

By Representative Rayson

1 A bill to be entitled
2 An act relating to juvenile and criminal
3 justice; amending s. 39.0145, F.S., relating to
4 punishment of a delinquent child for contempt
5 of court and alternative sanctions; removing
6 certain time limitations upon placement of
7 delinquent child held in contempt in a secure
8 detention facility or secure residential
9 commitment facility; amending s. 39.025, F.S.,
10 relating to district juvenile justice boards;
11 revising requirements for application for a
12 community juvenile justice partnership grant to
13 remove requirement for participation of the
14 Department of Health and Rehabilitative
15 Services; amending s. 39.044, F.S., relating to
16 detention; providing for continued detention of
17 a child who has failed to appear in court on
18 two separate occasions on the same case;
19 providing for extension up to 60 days of the
20 time limits upon detention of a child, under
21 specified circumstances; reenacting ss.
22 39.038(4), 39.042(2)(b), 39.0445, 39.049(5),
23 39.064(1), 790.22(8), relating to release or
24 delivery from custody, use of detention,
25 juvenile domestic violence offenders, release
26 or delivery from custody, process and service,
27 detention of furloughed or escaped child, and
28 weapons or firearms offenses by minors to
29 incorporate said amendment in references;
30 amending s. 39.0471, F.S.; authorizing
31 establishment of truancy programs by juvenile

1 justice assessment centers; defining "truant
2 student" to include enrolled students between 6
3 years of age and 18 years of age; amending s.
4 230.23161, F.S., relating to educational
5 services in Department of Juvenile Justice
6 programs; providing a maximum limitation on
7 administrative costs under certain contracts by
8 school districts for such programs; amending s.
9 806.13, F.S., relating to criminal mischief;
10 redefining first-degree misdemeanor criminal
11 mischief offense to include damage to property
12 greater than \$200 but less than \$500, and
13 providing penalties therefor; redefining
14 third-degree felony criminal mischief to
15 include certain damages of \$500 or greater, and
16 providing penalties therefor; amending s.
17 921.0012, F.S., relating to the sentencing
18 guidelines offense penalties, to conform a
19 cross reference; amending s. 812.014, F.S.,
20 relating to theft; providing second-degree
21 felony penalties for a person who commits grand
22 theft of a motor vehicle and who has previously
23 been convicted two or more times of motor
24 vehicle theft; reenacting ss. 39.052(3)(a) and
25 538.23(2), F.S., relating to transfer of child
26 for prosecution and offenses by secondary metal
27 recyclers, to incorporate said amendment in
28 references; providing for the Department of
29 Juvenile Justice to receive a portion of
30 certain moneys for purpose of substance abuse
31 treatment and mental health placements of

1 delinquents; providing for juvenile justice
2 district budgets to include discretionary funds
3 for delinquents with special needs; providing
4 for certain distributions of moneys by the
5 juvenile justice district managers; providing
6 an effective date.

7

8 Be It Enacted by the Legislature of the State of Florida:

9

10 Section 1. Paragraph (a) of subsection (2) of section
11 39.0145, Florida Statutes, is amended to read:

12 39.0145 Punishment for contempt of court; alternative
13 sanctions.--

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

20 (a) A delinquent child who has been held in direct or
21 indirect contempt may be placed in a secure detention facility
22 ~~for 5 days for a first offense or 15 days for a second or~~
23 ~~subsequent offense~~, or in a secure residential commitment
24 facility.

25 Section 2. Paragraph (b) of subsection (8) of section
26 39.025, Florida Statutes, 1996 Supplement, is amended to read:

27 39.025 District juvenile justice boards.--

28 (8) COMMUNITY JUVENILE JUSTICE PARTNERSHIP GRANTS;
29 CRITERIA.--

30 (b) The department shall only consider applications
31 which at a minimum provide for the following:

1 1. The participation of the local school authorities,
2 local law enforcement, and local representatives of the
3 Department of Juvenile Justice ~~and the Department of Health~~
4 ~~and Rehabilitative Services~~ pursuant to a written interagency
5 partnership agreement. Such agreement must specify how
6 community entities will cooperate, collaborate, and share
7 information in furtherance of the goals of the district and
8 county juvenile justice plan; and

9 2. The reduction of truancy and in-school and
10 out-of-school suspensions and expulsions, and the enhancement
11 of school safety.

12 Section 3. Paragraph (g) is added to subsection (2) of
13 section 39.044, Florida Statutes, 1996 Supplement, and
14 paragraph (d) of subsection (5) is amended to read:

15 39.044 Detention.--

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

20 (g) The child has failed to appear in court on two
21 separate occasions on the same case.

22
23 A child who meets any of these criteria and who is ordered to
24 be detained pursuant to this subsection shall be given a
25 hearing within 24 hours after being taken into custody. The
26 purpose of the detention hearing is to determine the existence
27 of probable cause that the child has committed the delinquent
28 act or violation of law with which he or she is charged and
29 the need for continued detention. Unless a child is detained
30 under paragraph (d), the court shall utilize the results of
31 the risk assessment performed by the intake counselor or case

1 manager and, based on the criteria in this subsection, shall
2 determine the need for continued detention. A child placed
3 into secure, nonsecure, or home detention care may continue to
4 be so detained by the court pursuant to this subsection. If
5 the court orders a placement more restrictive than indicated
6 by the results of the risk assessment instrument, the court
7 shall state, in writing, clear and convincing reasons for such
8 placement. Except as provided in s. 790.22(8) or in
9 subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c),
10 or paragraph (10)(d), when a child is placed into secure or
11 nonsecure detention care, or into a respite home or other
12 placement pursuant to a court order following a hearing, the
13 court order must include specific instructions that direct the
14 release of the child from such placement no later than 5 p.m.
15 on the last day of the detention period specified in paragraph
16 (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1.,
17 whichever is applicable, unless the requirements of such
18 applicable provision have been met or an order of continuance
19 has been granted pursuant to paragraph (5)(d).

20 (5)

21 (d) The time limits in paragraphs (b) and (c) do not
22 include periods of delay resulting from a continuance granted
23 by the court for cause on motion of the child or his or her
24 counsel or of the state. Cause may be found and the time
25 limits for detention may be extended if the child is charged
26 with a capital felony, life felony, or felony of the first
27 degree and the nature of the charge requires additional time
28 for the prosecution or defense of the case, but in no event
29 shall be extended beyond 60 days. Upon the issuance of an
30 order granting a continuance for cause on a motion by either
31 the child, the child's counsel, or the state, the court shall

1 conduct a hearing at the end of each 72-hour period, excluding
2 Saturdays, Sundays, and legal holidays, to determine the need
3 for continued detention of the child and the need for further
4 continuance of proceedings for the child or the state.

5 Section 4. For the purpose of incorporating the
6 amendments to s. 39.044, Florida Statutes, in references
7 thereto, the following sections or subdivisions of Florida
8 Statutes are reenacted to read:

9 39.038 Release or delivery from custody.--

10 (4) A person taking a child into custody who
11 determines, pursuant to s. 39.044, that the child should be
12 detained or released to a shelter designated by the
13 department, shall make a reasonable effort to immediately
14 notify the parent, guardian, or legal custodian of the child
15 and shall, without unreasonable delay, deliver the child to
16 the appropriate intake counselor or case manager or, if the
17 court has so ordered pursuant to s. 39.044, to a detention
18 center or facility. Upon delivery of the child, the person
19 taking the child into custody shall make a written report or
20 probable cause affidavit to the appropriate intake counselor
21 or case manager. Such written report or probable cause
22 affidavit must:

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

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

29 39.042 Use of detention.--

30 (2)

31

1 (b)1. The risk assessment instrument for detention
2 care placement determinations and orders shall be developed by
3 the Department of Juvenile Justice in agreement with
4 representatives appointed by the following associations: the
5 Conference of Circuit Judges of Florida, the Prosecuting
6 Attorneys Association, and the Public Defenders Association.
7 Each association shall appoint two individuals, one
8 representing an urban area and one representing a rural area.
9 The parties involved shall evaluate and revise the risk
10 assessment instrument as is considered necessary using the
11 method for revision as agreed by the parties. The risk
12 assessment instrument shall take into consideration, but need
13 not be limited to, prior history of failure to appear, prior
14 offenses, offenses committed pending adjudication, any
15 unlawful possession of a firearm, theft of a motor vehicle or
16 possession of a stolen motor vehicle, and community control
17 status at the time the child is taken into custody. The risk
18 assessment instrument shall also take into consideration
19 appropriate aggravating and mitigating circumstances, and
20 shall be designed to target a narrower population of children
21 than s. 39.044(2). The risk assessment instrument shall also
22 include any information concerning the child's history of
23 abuse and neglect. The risk assessment shall indicate whether
24 detention care is warranted, and, if detention care is
25 warranted, whether the child should be placed into secure,
26 nonsecure, or home detention care.

27 2. If, at the detention hearing, the court finds a
28 material error in the scoring of the risk assessment
29 instrument, the court may amend the score to reflect factual
30 accuracy.

31

1 3. A child who is charged with committing an offense
2 of domestic violence as defined in s. 741.28(1) and who does
3 not meet detention criteria may be held in secure detention
4 for up to 48 hours if a respite home or similar authorized
5 residential facility is not available. The court may order
6 that the child continue to be held in secure detention
7 provided that a hearing is held at the end of each 48-hour
8 period, excluding Saturdays, Sundays, and legal holidays, in
9 which the state attorney and the department may recommend to
10 the court that the child continue to be held in secure
11 detention.

12 39.0445 Juvenile domestic violence offenders.--If a
13 child is charged with the commission of a domestic violence
14 offense as defined in s. 741.28(1) and does not meet the
15 detention criteria established in s. 39.044, the court may
16 order that the child be placed in a respite home or any
17 similar residential facility, if available, authorized by the
18 department for the placement of juvenile domestic violence
19 offenders or, if not available, in a secure detention center.

20 39.049 Process and service.--

21 (5) If the petition alleges that the child has
22 committed a delinquent act or violation of law and the judge
23 deems it advisable to do so, pursuant to the criteria of s.
24 39.044, the judge may, by endorsement upon the summons and
25 after the entry of an order in which valid reasons are
26 specified, order the child to be taken into custody
27 immediately, and in such case the person serving the summons
28 shall immediately take the child into custody.

29 39.064 Detention of furloughed child or escapee on
30 authority of the department.--

31

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

16 790.22 Use of BB guns, air or gas-operated guns, or
17 electric weapons or devices by minor under 16; limitation;
18 possession of firearms by minor under 18 prohibited;
19 penalties.--

20 (8) Notwithstanding s. 39.042 or s. 39.044(1), if a
21 minor under 18 years of age is charged with an offense that
22 involves the use or possession of a firearm, as defined in s.
23 790.001, other than a violation of subsection (3), or is
24 charged for any offense during the commission of which the
25 minor possessed a firearm, the minor shall be detained in
26 secure detention, unless the state attorney authorizes the
27 release of the minor, and shall be given a hearing within 24
28 hours after being taken into custody. Effective April 15,
29 1994, at the hearing, the court may order that the minor
30 continue to be held in secure detention in accordance with the
31 applicable time periods specified in s. 39.044(5), if the

1 court finds that the minor meets the criteria specified in s.
2 39.044(2), or if the court finds by clear and convincing
3 evidence that the minor is a clear and present danger to
4 himself or the community. The Department of Juvenile Justice
5 shall prepare a form for all minors charged under this
6 subsection that states the period of detention and the
7 relevant demographic information, including, but not limited
8 to, the sex, age, and race of the minor; whether or not the
9 minor was represented by private counsel or a public defender;
10 the current offense; and the minor's complete prior record,
11 including any pending cases. The form shall be provided to the
12 judge to be considered when determining whether the minor
13 should be continued in secure detention under this subsection.
14 An order placing a minor in secure detention because the minor
15 is a clear and present danger to himself or the community must
16 be in writing, must specify the need for detention and the
17 benefits derived by the minor or the community by placing the
18 minor in secure detention, and must include a copy of the form
19 provided by the department. The Department of Juvenile Justice
20 must send the form, including a copy of any order, without
21 client-identifying information, to the Division of Economic
22 and Demographic Research of the Joint Legislative Management
23 Committee.

24 Section 5. Section 39.0471, Florida Statutes, is
25 amended to read:

26 39.0471 Juvenile justice assessment centers.--

27 (1) The department shall work cooperatively with
28 substance abuse facilities, mental health providers, law
29 enforcement agencies, schools, health services providers, and
30 other entities involved with children to establish a juvenile
31 justice assessment center in each service district. The

1 assessment center shall serve as central intake and screening
2 for children referred to the department. Each juvenile justice
3 assessment center shall provide services needed to facilitate
4 initial screening of children, including intake and needs
5 assessment, substance abuse screening, physical and mental
6 health screening, and diagnostic testing, as appropriate. The
7 entities involved in the assessment center shall make the
8 resources for the provision of these services available at the
9 same level to which they are available to the general public.

10 (2) Juvenile justice assessment centers are authorized
11 and encouraged to establish truancy programs. A truancy
12 program may serve as providing the central intake and
13 screening of truant children for a specific geographic area
14 that is based upon written agreements between the assessment
15 center, affected law enforcement agencies, and affected school
16 boards. The assessment center may work cooperatively with any
17 truancy program operating in the area served by the assessment
18 center.

19 (3) When a law enforcement officer takes into custody
20 a truant student, the officer may transport or refer the
21 truant student to a truancy program operating in the officer's
22 jurisdiction. For the purpose of this section, a truant
23 student is defined as any student between the ages of 6 and
24 18, who is enrolled in public or private school, and is absent
25 from school without excuse, even if that student is not
26 subject to compulsory school attendance under s. 232.01.

27 Section 6. Subsection (7) of section 230.23161,
28 Florida Statutes, 1996 Supplement, is amended to read:
29 230.23161 Educational services in Department of
30 Juvenile Justice programs.--
31

1 (7) A school district may contract with a private
2 provider for the provision of educational programs to youths
3 placed with the Department of Juvenile Justice and may
4 generate local, state, and federal funding, including funding
5 through the Florida Education Finance Program for such
6 students. Unless written justification otherwise is provided
7 to and agreed to by the Department of Juvenile Justice and the
8 Department of Education, administrative costs under any
9 contract awarded for such educational programs shall not
10 exceed 10 percent of the total contract amount.

11 Section 7. Paragraph (b) of subsection (1) of section
12 806.13, Florida Statutes, is amended to read:

13 806.13 Criminal mischief; penalties; penalty for
14 minor.--

15 (1)

16 (b)1. If the damage to such property is \$200 or less,
17 it is a misdemeanor of the second degree, punishable as
18 provided in s. 775.082 or s. 775.083.

19 2. If the damage to such property is greater than \$200
20 but less than ~~\$500~~~~\$1,000~~, it is a misdemeanor of the first
21 degree, punishable as provided in s. 775.082 or s. 775.083.

22 3. If the damage is ~~\$500~~~~\$1,000~~ or greater, or if
23 there is interruption or impairment of a business operation or
24 public communication, transportation, supply of water, gas or
25 power, or other public service which costs ~~\$500~~~~\$1,000~~ or more
26 in labor and supplies to restore, it is a felony of the third
27 degree, punishable as provided in s. 775.082, s. 775.083, or
28 s. 775.084.

29 Section 8. Paragraph (b) of subsection (3) of section
30 921.0012, Florida Statutes, 1996 Supplement, is amended to
31 read:

1	921.0012	Sentencing guidelines offense levels; offense	
2	severity ranking chart.--		
3	(3)	OFFENSE SEVERITY RANKING CHART	
4	Florida	Felony	
5	Statute	Degree	Description
6			
7			(b) LEVEL 2
8	403.413(5)(c)	3rd	Dumps waste litter exceeding 500
9			lbs. in weight or 100 cubic feet
10			in volume or any quantity for
11			commercial purposes, or hazardous
12			waste.
13	517.07	3rd	Registration of securities and
14			furnishing of prospectus
15			required.
16	590.28(1)	3rd	Willful, malicious, or
17			intentional burning.
18	784.05(3)	3rd	Storing or leaving a loaded
19			firearm within reach of minor who
20			uses it to inflict injury or
21			death.
22	787.04(1)	3rd	In violation of court order,
23			take, entice, etc., minor beyond
24			state limits.
25	806.13(1)(b)3.	3rd	Criminal mischief; damage <u>\$500</u>
26			\$1,000 or more to public
27			communication or any other public
28			service.
29	810.09(2)(e)	3rd	Trespassing on posted commercial
30			horticulture property.
31			

1	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or
2			more but less than \$5,000.
3	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or
4			more but less than \$300, taken
5			from unenclosed curtilage of
6			dwelling.
7	817.234(1)(a)2.	3rd	False statement in support of
8			insurance claim.
9	817.481(3)(a)	3rd	Obtain credit or purchase with
10			false, expired, counterfeit,
11			etc., credit card, value over
12			\$300.
13	817.52(3)	3rd	Failure to redeliver hired
14			vehicle.
15	817.54	3rd	With intent to defraud, obtain
16			mortgage note, etc., by false
17			representation.
18	817.60(5)	3rd	Dealing in credit cards of
19			another.
20	817.60(6)(a)	3rd	Forgery; purchase goods, services
21			with false card.
22	817.61	3rd	Fraudulent use of credit cards
23			over \$100 or more within 6
24			months.
25	826.04	3rd	Knowingly marries or has sexual
26			intercourse with person to whom
27			related.
28	831.01	3rd	Forgery.
29	831.02	3rd	Uttering forged instrument;
30			utters or publishes alteration
31			with intent to defraud.

1	831.07	3rd	Forging bank bills or promissory
2			note.
3	831.08	3rd	Possession of 10 or more forged
4			notes.
5	831.09	3rd	Uttering forged bills; passes as
6			bank bill or promissory note.
7	832.05(3)(a)	3rd	Cashing or depositing item with
8			intent to defraud.
9	843.08	3rd	Falsely impersonating an officer.
10	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c),
11			(2)(c), (3), or (4) drugs other
12			than cannabis.
13	893.147(2)	3rd	Manufacture or delivery of drug
14			paraphernalia.

15 Section 9. Paragraph (c) of subsection (2) of section

16 812.014, Florida Statutes, 1996 Supplement, is amended to

17 read:

18 812.014 Theft.--

19 (2)

20 (c) It is grand theft of the third degree and a felony

21 of the third degree, punishable as provided in s. 775.082, s.

22 775.083, or s. 775.084, if the property stolen is:

23 1. Valued at \$300 or more, but less than \$5,000.

24 2. Valued at \$5,000 or more, but less than \$10,000.

25 3. Valued at \$10,000 or more, but less than \$20,000.

26 4. A will, codicil, or other testamentary instrument.

27 5. A firearm.

28 6. A motor vehicle, except as provided in subparagraph

29 (2)(a). However, a person who commits grand theft of a motor

30 vehicle and who has previously been convicted two or more

31 times of any theft of a motor vehicle commits a felony of the

1 second degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084.

3 7. Any commercially farmed animal, including any
4 animal of the equine, bovine, or swine class, or other grazing
5 animal, and including aquaculture species raised at a
6 certified aquaculture facility. If the property stolen is
7 aquaculture species raised at a certified aquaculture
8 facility, then a \$10,000 fine shall be imposed.

9 8. Any fire extinguisher.

10 9. Any amount of citrus fruit consisting of 2,000 or
11 more individual pieces of fruit.

12 10. Taken from a designated construction site
13 identified by the posting of a sign as provided for in s.
14 810.09(2)(d).

15 Section 10. For the purpose of incorporating the
16 amendments to s. 812.014, Florida Statutes, 1996 Supplement,
17 in references thereto, the following sections or subdivisions
18 of Florida Statutes, are reenacted to read:

19 39.052 Hearings.--

20 (3) TRANSFER OF A CHILD FOR PROSECUTION AS AN ADULT.--

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

1 unless the court imposes juvenile sanctions under s.
2 39.059(4)(b) or (c).

3 2.a. The state attorney may file a motion requesting
4 the court to transfer the child for criminal prosecution if
5 the child was 14 years of age or older at the time the alleged
6 delinquent act or violation of law was committed. If the child
7 has been previously adjudicated delinquent for murder, sexual
8 battery, armed or strong-armed robbery, carjacking,
9 home-invasion robbery, aggravated battery, or aggravated
10 assault, and is currently charged with a second or subsequent
11 violent crime against a person, the state attorney shall file
12 a motion requesting the court to transfer and certify the
13 juvenile for prosecution as an adult, or proceed pursuant to
14 subparagraph 5.

15 b. If the child was 14 years of age or older at the
16 time of commission of a fourth or subsequent alleged felony
17 offense and the child was previously adjudicated delinquent or
18 had adjudication withheld for or was found to have committed,
19 or to have attempted or conspired to commit, three offenses
20 that are felony offenses if committed by an adult, and one or
21 more of such felony offenses involved the use or possession of
22 a firearm or violence against a person, the state attorney
23 shall request the court to transfer and certify the child for
24 prosecution as an adult or shall provide written reasons to
25 the court for not making such request, or proceed pursuant to
26 subparagraph 5. Upon the state attorney's request, the court
27 shall either enter an order transferring the case and
28 certifying the case for trial as if the child were an adult or
29 provide written reasons for not issuing such an order.

30 3. If the court finds, after a waiver hearing under
31 subsection (2), that a juvenile who was 14 years of age or

1 older at the time the alleged violation of state law was
2 committed should be charged and tried as an adult, the court
3 shall enter an order transferring the case and certifying the
4 case for trial as if the child were an adult. The child shall
5 thereafter be subject to prosecution, trial, and sentencing as
6 if the child were an adult but subject to the provisions of s.
7 39.059(7). Once a child has been transferred for criminal
8 prosecution pursuant to an involuntary waiver hearing and has
9 been found to have committed the presenting offense or a
10 lesser included offense, the child shall thereafter be handled
11 in every respect as an adult for any subsequent violation of
12 state law, unless the court imposes juvenile sanctions under
13 s. 39.059(4)(b) or (c).

14 4.a. A child of any age who is charged with a
15 violation of state law punishable by death or by life
16 imprisonment is subject to the jurisdiction of the court as
17 set forth in s. 39.049(7) unless and until an indictment on
18 the charge is returned by the grand jury. When such indictment
19 is returned, the petition for delinquency, if any, must be
20 dismissed and the child must be tried and handled in every
21 respect as an adult:

22 (I) On the offense punishable by death or by life
23 imprisonment; and

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

29 b. An adjudicatory hearing may not be held until 21
30 days after the child is taken into custody and charged with
31 having committed an offense punishable by death or by life

1 imprisonment, unless the state attorney advises the court in
2 writing that he or she does not intend to present the case to
3 the grand jury, or has presented the case to the grand jury
4 and the grand jury has not returned an indictment. If the
5 court receives such a notice from the state attorney, or if
6 the grand jury fails to act within the 21-day period, the
7 court may proceed as otherwise authorized under this part.

8 c. If the child is found to have committed the offense
9 punishable by death or by life imprisonment, the child shall
10 be sentenced as an adult. If the juvenile is not found to have
11 committed the indictable offense but is found to have
12 committed a lesser included offense or any other offense for
13 which he or she was indicted as a part of the criminal
14 episode, the court may sentence as follows:

15 (I) Pursuant to s. 39.059;

16 (II) Pursuant to chapter 958, notwithstanding any
17 other provisions of that chapter to the contrary; or

18 (III) As an adult, pursuant to s. 39.059(7)(c).

19 d. Once a child has been indicted pursuant to this
20 subsection and has been found to have committed any offense
21 for which he or she was indicted as a part of the criminal
22 episode, the child shall be handled thereafter in every
23 respect as if an adult for any subsequent violation of state
24 law, unless the court imposes juvenile sanctions under s.
25 39.059.

26 5.a. Effective January 1, 1995, with respect to any
27 child who was 14 or 15 years of age at the time the alleged
28 offense was committed, the state attorney may file an
29 information when in the state attorney's judgment and
30 discretion the public interest requires that adult sanctions
31 be considered or imposed and when the offense charged is:

- 1 (I) Arson;
- 2 (II) Sexual battery;
- 3 (III) Robbery;
- 4 (IV) Kidnapping;
- 5 (V) Aggravated child abuse;
- 6 (VI) Aggravated assault;
- 7 (VII) Aggravated stalking;
- 8 (VIII) Murder;
- 9 (IX) Manslaughter;
- 10 (X) Unlawful throwing, placing, or discharging of a
- 11 destructive device or bomb;
- 12 (XI) Armed burglary in violation of s. 810.02(2)(b) or
- 13 specified burglary of a dwelling or structure in violation of
- 14 s. 810.02(2)(c);
- 15 (XII) Aggravated battery;
- 16 (XIII) Lewd or lascivious assault or act in the
- 17 presence of a child;
- 18 (XIV) Carrying, displaying, using, threatening, or
- 19 attempting to use a weapon or firearm during the commission of
- 20 a felony; or
- 21 (XV) Grand theft in violation of s. 812.014(2)(a).
- 22 b. With respect to any child who was 16 or 17 years of
- 23 age at the time the alleged offense was committed, the state
- 24 attorney:
- 25 (I) May file an information when in the state
- 26 attorney's judgment and discretion the public interest
- 27 requires that adult sanctions be considered or imposed.
- 28 However, the state attorney may not file an information on a
- 29 child charged with a misdemeanor, unless the child has had at
- 30 least two previous adjudications or adjudications withheld for
- 31

1 delinquent acts, one of which involved an offense classified
2 as a felony under state law.

3 (II) Shall file an information if the child has been
4 previously adjudicated delinquent for murder, sexual battery,
5 armed or strong-armed robbery, carjacking, home-invasion
6 robbery, aggravated battery, or aggravated assault, and is
7 currently charged with a second or subsequent violent crime
8 against a person.

9 c. Effective January 1, 1995, notwithstanding
10 subparagraphs 1. and 2., regardless of the child's age at the
11 time the alleged offense was committed, the state attorney
12 must file an information with respect to any child who
13 previously has been adjudicated for offenses which, if
14 committed by an adult, would be felonies and such
15 adjudications occurred at three or more separate delinquency
16 adjudicatory hearings, and three of which resulted in
17 residential commitments as defined in s. 39.01(59).

18 d. Once a child has been transferred for criminal
19 prosecution pursuant to information and has been found to have
20 committed the presenting offense or a lesser included offense,
21 the child shall be handled thereafter in every respect as if
22 an adult for any subsequent violation of state law, unless the
23 court imposes juvenile sanctions under s. 39.059(6).

24 e. Each state attorney shall develop and annually
25 update written policies and guidelines to govern
26 determinations for filing an information on a juvenile, to be
27 submitted to the Executive Office of the Governor, the
28 President of the Senate, the Speaker of the House of
29 Representatives, and the Juvenile Justice Advisory Board not
30 later than January 1 of each year.

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

20 538.23 Violations and penalties.--

21 (2) A secondary metals recycler is presumed to know
22 upon receipt of stolen regulated metals property in a purchase
23 transaction that the regulated metals property has been stolen
24 from another if the secondary metals recycler knowingly and
25 intentionally fails to maintain the information required in s.
26 538.19 and shall, upon conviction of a violation of s.
27 812.015, be punished as provided in s. 812.014(2) or (3).

28 Section 11. Provision shall be made in the annual
29 appropriations act for the Department of Juvenile Justice to
30 receive a portion of moneys in the budget category for the
31 entity of the Department of Health that is the successor to

1 the Alcohol, Drug Abuse, and Mental Health Program Office, in
2 order that the Department of Juvenile Justice may provide for
3 substance abuse treatment and mental health placements of
4 delinquents. The moneys received by the Department of
5 Juvenile Justice shall be placed in each respective juvenile
6 justice district budget for distribution by the juvenile
7 justice district manager. Provision also shall be made in the
8 annual appropriations act for each juvenile justice district
9 budget to include an appropriate amount of discretionary funds
10 for delinquents with special needs, such as the need for
11 treatment of substance abuse or mental health problems, which
12 moneys may be distributed for such purposes by the juvenile
13 justice district manager.

14 Section 12. This act shall take effect October 1,
15 1997.

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288-174-97

HOUSE SUMMARY

Removes certain time limitations upon placement of delinquent child held in contempt in a secure detention facility or secure residential commitment facility. Revises requirements for application for a community juvenile justice partnership grant to remove requirement for participation of the Department of Health and Rehabilitative Services. Provides for continued detention of a child who has failed to appear in court on two separate occasions on the same case. Provides for extension up to 60 days of the time limits upon detention of a child, under specified circumstances. Authorizes establishment of truancy programs by juvenile justice assessment centers. Defines "truant student" to include enrolled students between 6 years of age and 18 years of age. Revises provisions relating to educational services in Department of Juvenile Justice programs to provide a maximum limitation on administrative costs under certain contracts by school districts for such programs. Redefines first-degree misdemeanor criminal mischief offense to include damage to property greater than \$200 but less than \$500. Provides penalties. Redefines third-degree felony criminal mischief to include certain damages of \$500 or greater. Provides penalties. Provides second-degree felony penalties for a person who commits grand theft of a motor vehicle and who has previously been convicted two or more times of motor vehicle theft. Provides for the Department of Juvenile Justice to receive a portion of certain moneys for purposes of substance abuse treatment and mental health placements of delinquents. Provides for juvenile justice district budgets to include discretionary funds for delinquents with special needs. Provides for certain distribution of moneys by juvenile justice district managers.

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