delinquency prevention programs and services  
5 designed for the purpose of preventing or reducing delinquent  
6 acts, including criminal activity by youth gangs and juvenile  
7 arrests, as well as programs and services targeted at children  
8 who have committed delinquent acts, and children who have  
9 previously been committed to residential treatment programs  
10 for delinquents. The term includes

11 children-in-need-of-services and families-in-need-of-services  
12 programs; aftercare and reentry services; substance abuse and  
13 mental health programs; educational and vocational programs;  
14 recreational programs; community services programs; community  
15 service work programs; and alternative dispute resolution  
16 programs serving children at risk of delinquency and their  
17 families, whether offered or delivered by state or local  
18 governmental entities, public or private for-profit or  
19 not-for-profit organizations, or religious or charitable  
20 organizations.

21           (33) "Juvenile probation officer" means the authorized  
22 agent of the department who performs and directs intake,  
23 assessment, probation or aftercare, and other related  
24 services.

25           Section 3. Paragraph (c) of subsection (27), paragraph  
26 (c) of subsection (29), and subsections (30), (31), (32),  
27 (45), and (55) of section 985.03, Florida Statutes, are  
28 amended to read:

29           985.03 Definitions.--When used in this chapter, the  
30 term:

31           (27) "Habitually truant" means that:

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2 school board policy, and a juvenile probation officer ~~an~~  
3 ~~intake counselor or case manager~~ of the Department of Juvenile  
4 Justice have jointly investigated the truancy problem or, if  
5 that was not feasible, have performed separate investigations  
6 to identify conditions that could ~~which may~~ be contributing to  
7 the truant behavior; and if, after a joint staffing of the  
8 case to determine the necessity for services, such services  
9 were determined to be needed, the persons who performed the  
10 investigations met jointly with the family and child to  
11 discuss any referral to appropriate community agencies for  
12 economic services, family or individual counseling, or other  
13 services required to remedy the conditions that are  
14 contributing to the truant behavior.

15           (29) "Intake" means the initial acceptance and  
16 screening by the Department of Juvenile Justice of a complaint  
17 or a law enforcement report or probable cause affidavit of  
18 delinquency, family in need of services, or child in need of  
19 services to determine the recommendation to be taken in the  
20 best interests of the child, the family, and the community.  
21 The emphasis of intake is on diversion and the least  
22 restrictive available services. Consequently, intake includes  
23 such alternatives as:

24           (c) The recommendation by the juvenile probation  
25 officer ~~intake counselor or case manager~~ of judicial handling  
26 when appropriate and warranted.

27           ~~(30) "Intake counselor" or "case manager" means the~~  
28 ~~authorized agent of the Department of Juvenile Justice~~  
29 ~~performing the intake or case management function for a child~~  
30 ~~alleged to be delinquent.~~

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1           ~~(30)(31)~~ "Judge" means the circuit judge exercising  
2 jurisdiction pursuant to this chapter.

3           ~~(31)(32)~~ "Juvenile justice continuum" includes, but is  
4 not limited to, delinquency prevention programs and services  
5 designed for the purpose of preventing or reducing delinquent  
6 acts, including criminal activity by youth gangs, and juvenile  
7 arrests, as well as programs and services targeted at children  
8 who have committed delinquent acts, and children who have  
9 previously been committed to residential treatment programs  
10 for delinquents. The term includes

11 children-in-need-of-services and families-in-need-of-services  
12 programs; aftercare and reentry services; substance abuse and  
13 mental health programs; educational and vocational programs;  
14 recreational programs; community services programs; community  
15 service work programs; and alternative dispute resolution  
16 programs serving children at risk of delinquency and their  
17 families, whether offered or delivered by state or local  
18 governmental entities, public or private for-profit or  
19 not-for-profit organizations, or religious or charitable  
20 organizations.

21           (32) "Juvenile probation officer" means the authorized  
22 agent of the Department of Juvenile Justice who performs the  
23 intake or case-management function for a child alleged to be  
24 delinquent.

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

29           (a) Minimum-risk nonresidential.--Youth assessed and  
30 classified for placement in programs at this restrictiveness  
31 level represent a minimum risk to themselves and public safety



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

7 (b) Low-risk residential.--Youth assessed and  
8 classified for placement in programs at this level represent a  
9 low risk to themselves and public safety and do require  
10 placement and services in residential settings. Programs or  
11 program models in this restrictiveness level include: Short  
12 Term Offender Programs (STOP), group treatment homes, family  
13 group homes, proctor homes, and Short Term Environmental  
14 Programs (STEP). Section 985.3141 ~~944.401~~ applies to children  
15 placed in programs in this restrictiveness level.

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

1 substance abuse residential programs, and moderate-term  
2 wilderness programs designed for committed delinquent youth  
3 that are operated or contracted by the Department of Juvenile  
4 Justice. Section 985.3141 ~~944.401~~ applies to children in  
5 moderate-risk residential programs.

6 (d) High-risk residential.--Youth assessed and  
7 classified for this level of placement require close  
8 supervision in a structured residential setting that provides  
9 24-hour-per-day secure custody, care, and supervision.  
10 Placement in programs in this level is prompted by a concern  
11 for public safety that outweighs placement in programs at  
12 lower restrictiveness levels. Programs or program models in  
13 this level are staff-secure or physically secure residential  
14 commitment facilities and include: training schools, intensive  
15 halfway houses, residential sex offender programs, long-term  
16 wilderness programs designed exclusively for committed  
17 delinquent youth, boot camps, secure halfway house programs,  
18 and the Broward Control Treatment Center. Section 985.3141  
19 ~~944.401~~ applies to children placed in programs in this  
20 restrictiveness level.

21 (e) Maximum-risk residential.--Youth assessed and  
22 classified for this level of placement require close  
23 supervision in a maximum security residential setting that  
24 provides 24-hour-per-day secure custody, care, and  
25 supervision. Placement in a program in this level is prompted  
26 by a demonstrated need to protect the public. Programs or  
27 program models in this level are maximum-secure-custody,  
28 long-term residential commitment facilities that are intended  
29 to provide a moderate overlay of educational, vocational, and  
30 behavioral-modification services. Section 985.3141 applies to  
31 children placed in programs in this restrictiveness level.~~and~~

1 ~~include programs for serious and habitual juvenile offenders~~  
2 ~~and other maximum-security program models authorized by the~~  
3 ~~legislature and established by rule.~~

4 (55) "Temporary release" means the terms and  
5 conditions under which a child is temporarily released from a  
6 commitment facility or allowed home visits. If the temporary  
7 release is from a moderate-risk residential facility, a  
8 high-risk residential facility, or a maximum-risk residential  
9 facility, the terms and conditions of the temporary release  
10 must be approved by the child, the court, and the facility.  
11 The term includes periods during which the child is supervised  
12 pursuant to a reentry program or an aftercare program or a  
13 period during which the child is supervised by a juvenile  
14 probation officer ~~case manager~~ or other nonresidential staff  
15 of the department or staff employed by an entity under  
16 contract with the department. A child placed in a  
17 postcommitment supervision ~~community control~~ program by order  
18 of the court is not considered to be on temporary release and  
19 is not subject to the terms and conditions of temporary  
20 release.

21 Section 4. Subsection (2) of section 985.207, Florida  
22 Statutes, is amended to read:

23 985.207 Taking a child into custody.--

24 (2) When a child is taken into custody as provided in  
25 this section, the person taking the child into custody shall  
26 attempt to notify the parent, guardian, or legal custodian of  
27 the child. The person taking the child into custody shall  
28 continue such attempt until the parent, guardian, or legal  
29 custodian of the child is notified or the child is delivered  
30 to a juvenile probation officer ~~an intake counselor~~ pursuant  
31 to s. 985.21, whichever occurs first. If the child is

1 delivered to a juvenile probation officer ~~an intake counselor~~  
2 before the parent, guardian, or legal custodian is notified,  
3 the juvenile probation officer ~~intake counselor or case~~  
4 ~~manager~~ shall continue the attempt to notify until the parent,  
5 guardian, or legal custodian of the child is notified.

6 Section 5. Subsection (2) of section 985.208, Florida  
7 Statutes, is amended to read:

8 985.208 Detention of furloughed child or escapee on  
9 authority of the department.--

10 (2) Any sheriff or other law enforcement officer, upon  
11 the request of the secretary of the department or duly  
12 authorized agent, shall take a child who has escaped or  
13 absconded from a department facility for committed delinquent  
14 children, or from being lawfully transported thereto or  
15 therefrom, into custody and deliver the child to the  
16 appropriate juvenile probation officer ~~intake counselor or~~  
17 ~~case manager~~ of the department.

18 Section 6. Section 985.209, Florida Statutes, is  
19 amended to read:

20 985.209 Juvenile ~~justice~~ assessment centers.--

21 (1) As used in this section, the term "center" means a  
22 juvenile assessment center comprising community operated  
23 facilities and programs that provide colocated central intake  
24 and screening services for youth referred to the Department of  
25 Juvenile Justice.

26 (2) The department shall work cooperatively with  
27 substance abuse programs, mental health providers, law  
28 enforcement agencies, schools, health service providers, the  
29 public defenders, state attorneys, and other agencies serving  
30 youth to establish juvenile assessment centers. Each current  
31 and newly established center shall be developed and modified

1 through the local initiative of community agencies and local  
2 governments and shall provide a broad array of youth-related  
3 services appropriate to the needs of the community where the  
4 center is located.

5 (3) Each center shall be managed and governed by the  
6 participating agencies, consistent with respective statutory  
7 requirements of each agency, through an advisory committee and  
8 interagency agreements established with participating  
9 entities. The advisory committee shall guide the center's  
10 operation and ensure that appropriate and relevant agencies  
11 are collaboratively participating in and providing services at  
12 the center. Each participating state agency shall have  
13 operational oversight of only those individual service  
14 components located and provided at the center for which the  
15 state agency has statutory authority and responsibility.

16 (4) Each center shall provide colocated central intake  
17 and screening services for youth referred to the department.  
18 The center shall provide sufficient services needed to  
19 facilitate the initial screening of and case processing for  
20 youth, including, at a minimum, delinquency intake; positive  
21 identification of the youth; detention admission screening;  
22 needs assessment; substance abuse screening and assessments;  
23 physical and mental health screening; and diagnostic testing  
24 as appropriate. The department shall provide sufficient staff  
25 and resources at a center to provide detention screening and  
26 intake services.

27 (5) Each center must provide for the coordination and  
28 sharing of information among the participating agencies to  
29 facilitate the screening of and case processing for youth  
30 referred to the department.~~The department shall work~~  
31 ~~cooperatively with substance abuse facilities, mental health~~

1 ~~providers, law enforcement agencies, schools, health services~~  
2 ~~providers, and other entities involved with children to~~  
3 ~~establish a juvenile justice assessment center in each service~~  
4 ~~district. The assessment center shall serve as central intake~~  
5 ~~and screening for children referred to the department. Each~~  
6 ~~juvenile justice assessment center shall provide services~~  
7 ~~needed to facilitate initial screening of children, including~~  
8 ~~intake and needs assessment, substance abuse screening,~~  
9 ~~physical and mental health screening, and diagnostic testing,~~  
10 ~~as appropriate. The entities involved in the assessment center~~  
11 ~~shall make the resources for the provision of these services~~  
12 ~~available at the same level to which they are available to the~~  
13 ~~general public.~~

14 Section 7. Section 985.21, Florida Statutes, is  
15 amended to read:

16 985.21 Intake and case management.--

17 (1)(a) During the intake process, the juvenile  
18 probation officer ~~intake counselor~~ shall screen each child to  
19 determine:

20 1. Appropriateness for release, referral to a  
21 diversionary program including, but not limited to, a  
22 teen-court program, referral for community arbitration, or  
23 referral to some other program or agency for the purpose of  
24 nonofficial or nonjudicial handling.

25 2. The presence of medical, psychiatric,  
26 psychological, substance abuse, educational problems, or other  
27 conditions that may have caused the child to come to the  
28 attention of law enforcement or the Department of Juvenile  
29 Justice. In cases where such conditions are identified, and a  
30 nonjudicial handling of the case is chosen, the juvenile  
31 probation officer ~~intake counselor~~ shall attempt to refer the

1 child to a program or agency, together with all available and  
2 relevant assessment information concerning the child's  
3 precipitating condition.

4           3. The Department of Juvenile Justice shall develop a  
5 case management system whereby a child brought into intake is  
6 assigned a juvenile probation officer ~~case manager~~ if the  
7 child was not released, referred to a diversionary program,  
8 referred for community arbitration, or referred to some other  
9 program or agency for the purpose of nonofficial or  
10 nonjudicial handling, and shall make every reasonable effort  
11 to provide continuity of case management for the child;  
12 provided, however, that case management for children committed  
13 to residential programs may be transferred as provided in s.  
14 985.316.

15           4. In addition to duties specified in other sections  
16 and through departmental rules, the assigned juvenile  
17 probation officer ~~case manager~~ shall be responsible for the  
18 following:

19           a. Ensuring that a risk assessment instrument  
20 establishing the child's eligibility for detention has been  
21 accurately completed and that the appropriate recommendation  
22 was made to the court.

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

25           c. Performing the preliminary screening and making  
26 referrals for comprehensive assessment regarding the child's  
27 need for substance abuse treatment services, mental health  
28 services, retardation services, literacy services, or other  
29 educational or treatment services.

30           d. Coordinating the multidisciplinary assessment when  
31 required, which includes the classification and placement

1 process that determines the child's priority needs, risk  
2 classification, and treatment plan. When sufficient evidence  
3 exists to warrant a comprehensive assessment and the child  
4 fails to voluntarily participate in the assessment efforts, it  
5 is the responsibility of the juvenile probation officer ~~case~~  
6 ~~manager~~ to inform the court of the need for the assessment and  
7 the refusal of the child to participate in such assessment.  
8 This assessment, classification, and placement process shall  
9 develop into the predisposition report.

10 e. Making recommendations for services and  
11 facilitating the delivery of those services to the child,  
12 including any mental health services, educational services,  
13 family counseling services, family assistance services, and  
14 substance abuse services. The juvenile probation officer  
15 ~~delinquency case manager~~ shall serve as the primary case  
16 manager for the purpose of managing, coordinating, and  
17 monitoring the services provided to the child. Each program  
18 administrator within the Department of Children and Family  
19 Services shall cooperate with the primary case manager in  
20 carrying out the duties and responsibilities described in this  
21 section.

22  
23 The Department of Juvenile Justice shall annually advise the  
24 Legislature and the Executive Office of the Governor of the  
25 resources needed in order for the case management system to  
26 maintain a staff-to-client ratio that is consistent with  
27 accepted standards and allows the necessary supervision and  
28 services for each child. The intake process and case  
29 management system shall provide a comprehensive approach to  
30 assessing the child's needs, relative risks, and most

31



1 appropriate handling, and shall be based on an individualized  
2 treatment plan.

3 (b) The intake and case management system shall  
4 facilitate consistency in the recommended placement of each  
5 child, and in the assessment, classification, and placement  
6 process, with the following purposes:

7 1. An individualized, multidisciplinary assessment  
8 process that identifies the priority needs of each individual  
9 child for rehabilitation and treatment and identifies any  
10 needs of the child's parents or guardians for services that  
11 would enhance their ability to provide adequate support,  
12 guidance, and supervision for the child. This process shall  
13 begin with the detention risk assessment instrument and  
14 decision, shall include the intake preliminary screening and  
15 comprehensive assessment for substance abuse treatment  
16 services, mental health services, retardation services,  
17 literacy services, and other educational and treatment  
18 services as components, additional assessment of the child's  
19 treatment needs, and classification regarding the child's  
20 risks to the community and, for a serious or habitual  
21 delinquent child, shall include the assessment for placement  
22 in a serious or habitual delinquent children program pursuant  
23 to s. 985.31. The completed multidisciplinary assessment  
24 process shall result in the predisposition report.

25 2. A classification system that assigns a relative  
26 risk to the child and the community based upon assessments  
27 including the detention risk assessment results when available  
28 to classify the child's risk as it relates to placement and  
29 supervision alternatives.

30 3. An admissions process that facilitates for each  
31 child the utilization of the treatment plan and setting most

1 appropriate to meet the child's programmatic needs and provide  
2 the minimum program security needed to ensure public safety.

3 (2) The intake process shall be performed by the  
4 department through a case management system. The purpose of  
5 the intake process is to assess the child's needs and risks  
6 and to determine the most appropriate treatment plan and  
7 setting for the child's programmatic needs and risks. The  
8 intake process shall result in choosing the most appropriate  
9 services through a balancing of the interests and needs of the  
10 child with those of the family and the public. The juvenile  
11 probation officer ~~intake counselor or case manager~~ is  
12 responsible for making informed decisions and recommendations  
13 to other agencies, the state attorney, and the courts so that  
14 the child and family may receive the least intrusive service  
15 alternative throughout the judicial process. The department  
16 shall establish uniform procedures for the juvenile probation  
17 officer ~~intake counselor or case manager~~ to provide, prior to  
18 the filing of a petition or as soon as possible thereafter and  
19 prior to a disposition hearing, a preliminary screening of the  
20 child and family for substance abuse and mental health  
21 services.

22 (3) A report, affidavit, or complaint alleging that a  
23 child has committed a delinquent act or violation of law shall  
24 be made to the intake office operating in the county in which  
25 the child is found or in which the delinquent act or violation  
26 of law occurred. Any person or agency having knowledge of the  
27 facts may make such a written report, affidavit, or complaint  
28 and shall furnish to the intake office facts sufficient to  
29 establish the jurisdiction of the court and to support a  
30 finding by the court that the child has committed a delinquent  
31 act or violation of law.

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

18           (a) The juvenile probation officer ~~intake counselor or~~  
19 ~~case manager~~, upon determining that the report, affidavit, or  
20 complaint is complete, may, in the case of a child who is  
21 alleged to have committed a delinquent act or violation of  
22 law, recommend that the state attorney file a petition of  
23 delinquency or an information or seek an indictment by the  
24 grand jury. However, such a recommendation is not a  
25 prerequisite for any action taken by the state attorney.

26           (b) The juvenile probation officer ~~intake counselor or~~  
27 ~~case manager~~, upon determining that the report, affidavit, or  
28 complaint is complete, pursuant to uniform procedures  
29 established by the department, shall:

30           1. When indicated by the preliminary screening,  
31 provide for a comprehensive assessment of the child and family

1 for substance abuse problems, using community-based licensed  
2 programs with clinical expertise and experience in the  
3 assessment of substance abuse problems.

4           2. When indicated by the preliminary screening,  
5 provide for a comprehensive assessment of the child and family  
6 for mental health problems, using community-based  
7 psychologists, psychiatrists, or other licensed mental health  
8 professionals with clinical expertise and experience in the  
9 assessment of mental health problems.

10

11 When indicated by the comprehensive assessment, the department  
12 is authorized to contract within appropriated funds for  
13 services with a local nonprofit community mental health or  
14 substance abuse agency licensed or authorized under chapter  
15 394, or chapter 397, or other authorized nonprofit social  
16 service agency providing related services. The determination  
17 of mental health or substance abuse services shall be  
18 conducted in coordination with existing programs providing  
19 mental health or substance abuse services in conjunction with  
20 the intake office. Client information resulting from the  
21 screening and evaluation shall be documented pursuant to rules  
22 established by the department and shall serve to assist the  
23 juvenile probation officer ~~intake counselor or case manager~~ in  
24 providing the most appropriate services and recommendations in  
25 the least intrusive manner. Such client information shall be  
26 used in the multidisciplinary assessment and classification of  
27 the child, but such information, and any information obtained  
28 directly or indirectly through the assessment process, is  
29 inadmissible in court prior to the disposition hearing, unless  
30 the child's written consent is obtained. At the disposition  
31 hearing, documented client information shall serve to assist

1 the court in making the most appropriate custody,  
2 adjudicatory, and dispositional decision. If the screening and  
3 assessment indicate that the interest of the child and the  
4 public will be best served thereby, the juvenile probation  
5 officer ~~intake counselor or case manager~~, with the approval of  
6 the state attorney, may refer the child for care, diagnostic  
7 and evaluation services, substance abuse treatment services,  
8 mental health services, retardation services, a diversionary  
9 or arbitration or mediation program, community service work,  
10 or other programs or treatment services voluntarily accepted  
11 by the child and the child's parents or legal guardians. The  
12 victim, if any, and the law enforcement agency which  
13 investigated the offense shall be notified immediately by the  
14 state attorney of the action taken under this paragraph.

15 Whenever a child volunteers to participate in any work program  
16 under this chapter or volunteers to work in a specified state,  
17 county, municipal, or community service organization  
18 supervised work program or to work for the victim, the child  
19 shall be considered an employee of the state for the purposes  
20 of liability. In determining the child's average weekly wage,  
21 unless otherwise determined by a specific funding program, all  
22 remuneration received from the employer is considered a  
23 gratuity, and the child is not entitled to any benefits  
24 otherwise payable under s. 440.15, regardless of whether the  
25 child may be receiving wages and remuneration from other  
26 employment with another employer and regardless of the child's  
27 future wage-earning capacity.

28 (c) The juvenile probation officer ~~intake counselor or~~  
29 ~~case manager~~, upon determining that the report, affidavit, or  
30 complaint complies with the standards of a probable cause  
31 affidavit and that the interest of the child and the public

1 will be best served, may recommend that a delinquency petition  
2 not be filed. If such a recommendation is made, the juvenile  
3 probation officer ~~intake counselor or case manager~~ shall  
4 advise in writing the person or agency making the report,  
5 affidavit, or complaint, the victim, if any, and the law  
6 enforcement agency having investigative jurisdiction of the  
7 offense of the recommendation and the reasons therefor; and  
8 that the person or agency may submit, within 10 days after the  
9 receipt of such notice, the report, affidavit, or complaint to  
10 the state attorney for special review. The state attorney,  
11 upon receiving a request for special review, shall consider  
12 the facts presented by the report, affidavit, or complaint,  
13 and by the juvenile probation officer ~~intake counselor or case~~  
14 ~~manager~~ who made the recommendation that no petition be filed,  
15 before making a final decision as to whether a petition or  
16 information should or should not be filed.

17 (d) In all cases in which the child is alleged to have  
18 committed a violation of law or delinquent act and is not  
19 detained, the juvenile probation officer ~~intake counselor or~~  
20 ~~case manager~~ shall submit a written report to the state  
21 attorney, including the original report, complaint, or  
22 affidavit, or a copy thereof, including a copy of the child's  
23 prior juvenile record, within 20 days after the date the child  
24 is taken into custody. In cases in which the child is in  
25 detention, the intake office report must be submitted within  
26 24 hours after the child is placed into detention. The intake  
27 office report must recommend either that a petition or  
28 information be filed or that no petition or information be  
29 filed, and must set forth reasons for the recommendation.

30 (e) The state attorney may in all cases take action  
31 independent of the action or lack of action of the juvenile

1 probation officer ~~intake counselor or case manager~~, and shall  
2 determine the action which is in the best interest of the  
3 public and the child. If the child meets the criteria  
4 requiring prosecution as an adult pursuant to s. 985.226, the  
5 state attorney shall request the court to transfer and certify  
6 the child for prosecution as an adult or shall provide written  
7 reasons to the court for not making such request. In all other  
8 cases, the state attorney may:

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

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

27 (5) Prior to requesting that a delinquency petition be  
28 filed or prior to filing a dependency petition, the juvenile  
29 probation ~~intake~~ officer may request the parent or legal  
30 guardian of the child to attend a course of instruction in  
31 parenting skills, training in conflict resolution, and the

1 practice of nonviolence; to accept counseling; or to receive  
2 other assistance from any agency in the community which  
3 notifies the clerk of the court of the availability of its  
4 services. Where appropriate, the juvenile probation intake  
5 officer shall request both parents or guardians to receive  
6 such parental assistance. The juvenile probation intake  
7 officer may, in determining whether to request that a  
8 delinquency petition be filed, take into consideration the  
9 willingness of the parent or legal guardian to comply with  
10 such request.

11 Section 8. Subsections (3) and (4) and paragraph (c)  
12 of subsection (6) of section 985.211, Florida Statutes, are  
13 amended to read:

14 985.211 Release or delivery from custody.--

15 (3) If the child is released, the person taking the  
16 child into custody shall make a written report or probable  
17 cause affidavit to the appropriate juvenile probation officer  
18 ~~intake counselor or case manager~~ within 3 days, stating the  
19 facts and the reason for taking the child into custody. Such  
20 written report or probable cause affidavit shall:

21 (a) Identify the child, the parents, guardian, or  
22 legal custodian, and the person to whom the child was  
23 released.

24 (b) Contain sufficient information to establish the  
25 jurisdiction of the court and to make a prima facie showing  
26 that the child has committed a violation of law or a  
27 delinquent act.

28 (4) A person taking a child into custody who  
29 determines, pursuant to s. 985.215, that the child should be  
30 detained or released to a shelter designated by the  
31 department, shall make a reasonable effort to immediately



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

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

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

17 (6)

18 (c) Each letter of recommendation, written notice,  
19 report, or other paper required by law pertaining to the case  
20 shall bear the uniform case number of the case, and a copy  
21 shall be filed with the clerk of the circuit court by the  
22 issuing agency. The issuing agency shall furnish copies to  
23 the juvenile probation officer ~~intake counselor or case~~  
24 ~~manager~~ and the state attorney.

25 Section 9. Subsections (1) and (2) and paragraph (a)  
26 of subsection (10) of section 985.215, Florida Statutes, are  
27 amended to read:

28 985.215 Detention.--

29 (1) The juvenile probation officer ~~intake counselor or~~  
30 ~~case manager~~ shall receive custody of a child who has been  
31 taken into custody from the law enforcement agency and shall

1 review the facts in the law enforcement report or probable  
2 cause affidavit and make such further inquiry as may be  
3 necessary to determine whether detention care is required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (10)(a)1. When a child is committed to the Department  
15 of Juvenile Justice awaiting dispositional placement, removal  
16 of the child from detention care shall occur within 5 days,  
17 excluding Saturdays, Sundays, and legal holidays. If the child  
18 is committed to ~~a low-risk residential program or a~~  
19 moderate-risk residential program, the department may seek an  
20 order from the court authorizing continued detention for a  
21 specific period of time necessary for the appropriate  
22 residential placement of the child. However, such continued  
23 detention in secure detention care may not exceed 15 days  
24 after commitment, excluding Saturdays, Sundays, and legal  
25 holidays, and except as otherwise provided in this subsection.  
26 A child may not be held in secure detention during the 5-day  
27 period while awaiting placement unless the child meets the  
28 criteria for detention prescribed in this section.

29 2. The court must place all children who are  
30 adjudicated and awaiting placement in a residential commitment  
31 program in detention care. Children who are in home detention

1 care or nonsecure detention care may be placed on electronic  
2 monitoring. A child committed to a moderate-risk residential  
3 program may be held in a juvenile assignment center pursuant  
4 to s. 985.307 until placement or commitment is accomplished.

5 Section 10. Subsection (2) of section 985.216, Florida  
6 Statutes, is amended to read:

7 985.216 Punishment for contempt of court; alternative  
8 sanctions.--

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

15 (a) A delinquent child who has been held in direct or  
16 indirect contempt may be placed in a secure detention facility  
17 for 5 days for a first offense or 15 days for a second or  
18 subsequent offense, ~~or in a secure residential commitment~~  
19 ~~facility.~~

20 (b) A child in need of services who has been held in  
21 direct contempt or indirect contempt may be placed, for 5 days  
22 for a first offense or 15 days for a second or subsequent  
23 offense, in a staff-secure shelter or a staff-secure  
24 residential facility solely for children in need of services  
25 if such placement is available, or, if such placement is not  
26 available, the child may be placed in an appropriate mental  
27 health facility or substance abuse facility for assessment. In  
28 addition to disposition under this paragraph, a child in need  
29 of services who is held in direct contempt or indirect  
30 contempt may be placed in a physically secure facility as  
31

1 provided under s. 984.226 if conditions of eligibility are  
2 met.

3 Section 11. Section 985.223, Florida Statutes, is  
4 amended to read:

5 985.223 Incompetency in juvenile delinquency cases.--

6 (1) If, at any time prior to or during a delinquency  
7 ~~case involving a delinquent act or violation of law that would~~  
8 ~~be a felony if committed by an adult~~, the court has reason to  
9 believe that the child named in the petition may be  
10 incompetent to proceed with the hearing, the court on its own  
11 motion may, or on the motion of the child's attorney or state  
12 attorney must, stay all proceedings and order an evaluation of  
13 the child's mental condition.

14 (a) Any motion questioning the child's competency to  
15 proceed must be served upon the child's attorney, the state  
16 attorney, attorneys representing the Department of Juvenile  
17 Justice, and attorneys representing the Department of Children  
18 and Family Services. Thereafter, any motion, notice of  
19 hearing, order, or other legal pleading relating to the  
20 child's competency to proceed with the hearing must be served  
21 upon the child's attorney, the state attorney, and attorneys  
22 representing the Department of Juvenile Justice, and attorneys  
23 representing the Department of Children and Family Services.  
24 The Department of Juvenile Justice and the Department of  
25 Children and Family Services may, after service of the motion  
26 questioning the child's competency to proceed, participate as  
27 parties to the litigation pertaining to competency.

28 (b)~~(a)~~ All determinations of competency shall be made  
29 at a hearing, with findings of fact based on an evaluation of  
30 the child's mental condition made by not fewer ~~less~~ than two  
31 nor more than three experts appointed by the court. The basis

1 for ~~if~~ the determination of incompetency ~~is based on the~~  
2 ~~presence of a mental illness or mental retardation,~~ this must  
3 be specifically stated in the evaluation. Experts appointed by  
4 the court to determine the mental condition of a child shall  
5 be allowed reasonable fees for services rendered. State  
6 employees may be paid expenses pursuant to s. 112.061. The  
7 fees shall be taxed as costs in the case. In addition, a  
8 recommendation as to whether residential or nonresidential  
9 treatment or training is required must be included in the  
10 evaluation.

11 (c) All court orders determining incompetency must  
12 include specific written findings by the court as to the  
13 nature of the incompetency and whether the child requires  
14 secure or nonsecure treatment or training environments.

15 (d)~~(b)~~ For incompetency evaluations related to mental  
16 illness, the Department of Children and Family Services shall  
17 annually provide the courts with a list of mental health  
18 professionals who have completed a training program approved  
19 by the Department of Children and Family Services to perform  
20 the evaluations.

21 (e)~~(c)~~ For incompetency evaluations related to mental  
22 retardation, the court shall order the Developmental Services  
23 Program Office within the Department of Children and Family  
24 Services to examine the child to determine if the child meets  
25 the definition of "retardation" in s. 393.063 and, if so,  
26 whether the child is competent to proceed with delinquency  
27 proceedings.

28 (f)~~(d)~~ A child is competent to proceed if the child  
29 has sufficient present ability to consult with counsel with a  
30 reasonable degree of rational understanding and the child has  
31



1 a rational and factual understanding of the present  
2 proceedings. The report must address the child's capacity to:  
3 1. Appreciate the charges or allegations against the  
4 child.  
5 2. Appreciate the range and nature of possible  
6 penalties that may be imposed in the proceedings against the  
7 child, if applicable.  
8 3. Understand the adversarial nature of the legal  
9 process.  
10 4. Disclose to counsel facts pertinent to the  
11 proceedings at issue.  
12 5. Display appropriate courtroom behavior.  
13 6. Testify relevantly.  
14 (g) Immediately upon the filing of the court order  
15 finding a child incompetent to proceed, the clerk of the court  
16 shall notify the Department of Children and Family Services  
17 and fax or hand deliver to the Department of Children and  
18 Family Services a referral packet which includes, at a  
19 minimum, the court order, the charging documents, the  
20 petition, and the court-appointed evaluator's reports.  
21 (h) After placement of the child in the appropriate  
22 setting, the Department of Children and Family Services must,  
23 within 30 days after the Department of Children and Family  
24 Services places the child, prepare and submit to the court a  
25 treatment plan for the child's restoration of competency. A  
26 copy of the treatment plan must be served upon the child's  
27 attorney, the state attorney, and attorneys representing the  
28 Department of Juvenile Justice.  
29 (2) A ~~Every~~ child who is mentally ill or retarded, is  
30 adjudicated incompetent to proceed, and has committed a  
31 delinquent act or violation of law, either of which would be a

1 felony if committed by an adult, must ~~may~~ ~~be involuntarily~~  
2 committed to the Department of Children and Family Services  
3 for treatment or training. A child who has been adjudicated  
4 incompetent to proceed because of age or immaturity, or for  
5 any reason other than for mental illness or retardation, must  
6 not be committed to the department or to the Department of  
7 Children and Family Services for restoration-of-competency  
8 treatment or training services. For the purpose of this  
9 section, no child who has committed a delinquent act or  
10 violation of law, either of which would be a misdemeanor if  
11 committed by an adult, may be committed to the department or  
12 to the Department of Children and Family Services for  
13 restoration-of-competency treatment or training services.

14 (3) If the court finds that a child is mentally ill or  
15 retarded and adjudicates the child incompetent to proceed, the  
16 court must also determine whether the child meets the criteria  
17 for secure placement. A child may be placed in a secure  
18 facility or program if the court makes ~~upon~~ a finding ~~by the~~  
19 court of clear and convincing evidence that:

20 (a) The child is mentally ill and because of the  
21 mental illness; or the child is mentally retarded and because  
22 of the mental retardation:

23 1. The child is manifestly incapable of surviving with  
24 the help of willing and responsible family or friends,  
25 including available alternative services, and without  
26 treatment or training the child is likely to either suffer  
27 from neglect or refuse to care for self, and such neglect or  
28 refusal poses a real and present threat of substantial harm to  
29 the child's well-being; or

30 2. There is a substantial likelihood that in the near  
31 future the child will inflict serious bodily harm on self or

1 others, as evidenced by recent behavior causing, attempting,  
2 or threatening such harm; and

3 (b) All available less restrictive alternatives,  
4 including treatment or training in community residential  
5 facilities or community ~~inpatient or outpatient~~ settings which  
6 would offer an opportunity for improvement of the child's  
7 condition, are inappropriate.

8 ~~(4)(3)~~ A Each child who is determined to be mentally  
9 ill or retarded, who has been adjudicated incompetent to  
10 proceed, and who meets the criteria set forth for commitment  
11 in subsection(3)(2), must be committed to the Department of  
12 Children and Family Services, and the that Department of  
13 Children and Family Services may retain, and if it retains  
14 must treat or train, the child in a secure facility or program  
15 that is the least restrictive alternative consistent with  
16 public safety. Any placement commitment of a child to a  
17 secure residential program must be separate from adult  
18 forensic programs. If the child attains competency, the  
19 custody, case management, and supervision of the child will be  
20 transferred to the department in order to continue delinquency  
21 proceedings; however, the court retains authority to order the  
22 Department of Children and Family Services to provide  
23 continued treatment to maintain competency.

24 (a) A child adjudicated incompetent due to mental  
25 retardation may be ordered into a secure program or facility  
26 designated by the Department of Children and Family Services  
27 for retarded children.

28 (b) A child adjudicated incompetent due to mental  
29 illness may be ordered into a secure program or facility  
30 designated by the Department of Children and Family Services  
31 for mentally ill children.

1           (c) Whenever a child is placed in a secure residential  
2 facility, the department will provide transportation to the  
3 secure residential facility for admission and from the secure  
4 residential facility upon discharge.

5           (d) The purpose of the treatment or training is the  
6 restoration of the child's competency to proceed.

7           (e)(c) The service provider must file a written report  
8 with the court pursuant to the applicable Rules of Juvenile  
9 Procedure not later than 6 months after the date of  
10 commitment, ~~or~~ at the end of any period of extended treatment  
11 or training, ~~and~~ ~~or~~ at any time the Department of Children and  
12 Family Services, through its service provider, determines the  
13 child has attained competency or no longer meets the criteria  
14 for secure placement, or at such shorter intervals as ordered  
15 by the court commitment, the service provider must file a  
16 report with the court pursuant to the applicable Rules of  
17 Juvenile Procedure. A copy of a written report evaluating the  
18 child's competency must be filed by the provider with the  
19 court and with the state attorney, the child's attorney, the  
20 department, and the Department of Children and Family  
21 Services.

22           (5)(a)(4) If a child is determined to be incompetent  
23 to proceed, the court shall retain jurisdiction of the child  
24 for up to 2 years after the date of the order of incompetency,  
25 with reviews at least every 6 months to determine competency.

26           (b) Whenever the provider files a report with the  
27 court informing the court that the child will never become  
28 competent to proceed, the Department of Children and Family  
29 Services will develop a discharge plan for the child before  
30 any hearing determining whether the child will ever become  
31 competent to proceed. The Department of Children and Family

1 Services must send the proposed discharge plan to the court,  
2 the state attorney, the child's attorney, and attorneys  
3 representing the Department of Juvenile Justice. The provider  
4 will continue to provide services to the child until the court  
5 issues the order finding that the child will never become  
6 competent to proceed.

7 (c) If the court determines at any time that the child  
8 will never become competent to proceed, the court may dismiss  
9 the delinquency petition. If, at the end of the 2-year period  
10 following the date of the order of incompetency, the child has  
11 not attained competency and there is no evidence that the  
12 child will attain competency within a year, the court must  
13 dismiss the delinquency petition. If appropriate necessary,  
14 the court may order that proceedings under chapter 393 or  
15 chapter 394 be instituted. Such proceedings must be  
16 instituted not less than 60 days prior to the dismissal of the  
17 delinquency petition.

18 (6)(a)~~(5)~~ If a child is determined to be mentally ill  
19 or retarded and who is found to be incompetent to proceed but  
20 does not meet the ~~commitment~~ criteria set forth in of  
21 subsection(3)~~(2)~~, the court shall commit the child to the  
22 Department of Children and Family Services and shall ~~may~~ order  
23 the Department of Children and Family Services to provide  
24 appropriate treatment and training in the community. The  
25 purpose of the treatment or training is the restoration of the  
26 child's competency to proceed.

27 (b) All court-ordered treatment or training must be  
28 the least restrictive alternative that is consistent with  
29 public safety. Any placement by the Department of Children  
30 and Family Services ~~commitment~~ to a residential program must  
31 be separate from adult forensic programs.

1           (c) If a child is ordered to receive  
2 competency-restoration ~~such~~ services, the services shall be  
3 provided by the Department of Children and Family Services.  
4 The department shall continue to provide case management  
5 services to the child and receive notice of the competency  
6 status of the child.

7           (d) The service provider must file a written report  
8 with the court pursuant to the applicable Rules of Juvenile  
9 Procedure, not later than 6 months after the date of  
10 commitment, at the end of any period of extended treatment or  
11 training, and at any time the service provider determines the  
12 child has attained competency or will never attain competency,  
13 or at such shorter intervals as ordered by the court.~~The~~  
14 ~~competency determination must be reviewed at least every 6~~  
15 ~~months by the service provider, and~~ A copy of a written report  
16 evaluating the child's competency must be filed by the  
17 provider with the court, the state attorney, the child's  
18 attorney, and with the Department of Children and Family  
19 Services, and the department.

20           ~~(7)~~(6) The provisions of this section shall be  
21 implemented only subject to specific appropriation.

22           Section 12. Paragraph (a) of subsection (3) of section  
23 985.226, Florida Statutes, is amended to read:

24           985.226 Criteria for waiver of juvenile court  
25 jurisdiction; hearing on motion to transfer for prosecution as  
26 an adult.--

27           (3) WAIVER HEARING.--

28           (a) Within 7 days, excluding Saturdays, Sundays, and  
29 legal holidays, after the date a petition alleging that a  
30 child has committed a delinquent act or violation of law has  
31 been filed, or later with the approval of the court, but

1 before an adjudicatory hearing and after considering the  
2 recommendation of the juvenile probation officer ~~intake~~  
3 ~~counselor or case manager~~, the state attorney may file a  
4 motion requesting the court to transfer the child for criminal  
5 prosecution.

6 Section 13. Paragraph (b) of subsection (3) of section  
7 985.23, Florida Statutes, is amended to read:

8 985.23 Disposition hearings in delinquency  
9 cases.--When a child has been found to have committed a  
10 delinquent act, the following procedures shall be applicable  
11 to the disposition of the case:

12 (3)

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

24 Section 14. Paragraph (a) of subsection (1) of section  
25 985.231, Florida Statutes, is amended to read:

26 985.231 Powers of disposition in delinquency cases.--

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

31

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 ~~s. 39.037~~ for violating  
25 the conditions of community control or aftercare shall be held  
26 in 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 residential 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 the  
11 child to a jail or to a facility used primarily as a detention  
12 center or facility or shelter.

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

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

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

29 6. As part of the community control program to be  
30 implemented by the Department of Juvenile Justice, or, in the  
31 case of a committed child, as part of the community-based

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

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

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

1 The court may retain jurisdiction over such child until the  
2 child reaches the age of 21, specifically for the purpose of  
3 the child completing the program.

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

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

25           Section 15. Subsection (4) of section 985.301, Florida  
26 Statutes, is amended to read:

27           985.301 Civil citation.--

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

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

6 Section 16. Subsection (4), paragraph (e) of  
7 subsection (5), and paragraphs (a) and (d) of subsection (6)  
8 of section 985.304, Florida Statutes, are amended to read:

9 985.304 Community arbitration.--

10 (4) PROCEDURE FOR INITIATING CASES FOR COMMUNITY  
11 ARBITRATION.--

12 (a) Any law enforcement officer may issue a complaint,  
13 along with a recommendation for community arbitration, against  
14 any child who such officer has reason to believe has committed  
15 any offense that is eligible for community arbitration. The  
16 complaint shall specify the offense and the reasons why the  
17 law enforcement officer feels that the offense should be  
18 handled by community arbitration. Any juvenile probation  
19 officer ~~intake counselor or case manager~~ or, at the request of  
20 the child's parent or legal custodian or guardian, the state  
21 attorney or the court having jurisdiction, with the  
22 concurrence of the state attorney, may refer a complaint to be  
23 handled by community arbitration when appropriate. A copy of  
24 the complaint shall be forwarded to the appropriate juvenile  
25 probation officer ~~intake counselor or case manager~~ and the  
26 parent or legal custodian or guardian of the child within 48  
27 hours after issuance of the complaint. In addition to the  
28 complaint, the child and the parent or legal custodian or  
29 guardian shall be informed of the objectives of the community  
30 arbitration process; the conditions, procedures, and  
31 timeframes under which it will be conducted; and the fact that

1 it is not obligatory. The juvenile probation officer ~~intake~~  
2 ~~counselor~~ shall contact the child and the parent or legal  
3 custodian or guardian within 2 days after the date on which  
4 the complaint was received. At this time, the child or the  
5 parent or legal custodian or guardian shall inform the  
6 juvenile probation officer ~~intake counselor~~ of the decision to  
7 approve or reject the handling of the complaint through  
8 community arbitration.

9 (b) The juvenile probation officer ~~intake counselor~~  
10 shall verify accurate identification of the child and  
11 determine whether or not the child has any prior adjudications  
12 or adjudications withheld for an offense eligible for  
13 community arbitration for consideration in the point value  
14 structure. If the child has at least one prior adjudication  
15 or adjudication withheld for an offense that ~~which~~ is not  
16 eligible for community arbitration, or if the child has  
17 already surpassed the accepted level of points on prior  
18 community arbitration resolutions, the juvenile probation  
19 officer ~~intake counselor or case manager~~ shall consult with  
20 the state attorney regarding the filing of formal juvenile  
21 proceedings.

22 (c) If the child or the parent or legal custodian or  
23 guardian rejects the handling of the complaint through  
24 community arbitration, the juvenile probation officer ~~intake~~  
25 ~~counselor~~ shall consult with the state attorney for the filing  
26 of formal juvenile proceedings.

27 (d) If the child or the parent or legal custodian or  
28 guardian accepts the handling of the complaint through  
29 community arbitration, the juvenile probation officer ~~intake~~  
30 ~~counselor~~ shall provide copies of the complaint to the  
31 arbitrator or panel within 24 hours.

1           (e) The community arbitrator or community arbitration  
2 panel shall, upon receipt of the complaint, set a time and  
3 date for a hearing within 7 days and shall inform the child's  
4 parent or legal custodian or guardian, the complaining  
5 witness, and any victims of the time, date, and place of the  
6 hearing.

7           (5) HEARINGS.--

8           (e) If a child fails to appear on the original hearing  
9 date, the matter shall be referred back to the juvenile  
10 probation officer, ~~intake counselor~~ who shall consult with the  
11 state attorney regarding the filing of formal juvenile  
12 proceedings.

13           (6) DISPOSITION OF CASES.--

14           (a) Subsequent to any hearing held as provided in  
15 subsection (5), the community arbitrator or community  
16 arbitration panel may:

17           1. Recommend that the state attorney decline to  
18 prosecute the child.

19           2. Issue a warning to the child or the child's family  
20 and recommend that the state attorney decline to prosecute the  
21 child.

22           3. Refer the child for placement in a community-based  
23 nonresidential program.

24           4. Refer the child or the family to community  
25 counseling.

26           5. Refer the child to a safety and education program  
27 related to delinquent children.

28           6. Refer the child to a work program related to  
29 delinquent children and require up to 100 hours of work by the  
30 child.

31



1           7. Refer the child to a nonprofit organization for  
2 volunteer work in the community and require up to 100 hours of  
3 work by the child.

4           8. Order restitution in money or in kind in a case  
5 involving property damage; however, the amount of restitution  
6 shall not exceed the amount of actual damage to property.

7           9. Continue the case for further investigation.

8           10. Require the child to undergo urinalysis  
9 monitoring.

10           11. Impose any other restrictions or sanctions that  
11 are designed to encourage responsible and acceptable behavior  
12 and are agreed upon by the participants of the community  
13 arbitration proceedings.

14  
15 The community arbitrator or community arbitration panel shall  
16 determine an appropriate timeframe in which the disposition  
17 must be completed. The community arbitrator or community  
18 arbitration panel shall report the disposition of the case to  
19 the juvenile probation officer ~~intake counselor or case~~  
20 ~~manager~~.

21           (d) If a child consents to an informal resolution and,  
22 in the presence of the parent or legal custodian or guardian  
23 and the community arbitrator or community arbitration panel,  
24 agrees to comply with any disposition suggested or ordered by  
25 such arbitrator or panel and subsequently fails to abide by  
26 the terms of such agreement, the community arbitrator or  
27 community arbitration panel may, after a careful review of the  
28 circumstances, forward the case back to the juvenile probation  
29 officer ~~intake counselor~~, who shall consult with the state  
30 attorney regarding the filing of formal juvenile proceedings.

31

1           Section 17. Effective upon this act becoming a law,  
2 section 985.307, Florida Statutes, is amended to read:

3           985.307 Juvenile assignment centers.--

4           (1) Contingent upon specific appropriation, the  
5 department shall establish juvenile assignment centers for  
6 committed youth who have been ordered by the court for  
7 placement in moderate-risk, high-risk, or maximum-risk  
8 commitment programs. Juvenile assignment centers shall be  
9 residential facilities serving committed youth awaiting  
10 placement in a residential commitment program.

11           (2) The purpose of juvenile assignment centers shall  
12 be:

13           (a) To ensure public safety by providing a secure  
14 residential facility to hold and process juveniles awaiting  
15 placement in commitment programs rather than releasing them to  
16 their homes and back into the community.

17           (b) To review assessments completed at local juvenile  
18 assessment centers and avoid duplication of assessment  
19 efforts. Assessments should include medical, academic,  
20 psychological, behavioral, sociological, substance abuse and  
21 mental health, and vocational testing.

22           (c) To determine appropriate treatment needs,  
23 programming, and placement decisions, and, when appropriate,  
24 to develop a treatment plan for each juvenile.

25           (d) To examine a juvenile's need for aftercare and  
26 independent living upon release from a commitment program and,  
27 when appropriate, include this in the treatment plan.

28           (3) Juveniles committed to the department shall be  
29 placed in an assignment center following the dispositional  
30 hearing and shall be transferred to the designated residential  
31 commitment program upon the availability of placement.

1           (4) Juvenile assignment centers shall be physically  
2 secure residential facilities located in each department  
3 region to serve youth in that region who are awaiting  
4 placement in commitment programs.

5           (5) For each juvenile admitted into an assignment  
6 center, the following shall be conducted:

7           (a) Review all assessments, diagnostic testing, and  
8 screening instruments performed on the juvenile while at an  
9 assessment center, in detention, during intake, or in a  
10 program or while in school; and also review the juvenile's  
11 school records from the school in which the juvenile is  
12 enrolled.

13           (b) Determine the need for, and provide or contract  
14 for, additional evaluation, including, but not limited to:  
15 needs assessment, substance abuse screening, physical and  
16 mental health screening, behavioral screening, educational  
17 assessment, aptitude testing, diagnostic testing,  
18 psychological evaluation, and vocational testing.

19           (c) Based upon the restrictiveness level ordered by  
20 the court and evaluation required in paragraph (b), the  
21 department program staff shall make an assignment to a  
22 specific commitment program. Program placements shall also  
23 take into consideration the geographic location of the  
24 juvenile's family in order to facilitate family visits and  
25 participation.

26           (d) Pending a juvenile's placement in a commitment  
27 program:

28           1. Initiate appropriate treatment plans, educational  
29 plans, performance agreements, and transitional planning based  
30 upon the court order and assessments.

31

1           2. Provide or contract for the provision of short-term  
2 services, including educational programming, vocational  
3 training, mental health services, substance abuse education,  
4 conflict resolution training, and impulse control and anger  
5 management training. If warranted by a substance abuse  
6 screening or a mental or physical health screening performed  
7 while the juvenile is in the assignment center, a juvenile may  
8 receive treatment while in the assignment center, including,  
9 but not limited to, substance abuse, mental health, or  
10 physical health treatment.

11           (e) To the extent possible, involve the juvenile's  
12 parents or guardian and family in the evaluation process and  
13 in the provision of services. Staff shall make efforts to  
14 contact the parents or guardian and encourage their  
15 involvement.

16           (f) Ensure that all commitment information is complete  
17 and ready for transmittal to the commitment program. This  
18 shall include a comprehensive treatment plan that reflects the  
19 information gathered through the assessment process and  
20 includes planning for aftercare and independent living, if  
21 needed.

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

1           Section 18. Paragraphs (f) and (h) of subsection (3)  
2 of section 985.31, Florida Statutes, are amended to read:

3           985.31 Serious or habitual juvenile offender.--

4           (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND  
5 TREATMENT.--

6           (f) After a child has been transferred for criminal  
7 prosecution, a circuit court judge may direct the juvenile  
8 probation officer ~~an intake counselor or case manager~~ to  
9 consult with designated staff from an appropriate serious or  
10 habitual juvenile offender program for the purpose of making  
11 recommendations to the court regarding the child's placement  
12 in such program.

13           (h) Based on the recommendations of the  
14 multidisciplinary assessment, the juvenile probation officer  
15 ~~intake counselor or case manager~~ shall make the following  
16 recommendations to the court:

17           1. For each child who has not been transferred for  
18 criminal prosecution, the juvenile probation officer ~~intake~~  
19 ~~counselor or case manager~~ shall recommend whether placement in  
20 such program is appropriate and needed.

21           2. For each child who has been transferred for  
22 criminal prosecution, the juvenile probation officer ~~intake~~  
23 ~~counselor or case manager~~ shall recommend whether the most  
24 appropriate placement for the child is a juvenile justice  
25 system program, including a serious or habitual juvenile  
26 offender program or facility, or placement in the adult  
27 correctional system.

28  
29 If treatment provided by a serious or habitual juvenile  
30 offender program or facility is determined to be appropriate  
31 and needed and placement is available, the juvenile probation

1 ~~officer intake counselor or case manager~~ and the court shall  
2 identify the appropriate serious or habitual juvenile offender  
3 program or facility best suited to the needs of the child.

4 Section 19. Paragraphs (f) and (h) of subsection (3)  
5 of section 985.311, Florida Statutes, are amended to read:

6 985.311 Intensive residential treatment program for  
7 offenders less than 13 years of age.--

8 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND  
9 TREATMENT.--

10 (f) After a child has been transferred for criminal  
11 prosecution, a circuit court judge may direct the juvenile  
12 probation officer ~~an intake counselor or case manager~~ to  
13 consult with designated staff from an appropriate intensive  
14 residential treatment program for offenders less than 13 years  
15 of age for the purpose of making recommendations to the court  
16 regarding the child's placement in such program.

17 (h) Based on the recommendations of the  
18 multidisciplinary assessment, the juvenile probation officer  
19 ~~intake counselor or case manager~~ shall make the following  
20 recommendations to the court:

21 1. For each child who has not been transferred for  
22 criminal prosecution, the juvenile probation officer ~~intake~~  
23 ~~counselor or case manager~~ shall recommend whether placement in  
24 such program is appropriate and needed.

25 2. For each child who has been transferred for  
26 criminal prosecution, the juvenile probation officer ~~intake~~  
27 ~~counselor or case manager~~ shall recommend whether the most  
28 appropriate placement for the child is a juvenile justice  
29 system program, including a child who is eligible for an  
30 intensive residential treatment program for offenders less  
31

1 than 13 years of age, or placement in the adult correctional  
2 system.

3  
4 If treatment provided by an intensive residential treatment  
5 program for offenders less than 13 years of age is determined  
6 to be appropriate and needed and placement is available, the  
7 juvenile probation officer ~~intake counselor or case manager~~  
8 and the court shall identify the appropriate intensive  
9 residential treatment program for offenders less than 13 years  
10 of age best suited to the needs of the child.

11 Section 20. Section 944.401, Florida Statutes, is  
12 transferred, renumbered as section 985.3141, Florida Statutes,  
13 and amended to read:

14 985.3141 ~~944.401~~ Escapes from secure detention or  
15 residential commitment facility.--An escape from:

16 (1) Any secure detention facility maintained for the  
17 temporary detention of children, pending adjudication,  
18 disposition, or placement; ~~an escape from~~

19 (2) Any residential commitment facility defined in s.  
20 985.03(45) ~~s. 39.01(59)~~, maintained for the custody,  
21 treatment, punishment, or rehabilitation of children found to  
22 have committed delinquent acts or violations of law; or ~~an~~  
23 ~~escape from~~

24 (3) Lawful transportation to or from any such secure  
25 detention facility or residential commitment facility, ~~thereto~~  
26 ~~or therefrom~~

27  
28 constitutes escape within the intent and meaning of s. 944.40  
29 and is a felony of the third degree, punishable as provided in  
30 s. 775.082, s. 775.083, or s. 775.084.

31

1           Section 21. Paragraph (a) of subsection (2) of section  
2 985.406, Florida Statutes, is amended to read:

3           985.406 Juvenile justice training academies  
4 established; Juvenile Justice Standards and Training  
5 Commission created; Juvenile Justice Training Trust Fund  
6 created.--

7           (2) JUVENILE JUSTICE STANDARDS AND TRAINING  
8 COMMISSION.--

9           (a) There is created under the Department of Juvenile  
10 Justice the Juvenile Justice Standards and Training  
11 Commission, hereinafter referred to as the commission. The  
12 17-member commission shall consist of the Attorney General or  
13 designee, the Commissioner of Education or designee, a member  
14 of the juvenile court judiciary to be appointed by the Chief  
15 Justice of the Supreme Court, and 14 members to be appointed  
16 by the Secretary of Juvenile Justice as follows:

17           1. Seven members shall be juvenile justice  
18 professionals: a superintendent or a direct care staff member  
19 from an institution; a director from a contracted  
20 community-based program; a superintendent and a direct care  
21 staff member from a regional detention center or facility; a  
22 juvenile probation officer or a supervisor of juvenile  
23 probation officers ~~community control counselor~~; and a director  
24 of a day treatment or aftercare program. No fewer than three  
25 of these members shall be contract providers.

26           2. Two members shall be representatives of local law  
27 enforcement agencies.

28           3. One member shall be an educator from the state's  
29 university and community college program of criminology,  
30 criminal justice administration, social work, psychology,  
31



1 sociology, or other field of study pertinent to the training  
2 of juvenile justice program staff.

3 4. One member shall be a member of the public.

4 5. One member shall be a state attorney, or assistant  
5 state attorney, who has juvenile court experience.

6 6. One member shall be a public defender, or assistant  
7 public defender, who has juvenile court experience.

8 7. One member shall be a representative of the  
9 business community.

10  
11 All appointed members shall be appointed to serve terms of 2  
12 years.

13 Section 22. Subsection (1) of section 985.412, Florida  
14 Statutes, is amended to read:

15 985.412 Quality assurance.--

16 (1)(a) It is the intent of the Legislature to:

17 1. Ensure that information be provided to  
18 decisionmakers so that resources are allocated to programs of  
19 the department which achieve desired performance levels.

20 2. Provide information about the cost of such programs  
21 and their differential effectiveness so that the quality of  
22 such programs can be compared and improvements made  
23 continually.

24 3. Provide information to aid in developing related  
25 policy issues and concerns.

26 4. Provide information to the public about the  
27 effectiveness of such programs in meeting established goals  
28 and objectives.

29 5. Provide a basis for a system of accountability so  
30 that each client is afforded the best programs to meet his or  
31 her needs.

- 1           6. Improve service delivery to clients.
- 2           7. Modify or eliminate activities that are not  
3 effective.
- 4           (b) As used in this subsection, the term:
- 5           1. "Client" means any person who is being provided  
6 treatment or services by the department or by a provider under  
7 contract with the department.
- 8           2. "Program component" means an aggregation of  
9 generally related objectives which, because of their special  
10 character, related workload, and interrelated output, can  
11 logically be considered an entity for purposes of  
12 organization, management, accounting, reporting, and  
13 budgeting.
- 14           3. "Program effectiveness" means the ability of the  
15 program to achieve desired client outcomes, goals, and  
16 objectives.
- 17           (c) The department shall:
- 18           1. Establish a comprehensive quality assurance system  
19 for each program operated by the department or operated by a  
20 provider under contract with the department. Each contract  
21 entered into by the department must provide for quality  
22 assurance.
- 23           2. Provide operational definitions of and criteria for  
24 quality assurance for each specific program component.
- 25           3. Establish quality assurance goals and objectives  
26 for each specific program component.
- 27           4. Establish the information and specific data  
28 elements required for the quality assurance program.
- 29           5. Develop a quality assurance manual of specific,  
30 standardized terminology and procedures to be followed by each  
31 program.

1           6. Evaluate each program operated by a provider under  
2 a contract with the department and establish minimum  
3 thresholds for each program component. If a provider fails to  
4 meet the established minimum thresholds, such failure shall  
5 cause the department to cancel the provider's contract unless  
6 the provider achieves compliance with minimum thresholds  
7 within 6 months or unless there are documented extenuating  
8 circumstances. In addition, the department may not contract  
9 with the same provider for the canceled service for a period  
10 of 12 months.

11

12 The department shall submit an annual report to the President  
13 of the Senate, the Speaker of the House of Representatives,  
14 the Minority Leader of each house of the Legislature, the  
15 appropriate substantive and fiscal committees of each house of  
16 the Legislature, and the Governor, no later than February 1 of  
17 each year. The annual report must contain, at a minimum, for  
18 each specific program component: a comprehensive description  
19 of the population served by the program; a specific  
20 description of the services provided by the program; cost; a  
21 comparison of expenditures to federal and state funding;  
22 immediate and long-range concerns; and recommendations to  
23 maintain, expand, improve, modify, or eliminate each program  
24 component so that changes in services lead to enhancement in  
25 program quality. ~~The department's inspector general shall~~  
26 ~~ensure the reliability and validity of the information~~  
27 ~~contained in the report.~~

28           Section 23. Paragraph (b) of subsection (3) of section  
29 985.413, Florida Statutes, is amended to read:

30           985.413 District juvenile justice boards.--

31           (3) DISTRICT JUVENILE JUSTICE BOARDS.--

1 (b)1.

2 a. The authority to appoint members to district  
3 juvenile justice boards, and the size of each board, is as  
4 follows:

5 (I) District 1 is to have a board composed of 12  
6 members, to be appointed by the juvenile justice councils of  
7 the respective counties, as follows: Escambia County, 6  
8 members; Okaloosa County, 3 members; Santa Rosa County, 2  
9 members; and Walton County, 1 member.

10 (II) District 2 is to have a board composed of 18  
11 members, to be appointed by the juvenile justice councils in  
12 the respective counties, as follows: Holmes County, 1 member;  
13 Washington County, 1 member; Bay County, 2 members; Jackson  
14 County, 1 member; Calhoun County, 1 member; Gulf County, 1  
15 member; Gadsden County, 1 member; Franklin County, 1 member;  
16 Liberty County, 1 member; Leon County, 4 members; Wakulla  
17 County, 1 member; Jefferson County, 1 member; Madison County,  
18 1 member; and Taylor County, 1 member.

19 (III) District 3 is to have a board composed of 15  
20 members, to be appointed by the juvenile justice councils of  
21 the respective counties, as follows: Hamilton County, 1  
22 member; Suwannee County, 1 member; Lafayette County, 1 member;  
23 Dixie County, 1 member; Columbia County, 1 member; Gilchrist  
24 County, 1 member; Levy County, 1 member; Union County, 1  
25 member; Bradford County, 1 member; Putnam County, 1 member;  
26 and Alachua County, 5 members.

27 (IV) District 4 is to have a board composed of 12  
28 members, to be appointed by the juvenile justice councils of  
29 the respective counties, as follows: Baker County, 1 member;  
30 Nassau County, 1 member; Duval County, 7 members; Clay County,  
31 2 members; and St. Johns County, 1 member.

1 (V) District 5 is to have a board composed of 12  
2 members, to be appointed by the juvenile justice councils of  
3 the respective counties, as follows: Pasco County, 3 members;  
4 and Pinellas County, 9 members.

5 (VI) District 6 is to have a board composed of 12  
6 members, to be appointed by the juvenile justice councils of  
7 the respective counties, as follows: Hillsborough County, 9  
8 members; and Manatee County, 3 members.

9 (VII) District 7 is to have a board composed of 12  
10 members, to be appointed by the juvenile justice councils of  
11 the respective counties, as follows: Seminole County, 3  
12 members; Orange County, 5 members; Osceola County, 1 member;  
13 and Brevard County, 3 members.

14 (VIII) District 8 is to have a board composed of 12  
15 members, to be appointed by the juvenile justice councils of  
16 the respective counties, as follows: Sarasota County, 3  
17 members; DeSoto County, 1 member; Charlotte County, 1 member;  
18 Lee County, 3 members; Glades County, 1 member; Hendry County,  
19 1 member; and Collier County, 2 members.

20 (IX) District 9 is to have a board composed of 12  
21 members, to be appointed by the juvenile justice council of  
22 Palm Beach County.

23 (X) District 10 is to have a board composed of 12  
24 members, to be appointed by the juvenile justice council of  
25 Broward County.

26 (XI) District 11 is to have a juvenile justice board  
27 composed of 12 members to be appointed by the juvenile justice  
28 council in the respective counties, as follows: Dade County,  
29 6 members and Monroe County, 6 members.

30 (XII) District 12 is to have a board composed of 12  
31 members, to be appointed by the juvenile justice council of

1 the respective counties, as follows: Flagler County, 3  
2 members; and Volusia County, 9 members.

3 (XIII) District 13 is to have a board composed of 12  
4 members, to be appointed by the juvenile justice councils of  
5 the respective counties, as follows: Marion County, 4 members;  
6 Citrus County, 2 members; Hernando County, 2 members; Sumter  
7 County, 1 member; and Lake County, 3 members.

8 (XIV) District 14 is to have a board composed of 12  
9 members, to be appointed by the juvenile justice councils of  
10 the respective counties, as follows: Polk County, 9 members;  
11 Highlands County, 2 members; and Hardee County, 1 member.

12 (XV) District 15 is to have a board composed of 12  
13 members, to be appointed by the juvenile justice councils of  
14 the respective counties, as follows: Indian River County, 3  
15 members; Okeechobee County, 1 member; St. Lucie County, 5  
16 members; and Martin County, 3 members.

17  
18 The district health and human services board in each district  
19 may appoint one of its members to serve as an ex officio  
20 member of the district juvenile justice board established  
21 under this sub-subparagraph.

22 b. In any judicial circuit where a juvenile  
23 delinquency and gang prevention council exists on the date  
24 this act becomes law, and where the circuit and district or  
25 subdistrict boundaries are identical, such council shall  
26 become the district juvenile justice board, and shall  
27 thereafter have the purposes and exercise the authority and  
28 responsibilities provided in this section.

29 2. At any time after the adoption of initial bylaws  
30 pursuant to paragraph (c), a district juvenile justice board  
31 may adopt a bylaw to enlarge the size, by no more than three

1 members, and composition of the board to adequately reflect  
2 the diversity of the population and community organizations in  
3 the district.

4           3. All appointments shall be for 2-year terms.  
5 Appointments to fill vacancies created by death, resignation,  
6 or removal of a member are for the unexpired term. A member  
7 may not serve more than three ~~two~~ full consecutive terms;  
8 ~~however, this limitation does not apply in any district in~~  
9 ~~which a juvenile delinquency and gang prevention council that~~  
10 ~~existed on May 7, 1993, became the district juvenile justice~~  
11 ~~board.~~

12           4. A member who is absent for three meetings within  
13 any 12-month period, without having been excused by the chair,  
14 is deemed to have resigned, and the board shall immediately  
15 declare the seat vacant. Members may be suspended or removed  
16 for cause by a majority vote of the board members or by the  
17 Governor.

18           5. Members are subject to the provisions of chapter  
19 112, part III, Code of Ethics for Public Officers and  
20 Employees.

21           Section 24. Subsection (2) of section 985.414, Florida  
22 Statutes, is amended to read:

23           985.414 County juvenile justice councils.--

24           (2)(a) The purpose of a county juvenile justice  
25 council is to provide a forum for the development of a  
26 community-based interagency assessment of the local juvenile  
27 justice system, to develop a county juvenile justice plan for  
28 more effectively preventing juvenile delinquency, and to make  
29 recommendations for more effectively utilizing existing  
30 community resources in dealing with juveniles who are truant  
31 or have been suspended or expelled from school, or who are

1 found to be involved in crime. The county juvenile justice  
2 plan shall include relevant portions of local crime prevention  
3 and public safety plans, school improvement and school safety  
4 plans, and the plans or initiatives of other public and  
5 private entities within the county that are concerned with  
6 dropout prevention, school safety, the prevention of juvenile  
7 crime and criminal activity by youth gangs, and alternatives  
8 to suspension, expulsion, and detention for children found in  
9 contempt of court.

10 (b) The duties and responsibilities of a county  
11 juvenile justice council include, but are not limited to:

12 1. Developing a county juvenile justice plan based  
13 upon utilization of the resources of law enforcement, the  
14 school system, the Department of Juvenile Justice, the  
15 Department of Children and Family Services, and others in a  
16 cooperative and collaborative manner to prevent or discourage  
17 juvenile crime and develop meaningful alternatives to school  
18 suspensions and expulsions.

19 2. Entering into a written county interagency  
20 agreement specifying the nature and extent of contributions  
21 each signatory agency will make in achieving the goals of the  
22 county juvenile justice plan and their commitment to the  
23 sharing of information useful in carrying out the goals of the  
24 interagency agreement to the extent authorized by law. The  
25 interagency agreement must include at least the following  
26 participants: the local school authorities, local law  
27 enforcement agencies, the public defenders, state attorneys,  
28 and local representatives of the Department of Juvenile  
29 Justice and the Department of Children and Family Services.  
30 The agreement must specify how community entities will  
31



1 cooperate, collaborate, and share information in furthering  
2 the goals of the district and county juvenile justice plan.

3 3. Applying for and receiving public or private  
4 grants, to be administered by one of the community partners,  
5 that support one or more components of the county juvenile  
6 justice plan.

7 4. Designating the county representatives to the  
8 district juvenile justice board pursuant to s. 985.413.

9 5. Providing a forum for the presentation of  
10 interagency recommendations and the resolution of  
11 disagreements relating to the contents of the county  
12 interagency agreement or the performance by the parties of  
13 their respective obligations under the agreement.

14 6. Assisting and directing the efforts of local  
15 community support organizations and volunteer groups in  
16 providing enrichment programs and other support services for  
17 clients of local juvenile detention centers.

18 7. Providing an annual report and recommendations to  
19 the district juvenile justice board, the Juvenile Justice  
20 Advisory Board, and the district juvenile justice manager.

21 Section 25. Subsection (1) of section 985.415, Florida  
22 Statutes, is amended to read:

23 985.415 Community Juvenile Justice Partnership  
24 Grants.--

25 (1) GRANTS; CRITERIA.--

26 (a) In order to encourage the development of county  
27 and district juvenile justice plans, as specified in ss.  
28 985.413 and 985.414, and the development and implementation of  
29 county and district interagency agreements ~~among~~  
30 ~~representatives of the Department of Juvenile Justice, the~~  
31 ~~Department of Children and Family Services, law enforcement,~~

1 ~~and school authorities~~, the community juvenile justice  
2 partnership grant program is established, which program shall  
3 be administered by the Department of Juvenile Justice.

4 (b) The department shall only consider applications  
5 that ~~which~~ at a minimum provide for the following:

6 1. The participation of the agencies or programs that  
7 are needed to implement the project or program for which the  
8 applicant is applying ~~local school authorities, local law~~  
9 ~~enforcement, and local representatives of the Department of~~  
10 ~~Juvenile Justice and the Department of Children and Family~~  
11 ~~Services pursuant to a written interagency partnership~~  
12 ~~agreement. Such agreement must specify how community entities~~  
13 ~~will cooperate, collaborate, and share information in~~  
14 ~~furtherance of the goals of the district and county juvenile~~  
15 ~~justice plan; and~~

16 2. The reduction of truancy and in-school and  
17 out-of-school suspensions and expulsions, and the enhancement  
18 of school safety.

19 (c) In addition, the department may consider the  
20 following criteria in awarding grants:

21 1. The district juvenile justice plan and any county  
22 juvenile justice plans that are referred to or incorporated  
23 into the district plan, including a list of individuals,  
24 groups, and public and private entities that participated in  
25 the development of the plan.

26 2. The diversity of community entities participating  
27 in the development of the district juvenile justice plan.

28 3. The number of community partners who will be  
29 actively involved in the operation of the grant program.

30 4. The number of students or youths to be served by  
31 the grant and the criteria by which they will be selected.

1           5. The criteria by which the grant program will be  
2 evaluated and, if deemed successful, the feasibility of  
3 implementation in other communities.

4           Section 26. This act shall take effect July 1, 1998,  
5 except that this section and section 16 of this act shall take  
6 effect upon becoming a law.

7  
8                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
9                           COMMITTEE SUBSTITUTE FOR  
10                           CS/SB 2288

11 Adds the state attorney to the group responsible for working  
12 with the Department of Juvenile Justice to establish a  
juvenile assessment center.

13 Requires that the county juvenile justice council include the  
14 state attorney in the development of the written interagency  
15 agreement for achieving the goals of the county juvenile  
justice plan.

16 Includes provisions amending s. 985.223, F.S., regarding  
incompetency to proceed, specifying procedures such as:

- 17 - Sending court notices of incompetency proceedings to the  
18 Department of Juvenile Justice, the Department of  
Children and Family Services, the child's attorney, and  
19 the state attorney.
- 20 - Preparing and submitting to the court within 30 days  
21 after placement a written treatment plan for the child's  
restoration of competency with copies to the child's  
22 attorney, the state attorney, and attorneys representing  
the Department of Juvenile Justice.
- 23 - Prohibiting commitment for restoration-of-competency  
24 treatment or training services of a child who has  
committed a delinquent act or violation of law which  
would be a misdemeanor if committed by an adult.
- 25 - Requiring that the Department of Children and Family  
26 Services prepare a discharge plan prior to a court  
hearing for a child whom a provider reports will never  
27 become competent to proceed to juvenile justice.
- 28  
29  
30  
31