

By Representative Murman

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

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

1 law; amending s. 985.213, F.S., relating to use
2 of detention; conforming references; amending
3 s. 985.215, F.S., relating to detention;
4 providing for an exception with respect to
5 court use of risk assessment when the child is
6 subject to detention order or special detention
7 order pursuant to specified provisions;
8 reenacting s. 985.208(1), relating to detention
9 of furloughed child or escapee on authority of
10 the department, and s. 985.219(5), relating to
11 process and service, to incorporate said
12 amendment in references; creating s. 985.2155,
13 F.S., relating to arraignments and hearings for
14 violations of supervision and failure to
15 appear; providing for detention of the juvenile
16 for a maximum of 14 days while awaiting the
17 hearing, under certain circumstances when the
18 juvenile has failed to appear; providing an
19 exception; repealing s. 985.218(6), F.S.,
20 relating to petitions for delinquency; removing
21 provisions requiring the dismissal of a
22 petition with prejudice when the adjudicatory
23 hearing is not commenced within 90 days;
24 removing provisions authorizing the court to
25 extend the 90-day period; amending s. 985.226,
26 F.S., relating to criteria for discretionary
27 waiver and mandatory waiver of juvenile court
28 jurisdiction; providing for the state attorney
29 to file motion requesting the court to transfer
30 a child of at least 14 years of age for
31 criminal prosecution, under specified

1 circumstances; providing for exceptions;
2 amending s. 985.227, F.S., relating to
3 discretionary direct-file criteria and
4 mandatory direct-file criteria; permitting the
5 filing of an information when a child was 14 or
6 15 years of age at the time the child attempted
7 to commit any one of specified offenses;
8 requiring the state attorney to file an
9 information for certain illegal acts when the
10 child committing the act is at least 16 years
11 of age and has a specified history of
12 delinquent acts; revising duties of the court
13 and guidelines for transfer of cases pertaining
14 to the child when a child is transferred for
15 adult prosecution; removing requirement for
16 annual updating by state attorney of
17 direct-file policies and guidelines; providing
18 that the information filed pursuant to
19 specified provisions may include all charges
20 which are based on the same act, criminal
21 episode, or transaction as the primary offense;
22 amending s. 985.228, F.S., relating to
23 adjudicatory hearings, to conform an exception
24 to the construction of "conviction"; amending
25 s. 985.231, F.S.; revising powers of
26 disposition in delinquency cases; conforming
27 references; providing for exceptions to conform
28 to changes made by the act; amending s.
29 985.233, F.S., relating to sentencing powers,
30 procedures, and dispositional alternatives for
31 juveniles prosecuted as adults; revising

1 sentencing alternatives in cases when a child
2 is prosecuted on indictment and other cases;
3 providing that a court may withhold
4 adjudication of guilt and place the child on
5 probation or community control to be supervised
6 by the Department of Corrections, under
7 specified circumstances; providing for
8 completion of a commitment program recommended
9 by the Department of Juvenile Justice as a
10 special condition of the probation or community
11 control; authorizing a judge in adult court to
12 access the juvenile commitment programs for
13 sentencing purposes; providing that the
14 juvenile would not be required to pay
15 supervision costs to the Department of
16 Corrections while participating in a Department
17 of Juvenile Justice commitment program;
18 prohibiting imposition of certain sentencing
19 alternatives and juvenile sanctions and
20 prohibiting withholding of adjudication as an
21 adult when the state attorney's motion to
22 transfer and certify the child for prosecution
23 as an adult is granted under specified
24 provisions; revising guidelines for sentencing
25 to juvenile sanctions; removing requirement
26 that the court stay adjudication of guilt when
27 the child is sentenced to juvenile sanctions
28 under specified provisions; removing provisions
29 that the adjudication of delinquency shall not
30 be deemed to be a conviction or operate to
31 impose civil disabilities resulting from a

1 conviction; removing prohibition against the
2 imposition of a combination of juvenile and
3 adult sanctions; reenacting s. 985.225(3) and
4 (4), relating to indictment of a juvenile, and
5 s. 985.31(3)(k), relating to serious or
6 habitual juvenile offender, to incorporate said
7 amendment in references; amending s. 985.309,
8 F.S., relating to criteria for placement of
9 child in a boot camp program; providing for
10 boot camp placement of a child at least 14
11 years of age who has not entered a plea of
12 guilty or nolo contendere to, or been
13 adjudicated of, a capital felony, life felony,
14 or violent felony of the first degree;
15 providing for early intervention boot camp
16 placement of a child at least 12 years of age
17 under specified circumstances; providing for
18 certain minimum periods of participation in
19 aftercare; authorizing operation of an early
20 intervention boot camp program by the
21 Department of Juvenile Justice, or a county or
22 municipality; providing purpose of program;
23 providing criteria for disqualification from
24 participation in the early intervention boot
25 camp program; reenacting s. 985.231(1)(j),
26 relating to powers of disposition in
27 delinquency cases, s. 985.31(3)(i), relating to
28 serious or habitual juvenile offender, s.
29 985.311(3)(i), relating to intensive
30 residential treatment programs for offenders
31 less than 13 years of age, and s.

1 985.314(1)(a), relating to commitment program
2 for juvenile felony offenders, to incorporate
3 said amendment in references; amending s.
4 985.404, F.S., relating to administration of
5 the juvenile justice continuum; specifying
6 factors to be considered in the report ranking
7 commitment programs; providing an effective
8 date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 90.610, Florida Statutes, is
13 amended to read:

14 90.610 Conviction of certain crimes or adjudication of
15 ~~delinquency~~ as impeachment.--

16 (1) A party may attack the credibility of any witness,
17 including an accused, by evidence that the witness has been
18 convicted of a crime if the crime was punishable by death or
19 imprisonment in excess of 1 year under the law under which the
20 witness was convicted, or if the crime involved dishonesty or
21 a false statement regardless of the punishment. However, with
22 ~~the following exceptions:~~

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

26 ~~(b) Evidence of juvenile adjudications are~~
27 ~~inadmissible under this subsection.~~

28 (2) A party may attack the credibility of any witness,
29 including an accused, by evidence of an adjudication of
30 delinquency for an act that would be punishable by death or
31 imprisonment in excess of 1 year if the act were committed by

1 an adult under the law under which the witness was adjudicated
2 delinquent, or if the delinquent act involved dishonesty or a
3 false statement regardless of punishment. However, evidence of
4 any such adjudication of delinquency is inadmissible in a
5 civil trial if it is so remote in time as to have no bearing
6 on the present character of the witness.

7 ~~(3)(2)~~ The pendency of an appeal or the granting of a
8 pardon relating to such crime or delinquent act does not
9 render evidence of the conviction or adjudication of
10 delinquency from which the appeal was taken or for which the
11 pardon was granted inadmissible. Evidence of the pendency of
12 the appeal is admissible.

13 ~~(4)(3)~~ Nothing in this section affects the
14 admissibility of evidence under s. 90.404 or s. 90.608.

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

17 921.0011 Definitions.--As used in this chapter, the
18 term:

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

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

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

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

22 921.0021 Definitions.--As used in this chapter, the
23 term:

24 (5) "Prior record" means a conviction for a crime
25 committed by the offender, as an adult or a juvenile, prior to
26 the time of the primary offense. Convictions by federal,
27 out-of-state, military, or foreign courts, and convictions for
28 violations of county or municipal ordinances that incorporate
29 by reference a penalty under state law, are included in the
30 offender's prior record. Convictions for offenses committed
31 by the offender more than 10 years before the primary offense

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

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

25 943.0515 Retention of criminal history records of
26 minors.--

27 (1)(a) The Division of Criminal Justice Information
28 Systems shall retain the criminal history record of a minor
29 who is classified as a serious or habitual juvenile offender
30 under chapter 39 for 5 years after the date the offender
31 reaches 21 years of age, at which time the record shall be

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

3 (b) If the minor is not classified as a serious or
4 habitual juvenile under chapter 39, the division shall retain
5 the minor's criminal history record for 5 years after the date
6 the minor reaches 19 years of age, at which time the record
7 shall be expunged unless it meets the criteria of paragraph
8 (2)(a) or paragraph (2)(b).

9 (2)(a) If a person is charged as an adult for
10 committing a 18 years of age or older is charged with or
11 convicted of a forcible felony and the person's criminal
12 history record as a minor has not yet been destroyed, the
13 person's record as a minor must be merged with the person's
14 adult criminal history record and must be retained as a part
15 of the person's adult record.

16 (b) If, at any time, a minor is adjudicated as an
17 adult for a ~~forcible~~ felony, the minor's criminal history
18 record prior to the time of the minor's adjudication as an
19 adult must be merged with his or her record as an adjudicated
20 adult.

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

23 985.03 Definitions.--When used in this chapter, the
24 term:

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

29 Section 7. Subsection (3) of section 985.04, Florida
30 Statutes, is amended, and subsection (9) is added to said
31 section, to read:

1 985.04 Oaths; records; confidential information.--
2 (3) Except as provided in subsections (2), (4), (5),
3 ~~and~~ (6), and (9)and s. 943.053, all information obtained
4 under this part in the discharge of official duty by any
5 judge, any employee of the court, any authorized agent of the
6 Department of Juvenile Justice, the Parole Commission, the
7 Juvenile Justice Advisory Board, the Department of
8 Corrections, the district juvenile justice boards, any law
9 enforcement agent, or any licensed professional or licensed
10 community agency representative participating in the
11 assessment or treatment of a juvenile is confidential and may
12 be disclosed only to the authorized personnel of the court,
13 the Department of Juvenile Justice and its designees, the
14 Department of Corrections, the Parole Commission, the Juvenile
15 Justice Advisory Board, law enforcement agents, school
16 superintendents and their designees, any licensed professional
17 or licensed community agency representative participating in
18 the assessment or treatment of a juvenile, and others entitled
19 under this chapter to receive that information, or upon order
20 of the court. Within each county, the sheriff, the chiefs of
21 police, the district school superintendent, and the department
22 shall enter into an interagency agreement for the purpose of
23 sharing information about juvenile offenders among all
24 parties. The agreement must specify the conditions under which
25 summary criminal history information is to be made available
26 to appropriate school personnel, and the conditions under
27 which school records are to be made available to appropriate
28 department personnel. Such agreement shall require
29 notification to any classroom teacher of assignment to the
30 teacher's classroom of a juvenile who has been placed in a
31 community control or commitment program for a felony offense.

1 The agencies entering into such agreement must comply with s.
2 943.0525, and must maintain the confidentiality of information
3 that is otherwise exempt from s. 119.07(1), as provided by
4 law.

5 (9) Notwithstanding any other provision to the
6 contrary, records of all of a juvenile's prior history of acts
7 that would be crimes if committed by an adult, and orders of
8 disposition for such acts, are public records and not
9 confidential.

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

14 985.31 Serious or habitual juvenile offender.--

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

16 (k) Assessment and treatment records are confidential
17 as described in this paragraph and exempt from the provisions
18 of s. 119.07(1) and s. 24(a), Art. I of the State
19 Constitution.

20 1. The department shall have full access to the
21 assessment and treatment records to ensure coordination of
22 services to the child.

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

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

29 985.05 Court records.--

30 (1) The clerk of the court shall make and keep records
31 of all cases brought before it pursuant to this part. The

1 court shall preserve the records pertaining to a child charged
2 with committing a delinquent act or violation of law until the
3 child reaches 24 years of age or reaches 26 years of age if he
4 or she is a serious or habitual delinquent child, ~~until 5~~
5 ~~years after the last entry was made,~~ or until 3 years after
6 the death of the child, whichever is earlier, and may then
7 destroy them, except that records made of traffic offenses in
8 which there is no allegation of delinquency may be destroyed
9 as soon as this can be reasonably accomplished. If a defendant
10 is sentenced for a felony committed before reaching 24 years
11 of age, the clerk must merge the defendant's record of prior
12 delinquent acts with his or her adult record. Records merged
13 pursuant to this section are not confidential. The court shall
14 make official records of all petitions and orders filed in a
15 case arising pursuant to this part and of any other pleadings,
16 certificates, proofs of publication, summonses, warrants, and
17 writs that are filed pursuant to the case.

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

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

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

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

28 (6) Except as the term "conviction" is used in chapter
29 322, and except for use in a subsequent proceeding under this
30 chapter, or as otherwise provided by law, an adjudication of
31 delinquency by a court with respect to any child who has

1 committed a delinquent act or violation of law shall not be
2 deemed a conviction; nor shall the child be deemed to have
3 been found guilty or to be a criminal by reason of that
4 adjudication; nor shall that adjudication operate to impose
5 upon the child any of the civil disabilities ordinarily
6 imposed by or resulting from conviction or to disqualify or
7 prejudice the child in any civil service application or
8 appointment, with the exception of the use of records of
9 proceedings under this part as provided in s. 985.05(4).

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

12 985.21 Intake and case management.--

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

28 (e) The state attorney may in all cases take action
29 independent of the action or lack of action of the intake
30 counselor or case manager, and shall determine the action
31 which is in the best interest of the public and the child. If

1 the child meets the criteria requiring prosecution as an adult
2 pursuant to s. 985.226, the state attorney shall request the
3 court to transfer and certify the child for prosecution as an
4 adult or shall provide written reasons to the court for not
5 making such request. In all other cases, the state attorney,
6 unless otherwise required by law, may:

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

20 Section 12. Paragraph (b) of subsection (4) of section
21 985.211, Florida Statutes, is amended to read:

22 985.211 Release or delivery from custody.--

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

27 (a) To the child's parent, guardian, or legal
28 custodian or, if the child's parent, guardian, or legal
29 custodian is unavailable, unwilling, or unable to provide
30 supervision for the child, to any responsible adult. Prior to
31 releasing the child to a responsible adult, other than the

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

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

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

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

25 (e) If the child appears to be intoxicated and has
26 threatened, attempted, or inflicted physical harm on himself
27 or herself or another, or is incapacitated by substance abuse,
28 to a law enforcement officer who shall deliver the child to a
29 hospital, addictions receiving facility, or treatment
30 resource.

31

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

6 (4) A person taking a child into custody who
7 determines, pursuant to s. 985.215, that the child should be
8 detained or released to a shelter designated by the
9 department, shall make a reasonable effort to immediately
10 notify the parent, guardian, or legal custodian of the child
11 and shall, without unreasonable delay, deliver the child to
12 the appropriate intake counselor or case manager or, if the
13 court has so ordered pursuant to s. 985.215, to a detention
14 center or facility. Upon delivery of the child, the person
15 taking the child into custody shall make a written report or
16 probable cause affidavit to the appropriate intake counselor
17 or case manager. Such written report or probable cause
18 affidavit must:

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

21 (b) Establish that the child was legally taken into
22 custody, with sufficient information to establish the
23 jurisdiction of the court and to make a prima facie showing
24 that the child has committed a violation of law or a violation
25 of supervision.

26 Section 13. Subsection (2) of section 985.215, Florida
27 Statutes, is amended to read:

28 985.215 Detention.--

29 (2) Subject to the provisions of subsection (1), a
30 child taken into custody and placed into nonsecure or home
31

1 detention care or detained in secure detention care prior to a
2 detention hearing may continue to be detained by the court if:

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

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

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

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

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

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

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

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

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

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

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

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

13
14 A child who meets any of these criteria and who is ordered to
15 be detained pursuant to this subsection shall be given a
16 hearing within 24 hours after being taken into custody. The
17 purpose of the detention hearing is to determine the existence
18 of probable cause that the child has committed the delinquent
19 act or violation of law with which he or she is charged and
20 the need for continued detention. Unless a child is detained
21 under paragraph (d) or s. 985.2155, the court shall utilize
22 the results of the risk assessment performed by the intake
23 counselor or case manager and, based on the criteria in this
24 subsection, shall determine the need for continued detention.
25 A child placed into secure, nonsecure, or home detention care
26 may continue to be so detained by the court pursuant to this
27 subsection. If the court orders a placement more restrictive
28 than indicated by the results of the risk assessment
29 instrument, the court shall state, in writing, clear and
30 convincing reasons for such placement. Except as provided in
31 s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b),

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

12 (4) The court shall order the delivery of a child to a
13 jail or other facility intended or used for the detention of
14 adults:

15 (a) When the child has been transferred or indicted
16 for criminal prosecution as an adult pursuant to this part,
17 except that the court may not order or allow a child alleged
18 to have committed a misdemeanor who is being transferred for
19 criminal prosecution pursuant to either s. 985.226 or s.
20 985.227 to be detained or held in a jail or other facility
21 intended or used for the detention of adults; however, such
22 child may be held temporarily in a detention facility; or

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

25
26 The child shall be housed separately from adult inmates to
27 prohibit a child from having regular contact with incarcerated
28 adults, including trustees. "Regular contact" means sight and
29 sound contact. Separation of children from adults shall permit
30 no more than haphazard or accidental contact. The receiving
31 jail or other facility shall contain a separate section for

1 children and shall have an adequate staff to supervise and
2 monitor the child's activities at all times. Supervision and
3 monitoring of children includes physical observation and
4 documented checks by jail or receiving facility supervisory
5 personnel at intervals not to exceed 15 minutes. This
6 paragraph does not prohibit placing two or more children in
7 the same cell. Under no circumstances shall a child be placed
8 in the same cell with an adult.

9 Section 14. For the purpose of incorporating the
10 amendment to s. 985.215, Florida Statutes, in references
11 thereto, the following sections or subdivisions of Florida
12 Statutes are reenacted to read:

13 985.208 Detention of furloughed child or escapee on
14 authority of the department.--

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

30 985.219 Process and service.--

31

1 (5) If the petition alleges that the child has
2 committed a delinquent act or violation of law and the judge
3 deems it advisable to do so, pursuant to the criteria of s.
4 985.215, the judge may, by endorsement upon the summons and
5 after the entry of an order in which valid reasons are
6 specified, order the child to be taken into custody
7 immediately, and in such case the person serving the summons
8 shall immediately take the child into custody.

9 Section 15. Paragraph (b) of subsection (2) of section
10 985.213, Florida Statutes, is amended to read:

11 985.213 Use of detention.--

12 (2)

13 (b)1. The risk assessment instrument for detention
14 care placement determinations and orders shall be developed by
15 the Department of Juvenile Justice in agreement with
16 representatives appointed by the following associations: the
17 Conference of Circuit Judges of Florida, the Prosecuting
18 Attorneys Association, and the Public Defenders Association.
19 Each association shall appoint two individuals, one
20 representing an urban area and one representing a rural area.
21 The parties involved shall evaluate and revise the risk
22 assessment instrument as is considered necessary using the
23 method for revision as agreed by the parties. The risk
24 assessment instrument shall take into consideration, but need
25 not be limited to, prior history of failure to appear, prior
26 offenses, offenses committed pending adjudication, any
27 unlawful possession of a firearm, theft of a motor vehicle or
28 possession of a stolen motor vehicle, and community control
29 status at the time the child is taken into custody. The risk
30 assessment instrument shall also take into consideration
31 appropriate aggravating and mitigating circumstances, and

1 shall be designed to target a narrower population of children
2 than s. 985.215(2). The risk assessment instrument shall also
3 include any information concerning the child's history of
4 abuse and neglect. The risk assessment shall indicate whether
5 detention care is warranted, and, if detention care is
6 warranted, whether the child should be placed into secure,
7 nonsecure, or home detention care.

8 2. If, at the detention hearing, the court finds a
9 material error in the scoring of the risk assessment
10 instrument, the court may amend the score to reflect factual
11 accuracy.

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

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

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

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

21
22 The child may not be held in secure detention under this
23 subparagraph for more than 48 hours unless ordered by the
24 court. After 48 hours, the court shall hold a hearing if the
25 state attorney or victim requests that secure detention be
26 continued. The child may continue to be held in secure
27 detention if the court makes a specific, written finding that
28 secure detention is necessary to protect the victim from
29 further injury. However, the child may not be held in secure
30 detention beyond the time limits set forth in s. 985.215 or s.
31 985.2155 ~~39.044~~.

1 Section 16. Paragraph (a) of subsection (1) of section
2 985.231, Florida Statutes, is amended to read:

3 985.231 Powers of disposition in delinquency cases.--

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

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

23 a. A restrictiveness level classification scale for
24 levels of supervision shall be provided by the department,
25 taking into account the child's needs and risks relative to
26 community control supervision requirements to reasonably
27 ensure the public safety. Community control programs for
28 children shall be supervised by the department or by any other
29 person or agency specifically authorized by the court. These
30 programs must include, but are not limited to, structured or
31 restricted activities as described in this subparagraph, and

1 shall be designed to encourage the child toward acceptable and
2 functional social behavior. If supervision or a program of
3 community service is ordered by the court, the duration of
4 such supervision or program must be consistent with any
5 treatment and rehabilitation needs identified for the child
6 and may not exceed the term for which sentence could be
7 imposed if the child were committed for the offense, except
8 that the duration of such supervision or program for an
9 offense that is a misdemeanor of the second degree, or is
10 equivalent to a misdemeanor of the second degree, may be for a
11 period not to exceed 6 months. When restitution is ordered by
12 the court, the amount of restitution may not exceed an amount
13 the child and the parent or guardian could reasonably be
14 expected to pay or make. A child who participates in any work
15 program under this part is considered an employee of the state
16 for purposes of liability, unless otherwise provided by law.

17 b. The court may conduct judicial review hearings for
18 a child placed on community control for the purpose of
19 fostering accountability to the judge and compliance with
20 other requirements, such as restitution and community service.
21 The court may allow early termination of community control for
22 a child who has substantially complied with the terms and
23 conditions of community control.

24 c. If the conditions of the community control program
25 or the aftercare program are violated, the agent supervising
26 the program as it relates to the child involved, or the state
27 attorney, may bring the child before the court on a petition
28 alleging a violation of the program. Any child who violates
29 the conditions of community control or aftercare must be
30 brought before the court if sanctions are sought. A child
31 taken into custody under s. 985.207 ~~39.037~~ for violating the

1 conditions of community control or aftercare shall be held in
2 a consequence unit if such a unit is available. The child
3 shall be afforded a hearing within 24 hours after being taken
4 into custody to determine the existence of probable cause that
5 the child violated the conditions of community control or
6 aftercare. A consequence unit is a secure facility
7 specifically designated by the department for children who are
8 taken into custody under s. 985.207 for violating community
9 control or aftercare, or who have been found by the court to
10 have violated the conditions of community control or
11 aftercare. If the violation involves a new charge of
12 delinquency, the child may be detained under s. 985.215 in a
13 facility other than a consequence unit. If the child is not
14 eligible for detention for the new charge of delinquency, the
15 child may be held in the consequence unit pending a hearing
16 and is subject to the time limitations specified in s.
17 985.215. If the child denies violating the conditions of
18 community control or aftercare, the court shall appoint
19 counsel to represent the child at the child's request. Upon
20 the child's admission, or if the court finds after a hearing
21 that the child has violated the conditions of community
22 control or aftercare, the court shall enter an order revoking,
23 modifying, or continuing community control or aftercare. In
24 each such case, the court shall enter a new disposition order
25 and, in addition to the sanctions set forth in this paragraph,
26 may impose any sanction the court could have imposed at the
27 original disposition hearing. If the child is found to have
28 violated the conditions of community control or aftercare, the
29 court may:

30 (I) Place the child in a consequence unit in that
31 judicial circuit, if available, for up to 5 days for a first

1 violation, and up to 15 days for a second or subsequent
2 violation.

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

6 (III) Modify or continue the child's community control
7 program or aftercare program.

8 (IV) Revoke community control or aftercare and commit
9 the child to the department.

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

16 2. Commit the child to a licensed child-caring agency
17 willing to receive the child, ~~but~~ The court may not commit
18 the child to a jail or to a facility used primarily as a
19 detention center or facility or shelter unless otherwise
20 provided by law.

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

31

1 4. Revoke or suspend the driver's license of the
2 child.

3 5. Require the child and, if the court finds it
4 appropriate, the child's parent or guardian together with the
5 child, to render community service in a public service
6 program.

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

29 7. Order the child and, if the court finds it
30 appropriate, the child's parent or guardian together with the
31 child, to participate in a community work project, either as

1 an alternative to monetary restitution or as part of the
2 rehabilitative or community control program.

3 8. Commit the child to the Department of Juvenile
4 Justice for placement in a program or facility for serious or
5 habitual juvenile offenders in accordance with s. 985.31. Any
6 commitment of a child to a program or facility for serious or
7 habitual juvenile offenders must be for an indeterminate
8 period of time, but the time may not exceed the maximum term
9 of imprisonment that an adult may serve for the same offense.
10 The court may retain jurisdiction over such child until the
11 child reaches the age of 21, specifically for the purpose of
12 the child completing the program.

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

23 10. Subject to specific appropriation, commit the
24 juvenile sexual offender to the Department of Juvenile Justice
25 for placement in a program or facility for juvenile sexual
26 offenders in accordance with s. 985.308. Any commitment of a
27 juvenile sexual offender to a program or facility for juvenile
28 sexual offenders must be for an indeterminate period of time,
29 but the time may not exceed the maximum term of imprisonment
30 that an adult may serve for the same offense. The court may
31 retain jurisdiction over a juvenile sexual offender until the

1 juvenile sexual offender reaches the age of 21, specifically
2 for the purpose of completing the program.

3 Section 17. Section 985.2155, Florida Statutes, is
4 created to read:

5 985.2155 Violations of supervision; failure to
6 appear.--Notwithstanding s. 985.215, if a juvenile fails to
7 appear for an arraignment for a violation of supervision or
8 for a hearing on the violation of supervision, and if the
9 hearing on the violation is set within 14 days at the
10 detention hearing for the failure to appear, the juvenile may
11 be detained for a maximum of 14 days while awaiting a hearing,
12 unless the juvenile otherwise qualifies for a longer period of
13 detention.

14 Section 18. Subsection (6) of section 985.218, Florida
15 Statutes, is repealed.

16 Section 19. Subsection (2) of section 985.226, Florida
17 Statutes, is amended to read:

18 985.226 Criteria for waiver of juvenile court
19 jurisdiction; hearing on motion to transfer for prosecution as
20 an adult.--

21 (1) VOLUNTARY WAIVER.--The court shall transfer and
22 certify a child's criminal case for trial as an adult if the
23 child is alleged to have committed a violation of law and,
24 prior to the commencement of an adjudicatory hearing, the
25 child, joined by a parent or, in the absence of a parent, by
26 the guardian or guardian ad litem, demands in writing to be
27 tried as an adult. Once a child has been transferred for
28 criminal prosecution pursuant to a voluntary waiver hearing
29 and has been found to have committed the presenting offense or
30 a lesser included offense, the child shall be handled
31 thereafter in every respect as an adult for any subsequent

1 violation of state law, unless the court imposes juvenile
2 sanctions under s. 985.233(4)(b).

3 (2) INVOLUNTARY WAIVER.--

4 (a) Discretionary ~~involuntary~~ waiver.--Except as
5 provided in paragraph (b), the state attorney may file a
6 motion requesting the court to transfer the child for criminal
7 prosecution if the child was 14 years of age or older at the
8 time the alleged delinquent act or violation of law was
9 committed.

10 (b) Mandatory waiver.--

11 1. If the child was 14 years of age or older; and if
12 the child has been previously adjudicated delinquent for an
13 act classified as a felony, which adjudication was for the
14 commission of, or attempt to commit, murder, sexual battery,
15 armed or strong-armed robbery, carjacking, home-invasion
16 robbery, aggravated battery, or aggravated assault, and the
17 child is currently charged with a second or subsequent violent
18 crime against a person; or, the state attorney shall file a
19 motion requesting the court to transfer and certify the
20 juvenile for prosecution as an adult, or proceed pursuant to
21 s. 985.227(1).

22 ~~2.(b) Mandatory involuntary waiver.--~~If the child was
23 14 years of age or older at the time of commission of a fourth
24 or subsequent alleged felony offense and the child was
25 previously adjudicated delinquent or had adjudication withheld
26 for or was found to have committed, or to have attempted or
27 conspired to commit, three offenses that are felony offenses
28 if committed by an adult, and one or more of such felony
29 offenses involved the use or possession of a firearm or
30 violence against a person;7

31

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

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

24 Section 20. Subsections (1), (2), (3), and (4) of
25 section 985.227, Florida Statutes, are amended, and new
26 subsection (5) is added to said section, to read:

27 985.227 Prosecution of juveniles as adults by the
28 direct filing of an information in the criminal division of
29 the circuit court; discretionary criteria; mandatory
30 criteria.--

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

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

- 8 1. Arson;
- 9 2. Sexual battery;
- 10 3. Robbery;
- 11 4. Kidnapping;
- 12 5. Aggravated child abuse;
- 13 6. Aggravated assault;
- 14 7. Aggravated stalking;
- 15 8. Murder;
- 16 9. Manslaughter;
- 17 10. Unlawful throwing, placing, or discharging of a
18 destructive device or bomb;
- 19 11. Armed burglary in violation of s. 810.02(2)(b) or
20 specified burglary of a dwelling or structure in violation of
21 s. 810.02(2)(c);
- 22 12. Aggravated battery;
- 23 13. Lewd or lascivious assault or act in the presence
24 of a child;
- 25 14. Carrying, displaying, using, threatening, or
26 attempting to use a weapon or firearm during the commission of
27 a felony; or
- 28 15. Grand theft in violation of s. 812.014(2)(a).

29 (b) Except as provided in subsection (2),with respect
30 to any child who was 16 or 17 years of age at the time the
31 alleged offense was committed, the state attorney may file an

1 information when in the state attorney's judgment and
2 discretion the public interest requires that adult sanctions
3 be considered or imposed. Except as provided in subsection
4 ~~(2), However,~~ the state attorney may not file an information
5 on a child charged with a misdemeanor, unless the child has
6 had at least two previous adjudications or adjudications
7 withheld for delinquent acts, one of which involved an offense
8 classified as a felony under state law.

9 (2) MANDATORY DIRECT FILE.--

10 (a) With respect to any child who was 16 or 17 years
11 of age at the time the alleged offense was committed, the
12 state attorney shall file an information if the child has been
13 previously adjudicated delinquent for an act classified as a
14 felony, which adjudication was for the commission of, or
15 attempt to commit, murder, sexual battery, armed or
16 strong-armed robbery, carjacking, home-invasion robbery,
17 aggravated battery, or aggravated assault, and the child is
18 currently charged with a second or subsequent violent crime
19 against a person.

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

25 1. The child has received adjudications of delinquency
26 or withholds of adjudication of delinquency for three acts
27 which would be felonies, if committed by an adult; or

28 2. The child has received adjudications of delinquency
29 or withholds of adjudication of delinquency for six acts which
30 would be either felonies or misdemeanors, if committed by an
31 adult. For purposes of this subparagraph, a violation of

1 community control or other supervision, which is not based
2 solely on a new delinquent act, shall be counted as though it
3 were a separate, additional misdemeanor offense.

4
5 However, an act shall not be counted as an additional act
6 under this paragraph if it occurred within 45 days of another
7 act that is counted towards the maximum number of offenses
8 under this paragraph that a juvenile may commit before adult
9 sanctions must be imposed. Multiple counts within a case shall
10 be considered one offense for the purposes of this paragraph.

11 ~~Notwithstanding subsection (1), regardless of the child's age~~
12 ~~at the time the alleged offense was committed, the state~~
13 ~~attorney must file an information with respect to any child~~
14 ~~who previously has been adjudicated for offenses which, if~~
15 ~~committed by an adult, would be felonies and such~~
16 ~~adjudications occurred at three or more separate delinquency~~
17 ~~adjudicatory hearings, and three of which resulted in~~
18 ~~residential commitments as defined in s. 985.03(45).~~

19 (c) The state attorney must file an information if a
20 child, regardless of the child's age at the time the alleged
21 offense was committed, is alleged to have committed an act
22 that would be a violation of law if the child were an adult,
23 that involves stealing a motor vehicle, including, but not
24 limited to, a violation of s. 812.133, relating to carjacking,
25 or s. 812.014(2)(c)6., relating to grand theft of a motor
26 vehicle, and while the child was in possession of the stolen
27 motor vehicle the child caused serious bodily injury to or the
28 death of a person who was not involved in the underlying
29 offense. For purposes of this section, the driver and all
30 willing passengers in the stolen motor vehicle at the time
31 such serious bodily injury or death is inflicted shall also be

1 subject to mandatory transfer to adult court. "Stolen motor
2 vehicle," for the purposes of this section, means a motor
3 vehicle that has been the subject of any criminal wrongful
4 taking. For purposes of this section, "willing passengers"
5 means all willing passengers who have participated in the
6 underlying offense.

7 (3) EFFECT OF DIRECT FILE.--

8 (a) Once a child has been transferred for criminal
9 prosecution pursuant to an information and has been found to
10 have committed the presenting offense or a lesser included
11 offense, the child shall be handled thereafter in every
12 respect as if an adult for any subsequent violation of state
13 law, unless the court imposes juvenile sanctions under s.
14 985.233.

15 (b) When a child is transferred for criminal
16 prosecution as an adult, the court shall immediately transfer
17 and certify to the circuit ~~appropriate~~ court all felony
18 ~~preadjudicatory~~ cases which have not yet resulted in a plea,
19 or in an adjudicatory hearing where a finding of guilt has
20 been made, that pertain to that child ~~which are pending in~~
21 ~~juvenile court, including, but not limited to, all cases~~
22 ~~involving offenses that occur or are referred between the date~~
23 ~~of transfer and sentencing in adult court and all outstanding~~
24 ~~juvenile disposition orders. The juvenile court shall make~~
25 ~~every effort to dispose of all predispositional cases and~~
26 ~~transfer those cases to the adult court prior to adult~~
27 ~~sentencing. It is the intent of the Legislature to require all~~
28 ~~cases occurring prior to the sentencing hearing in adult court~~
29 ~~to be handled by the adult court for final resolution with the~~
30 ~~original transfer case.~~

31

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

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

13 (5) An information filed pursuant to this section may
14 include all charges which are based on the same act, criminal
15 episode, or transaction as the primary offenses.

16 Section 21. Subsection (4) of section 985.233, Florida
17 Statutes, is amended to read:

18 985.233 Sentencing powers; procedures; alternatives
19 for juveniles prosecuted as adults.--

20 (4) SENTENCING ALTERNATIVES.--

21 (a) Sentencing to adult sanctions.--

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

30 a. As an adult ~~pursuant to this section;~~

31

1 b. By withholding adjudication of guilt, and placing
2 the child on probation or community control to be supervised
3 by the Department of Corrections. Such probation or community
4 control may include a special condition requiring the child to
5 successfully complete a commitment program as recommended by
6 the Department of Juvenile Justice. A judge in adult court
7 shall have the authority to access the commitment programs of
8 the Department of Juvenile Justice for purposes of imposing a
9 sentence under this paragraph. A juvenile shall not be
10 required to report or pay supervision costs to the Department
11 of Corrections while participating in a commitment program of
12 the Department of Juvenile Justice;

13 ~~c.b. Pursuant to chapter 958, notwithstanding any~~
14 ~~other provision of that chapter to the contrary; or~~

15 ~~d.e. As a juvenile pursuant to this section.~~

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

22 a. As an adult ~~pursuant to this section;~~

23 b. By withholding adjudication of guilt, and placing
24 the child on probation or community control to be supervised
25 by the Department of Corrections. Such probation or community
26 control may include a special condition requiring the child to
27 successfully complete a commitment program as recommended by
28 the Department of Juvenile Justice. A judge in adult court
29 shall have the authority to access the commitment programs of
30 the Department of Juvenile Justice for purposes of imposing a
31 sentence under this paragraph. A juvenile shall not be

1 required to report or pay supervision costs to the Department
2 of Corrections while participating in a commitment program of
3 the Department of Juvenile Justice;

4 ~~c.b.~~ Pursuant to chapter 958, ~~notwithstanding any~~
5 ~~other provision of that chapter to the contrary; or~~

6 ~~d.c.~~ As a juvenile pursuant to this section.

7 3. Notwithstanding any other provision to the
8 contrary, if the state attorney is required to file a motion
9 to transfer and certify the juvenile for prosecution as an
10 adult pursuant to s. 985.226(2)(b) and that motion is granted,
11 or if the state attorney is required to file an information
12 pursuant to s. 985.227(2)(a) or (b), the court may not impose
13 juvenile sanctions, withhold adjudication of guilt, or impose
14 a sentence pursuant to subparagraph 1.b. or subparagraph 2.b.

15 ~~4.3.~~ Any sentence imposing adult sanctions is presumed
16 appropriate, and the court is not required to set forth
17 specific findings or enumerate the criteria in this subsection
18 as any basis for its decision to impose adult sanctions.

19 ~~5.4.~~ When a child has been transferred for criminal
20 prosecution as an adult and has been found to have committed a
21 violation of state law, the disposition of the case may
22 include the enforcement of any restitution ordered in any
23 juvenile proceeding.

24 (b) Sentencing to juvenile sanctions.--For juveniles
25 transferred to adult court but who do not qualify for such
26 transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or
27 (b), the court may impose juvenile sanctions under this
28 paragraph. The court shall ~~In order to use this paragraph, the~~
29 ~~court shall stay adjudication of guilt and instead shall~~
30 ~~adjudge the child to have committed a delinquent act.~~
31 ~~Adjudication of delinquency shall not be deemed a conviction,~~

1 ~~nor shall it operate to impose any of the civil disabilities~~
2 ~~ordinarily resulting from a conviction. The court shall impose~~
3 ~~an adult sanction or a juvenile sanction and may not sentence~~
4 ~~the child to a combination of adult and juvenile punishments.~~
5 ~~An adult sanction or a juvenile sanction may include~~
6 ~~enforcement of an order of restitution or community control~~
7 ~~previously ordered in any juvenile proceeding. However, if the~~
8 ~~court imposes a juvenile sanction and the department~~
9 ~~determines that the sanction is unsuitable for the child, the~~
10 ~~department shall return custody of the child to the sentencing~~
11 ~~court for further proceedings, including the imposition of~~
12 ~~adult sanctions.~~ Upon adjudicating a child delinquent under
13 subsection (1), the court may:

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

18 2. Commit the child to the department for treatment in
19 an appropriate program for children for an indeterminate
20 period of time until the child is 21 or sooner if discharged
21 by the department. The department shall notify the court of
22 its intent to discharge no later than 14 days prior to
23 discharge. Failure of the court to timely respond to the
24 department's notice shall be considered approval for
25 discharge.

26 3. Order disposition pursuant to s. 985.231 as an
27 alternative to youthful offender or adult sentencing if the
28 court determines not to impose youthful offender or adult
29 sanctions.

30 (c) Imposition of adult sanctions upon failure of
31 juvenile sanctions.--If a child proves not to be suitable to a

1 community control program or for a treatment program under the
2 provisions of subparagraph (b)2., the court may revoke the
3 previous adjudication, impose an adjudication of guilt,
4 classify the child as a youthful offender when appropriate,
5 and impose any sentence which it may lawfully impose, giving
6 credit for all time spent by the child in the department.

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

31

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

5 (f) Scope of sanction; custody return to sentencing
6 court.--An adult sanction or a juvenile sanction may include
7 enforcement of an order of restitution or community control
8 previously ordered in any juvenile proceeding. However, if the
9 court imposes a juvenile sanction and the department
10 determines that the sanction is unsuitable for the child, the
11 department shall return custody of the child to the sentencing
12 court for further proceedings, including the imposition of
13 adult sanctions.

14
15 It is the intent of the Legislature that the criteria and
16 guidelines in this subsection are mandatory and that a
17 determination of disposition under this subsection is subject
18 to the right of the child to appellate review under s.
19 985.234.

20 Section 22. For the purpose of incorporating the
21 amendment to section 985.233, Florida Statutes, in references
22 thereto, the following sections or subdivisions of Florida
23 Statutes are reenacted to read:

24 985.225 Indictment of a juvenile.--

25 (3) If the child is found to have committed the
26 offense punishable by death or by life imprisonment, the child
27 shall be sentenced as an adult. If the juvenile is not found
28 to have committed the indictable offense but is found to have
29 committed a lesser included offense or any other offense for
30 which he or she was indicted as a part of the criminal
31 episode, the court may sentence pursuant to s. 985.233.

1 (4) Once a child has been indicted pursuant to this
2 subsection and has been found to have committed any offense
3 for which he or she was indicted as a part of the criminal
4 episode, the child shall be handled thereafter in every
5 respect as if an adult for any subsequent violation of state
6 law, unless the court imposes juvenile sanctions under s.
7 985.233.

8 985.31 Serious or habitual juvenile offender.--

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

11 (k) Any commitment of a child to the department for
12 placement in a serious or habitual juvenile offender program
13 or facility shall be for an indeterminate period of time, but
14 the time shall not exceed the maximum term of imprisonment
15 which an adult may serve for the same offense. Notwithstanding
16 the provisions of ss. 743.07 and 985.231(1)(d), a serious or
17 habitual juvenile offender shall not be held under commitment
18 from a court pursuant to this section, s. 985.231, or s.
19 985.233 after becoming 21 years of age. This provision shall
20 apply only for the purpose of completing the serious or
21 habitual juvenile offender program pursuant to this chapter
22 and shall be used solely for the purpose of treatment.

23 Section 23. Subsections (3) and (6) of section
24 985.309, Florida Statutes, are amended to read:

25 985.309 Boot camp for children.--

26 (3) A child may be placed in a boot camp program if he
27 or she is at least 14 years of age and has not entered a plea
28 of guilty or nolo contendere to, or been adjudicated of,~~but~~
29 ~~less than 18 years of age at the time of adjudication and has~~
30 ~~been committed to the department for any offense that, if~~
31 ~~committed by an adult, would be a felony, other than a capital~~

1 felony, a life felony, or a violent felony of the first
2 degree. A child may be placed in an early intervention boot
3 camp program if he or she is at least 12 years of age, has not
4 entered a plea of guilty or nolo contendere to, or been
5 adjudicated of, a capital felony, a life felony, or a violent
6 felony of the first degree, and otherwise qualifies pursuant
7 to paragraph (6)(c).

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

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

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

17 (c) The department, a county, or a municipality may
18 operate an early intervention boot camp program consisting of
19 at least a 10-day residential boot camp component, followed by
20 at least 2 months in aftercare. The purpose of an early
21 intervention boot camp program is to discourage young
22 offenders from having further contact with the criminal
23 justice system, by emphasizing intensive educational and
24 physical training, discipline, and personal responsibility.
25 Any participation in an early intervention boot camp,
26 regardless of whether the juvenile successfully completes it,
27 automatically disqualifies a juvenile from future
28 participation in an early intervention boot camp. A
29 participant in an early intervention boot camp program may not
30 have more than two prior cases involving acts that would be
31 felonies if committed by an adult, nor may a participant in an

1 early intervention boot camp program have more than four prior
2 cases involving any combination of acts that would be either
3 misdemeanors or felonies if committed by an adult.

4
5 This subsection does not preclude the operation of a program
6 that requires the participants to spend more than 4 months in
7 the boot camp component of the program or that requires the
8 participants to complete two sequential programs of 4 months
9 each in the boot camp component of the program.

10 Section 24. For the purpose of incorporating the
11 amendment to section 985.309, Florida Statutes, in references
12 thereto, the following sections or subdivisions of Florida
13 Statutes, are reenacted to read:

14 985.231 Powers of disposition in delinquency cases.--

15 (1)

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

18 1. Upon a first adjudication for a grand theft of a
19 motor vehicle, may place the youth in a boot camp, unless the
20 child is ineligible pursuant to s. 985.309, and shall order
21 the youth to complete a minimum of 50 hours of community
22 service.

23 2. Upon a second adjudication for grand theft of a
24 motor vehicle which is separate and unrelated to the previous
25 adjudication, may place the youth in a boot camp, unless the
26 child is ineligible pursuant to s. 985.309, and shall order
27 the youth to complete a minimum of 100 hours of community
28 service.

29 3. Upon a third adjudication for grand theft of a
30 motor vehicle which is separate and unrelated to the previous
31 adjudications, shall place the youth in a boot camp or other

1 treatment program, unless the child is ineligible pursuant to
2 s. 985.309, and shall order the youth to complete a minimum of
3 250 hours of community service.

4 985.31 Serious or habitual juvenile offender.--

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

7 (i) The treatment and placement recommendations shall
8 be submitted to the court for further action pursuant to this
9 paragraph:

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

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

20 985.311 Intensive residential treatment program for
21 offenders less than 13 years of age.--

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

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

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

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

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

9 985.314 Commitment programs for juvenile felony
10 offenders.--

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

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

18 Section 25. Subsection (11) of section 985.404,
19 Florida Statutes, is amended to read:

20 985.404 Administering the juvenile justice
21 continuum.--

22 (11) The Department of Juvenile Justice in
23 consultation with the Juvenile Justice Advisory Board and
24 providers shall develop a cost-benefit model and apply the
25 model to each commitment program. Program recommitment rates
26 shall be a component of the model. The cost-benefit model
27 shall compare program costs to benefits. A report ranking
28 commitment programs based on cost-benefit shall be submitted
29 to the appropriate substantive and appropriations committees
30 of each house of the Legislature, no later than December 31 of
31

1 each year. The report must consider at least the following
2 factors:

3 (a) The recidivism rate measured by whether a juvenile
4 has been arrested within 1 year of leaving a commitment
5 program, regardless of whether the commitment program was
6 successfully completed.

7 (b) The seriousness of the criminal history of the
8 juveniles in the program.

9 (c) The program's cost per client.

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

11
12 It is the intent of the Legislature that continual development
13 efforts take place to improve the validity and reliability of
14 the cost-benefit model.

15 Section 26. This act shall take effect July 1 of the
16 year in which enacted.

17
18 *****

19 HOUSE SUMMARY

20
21 Provides that certain adjudications of delinquency are
22 admissible into evidence for impeachment purposes.
23 Revises or enacts various provisions in parts I, II, III,
24 and IV of chapter 985, F.S., relating to general
25 provisions, delinquency case proceedings, juvenile
26 justice continuum, and juvenile justice system
27 administration, respectively. Revises provisions in
28 chapter 921, F.S., relating to sentencing of persons with
29 juvenile records and juveniles prosecuted as adults.
30 Revises provisions in chapter 943, F.S., relating to
31 criminal history records of minors. (See bill for
details.)