

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          conforming provisions to reflect the creation  
12          of the Department of Children and Family  
13          Services; requiring that specified entities  
14          participate in the interagency agreement  
15          developed by the county juvenile justice  
16          council; specifying information to be included  
17          in the agreement; clarifying the minimum  
18          requirements to be included in an application  
19          for a community juvenile justice partnership  
20          grant; revising requirements for application  
21          for a community juvenile justice partnership  
22          grant to remove requirement for participation  
23          of the Department of Health and Rehabilitative  
24          Services; amending s. 39.044, F.S., relating to  
25          detention; providing for continued detention of  
26          a child who has failed to appear in court on  
27          two separate occasions on the same case;  
28          providing for extension up to 30 days of the  
29          time limits upon detention of a child, under  
30          specified circumstances; reenacting ss.  
31          39.038(4), 39.042(2)(b), 39.0445, 39.049(5),

1 39.064(1), 790.22(8), relating to release or  
2 delivery from custody, use of detention,  
3 juvenile domestic violence offenders, release  
4 or delivery from custody, process and service,  
5 detention of furloughed or escaped child, and  
6 weapons or firearms offenses by minors to  
7 incorporate said amendment in references;  
8 amending s. 39.0471, F.S.; authorizing  
9 establishment of truancy programs by juvenile  
10 justice assessment centers; defining "truant  
11 student" to include enrolled students between 6  
12 years of age and 18 years of age; amending s.  
13 230.2316, F.S., relating to dropout prevention;  
14 providing a maximum limitation upon school  
15 district costs for administering juvenile  
16 justice purchase-of-service contracts without  
17 specified written justification agreed upon by  
18 the Department of Juvenile Justice and the  
19 Department of Education; amending s. 230.23161,  
20 F.S., relating to educational services in  
21 Department of Juvenile Justice programs;  
22 providing a maximum limitation on  
23 administrative costs under certain contracts by  
24 school districts for such programs; amending s.  
25 806.13, F.S., relating to criminal mischief;  
26 redefining first degree misdemeanor criminal  
27 mischief offense to include damage to property  
28 greater than \$200 but less than \$500, and  
29 providing penalties therefor; redefining third  
30 degree felony criminal mischief to include  
31 certain damages of \$500 or greater, and

1 providing penalties therefor; amending s.  
2 921.0012, F.S., relating to the sentencing  
3 guidelines offense penalties, to conform a  
4 cross reference; amending s. 812.014, F.S.,  
5 relating to theft; providing second degree  
6 felony penalties for a person who commits grand  
7 theft of a motor vehicle and who has previously  
8 been convicted two or more times of motor  
9 vehicle theft; reenacting ss. 39.052(3)(a) and  
10 538.23(2), F.S., relating to transfer of child  
11 for prosecution and offenses by secondary metal  
12 recyclers, to incorporate said amendment in  
13 references; requiring cooperative agreements  
14 between the Department of Juvenile Justice and  
15 the Department of Children and Family Services  
16 for the provision of mental health and  
17 substance abuse treatment services to youth in  
18 the juvenile justice system; requiring the  
19 Office of Program Policy Analysis and  
20 Government Accountability to conduct a  
21 performance review of the provision of mental  
22 health and substance abuse treatment services  
23 to youth in the juvenile justice system;  
24 requiring a report; amending s. 39.069, F.S.;  
25 providing for appeal by the state of an order  
26 denying restitution, under certain  
27 circumstances when the order affects a party to  
28 a case involving delinquency; providing  
29 effective dates.

30  
31 Be It Enacted by the Legislature of the State of Florida:

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

3           39.0145 Punishment for contempt of court; alternative  
4 sanctions.--

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

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

16           Section 2. Subsections (5) and (8) of section 39.025,  
17 Florida Statutes, 1996 Supplement, are amended to read:

18           39.025 District juvenile justice boards.--

19           (1) SHORT TITLE.--This section may be cited as the  
20 "Community Juvenile Justice System Act."

21           (5) COUNTY JUVENILE JUSTICE COUNCILS.--

22           (a) A county juvenile justice council is authorized in  
23 each county for the purpose of encouraging the initiation of,  
24 or supporting ongoing, interagency cooperation and  
25 collaboration in addressing juvenile crime. A county juvenile  
26 justice council must include:

27           1. The district school superintendent, or the  
28 superintendent's designee.

29           2. The chair of the board of county commissioners, or  
30 the chair's designee.

31

1           3. An elected official of the governing body of a  
2 municipality within the county.

3           4. Representatives of the local school system  
4 including administrators, teachers, school counselors, and  
5 parents.

6           5. The district juvenile justice manager and the  
7 district administrator of the Department of Children and  
8 Family Health and Rehabilitative Services, or their respective  
9 designees.

10          6. Representatives of local law enforcement agencies,  
11 including the sheriff or the sheriff's designee.

12          7. Representatives of the judicial system, including,  
13 but not limited to, the chief judge of the circuit, the state  
14 attorney, the public defender, the clerk of the circuit court,  
15 or their respective designees.

16          8. Representatives of the business community.

17          9. Representatives of any other interested officials,  
18 groups, or entities including, but not limited to, a  
19 children's services council, public or private providers of  
20 juvenile justice programs and services, students, and  
21 advocates.

22  
23 A juvenile delinquency and gang prevention council or any  
24 other group or organization that currently exists in any  
25 county, and that is composed of and open to representatives of  
26 the classes of members described in this section, may notify  
27 the district juvenile justice manager of its desire to be  
28 designated as the county juvenile justice council.

29          (b) The purpose of a county juvenile justice council  
30 is to provide a forum for the development of a community-based  
31 interagency assessment of the local juvenile justice system,

1 to develop a county juvenile justice plan for more effectively  
2 preventing juvenile delinquency, and to make recommendations  
3 for more effectively utilizing existing community resources in  
4 dealing with juveniles who are truant or have been suspended  
5 or expelled from school, or who are found to be involved in  
6 crime. The county juvenile justice plan shall include relevant  
7 portions of local crime prevention and public safety plans,  
8 school improvement and school safety plans, and the plans or  
9 initiatives of other public and private entities within the  
10 county that are concerned with dropout prevention, school  
11 safety, the prevention of juvenile crime and criminal activity  
12 by youth gangs, and alternatives to suspension, expulsion, and  
13 detention for children found in contempt of court.

14 (c) The duties and responsibilities of a county  
15 juvenile justice council include, but are not limited to:

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

23 2. Entering into a written county interagency  
24 agreement specifying the nature and extent of contributions  
25 each signatory agency will make in achieving the goals of the  
26 county juvenile justice plan and their commitment to the  
27 sharing of information useful in carrying out the goals of the  
28 interagency agreement to the extent authorized by law. The  
29 interagency agreement must include at least the following  
30 participants: the local school authorities, local law  
31 enforcement, and local representatives of the Department of

1 Juvenile Justice and the Department of Children and Family  
2 Services. The interagency agreement must specify how  
3 community entities will cooperate, collaborate, and share  
4 information in furtherance of the goals of the district and  
5 county juvenile justice plan.

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

10 4. Designating the county representatives to the  
11 district juvenile justice board pursuant to subsection (6).

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

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

21 7. Providing an annual report and recommendations to  
22 the district juvenile justice board, the Juvenile Justice  
23 Advisory Board, and the district juvenile justice manager.

24 (8) COMMUNITY JUVENILE JUSTICE PARTNERSHIP GRANTS;  
25 CRITERIA.--

26 (a) In order to encourage the development of county  
27 and district juvenile justice plans, as required in  
28 subparagraphs (5)(c)1. and (6)(d)2. and subsection (7), and  
29 the development and implementation of county and district  
30 interagency agreements, as required in subparagraphs (5)(c)2.  
31 and (6)(d)3., among representatives of the Department of

1 Juvenile Justice, the Department of Children and Family Health  
2 ~~and Rehabilitative~~ Services, law enforcement, and school  
3 authorities, the community juvenile justice partnership grant  
4 program is established, to be administered by the Department  
5 of Juvenile Justice.

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

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

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

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

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

28 2. The diversity of community entities participating  
29 in the development of the district juvenile justice plan.

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



1           4. The number of students or youth to be served by the  
2 grant and the criteria by which they will be selected.

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

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

9           39.044 Detention.--

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

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

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

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

14 (5)

15 (d) The time limits in paragraphs (b) and (c) do not  
16 include periods of delay resulting from a continuance granted  
17 by the court for cause on motion of the child or his or her  
18 counsel or of the state. Cause may be found and the time  
19 limits for detention may be extended if the child is charged  
20 with a capital felony, life felony, or felony of the first  
21 degree and the nature of the charge requires additional time  
22 for the prosecution or defense of the case, but in no event  
23 shall be extended beyond 30 days. Upon the issuance of an  
24 order granting a continuance for cause on a motion by either  
25 the child, the child's counsel, or the state, the court shall  
26 conduct a hearing at the end of each 72-hour period, excluding  
27 Saturdays, Sundays, and legal holidays, to determine the need  
28 for continued detention of the child and the need for further  
29 continuance of proceedings for the child or the state.

30 Section 4. For the purpose of incorporating the  
31 amendments to s. 39.044, Florida Statutes, in references

1 thereto, the following sections or subdivisions of Florida  
2 Statutes are reenacted to read:

3 39.038 Release or delivery from custody.--

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

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

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

23 39.042 Use of detention.--

24 (2)

25 (b)1. The risk assessment instrument for detention  
26 care placement determinations and orders shall be developed by  
27 the Department of Juvenile Justice in agreement with  
28 representatives appointed by the following associations: the  
29 Conference of Circuit Judges of Florida, the Prosecuting  
30 Attorneys Association, and the Public Defenders Association.  
31 Each association shall appoint two individuals, one

1 representing an urban area and one representing a rural area.  
2 The parties involved shall evaluate and revise the risk  
3 assessment instrument as is considered necessary using the  
4 method for revision as agreed by the parties. The risk  
5 assessment instrument shall take into consideration, but need  
6 not be limited to, prior history of failure to appear, prior  
7 offenses, offenses committed pending adjudication, any  
8 unlawful possession of a firearm, theft of a motor vehicle or  
9 possession of a stolen motor vehicle, and community control  
10 status at the time the child is taken into custody. The risk  
11 assessment instrument shall also take into consideration  
12 appropriate aggravating and mitigating circumstances, and  
13 shall be designed to target a narrower population of children  
14 than s. 39.044(2). The risk assessment instrument shall also  
15 include any information concerning the child's history of  
16 abuse and neglect. The risk assessment shall indicate whether  
17 detention care is warranted, and, if detention care is  
18 warranted, whether the child should be placed into secure,  
19 nonsecure, or home detention care.

20           2. If, at the detention hearing, the court finds a  
21 material error in the scoring of the risk assessment  
22 instrument, the court may amend the score to reflect factual  
23 accuracy.

24           3. A child who is charged with committing an offense  
25 of domestic violence as defined in s. 741.28(1) and who does  
26 not meet detention criteria may be held in secure detention  
27 for up to 48 hours if a respite home or similar authorized  
28 residential facility is not available. The court may order  
29 that the child continue to be held in secure detention  
30 provided that a hearing is held at the end of each 48-hour  
31 period, excluding Saturdays, Sundays, and legal holidays, in

1 which the state attorney and the department may recommend to  
2 the court that the child continue to be held in secure  
3 detention.

4           39.0445 Juvenile domestic violence offenders.--If a  
5 child is charged with the commission of a domestic violence  
6 offense as defined in s. 741.28(1) and does not meet the  
7 detention criteria established in s. 39.044, the court may  
8 order that the child be placed in a respite home or any  
9 similar residential facility, if available, authorized by the  
10 department for the placement of juvenile domestic violence  
11 offenders or, if not available, in a secure detention center.

12           39.049 Process and service.--

13           (5) If the petition alleges that the child has  
14 committed a delinquent act or violation of law and the judge  
15 deems it advisable to do so, pursuant to the criteria of s.  
16 39.044, the judge may, by endorsement upon the summons and  
17 after the entry of an order in which valid reasons are  
18 specified, order the child to be taken into custody  
19 immediately, and in such case the person serving the summons  
20 shall immediately take the child into custody.

21           39.064 Detention of furloughed child or escapee on  
22 authority of the department.--

23           (1) If an authorized agent of the department has  
24 reasonable grounds to believe that any delinquent child  
25 committed to the department has escaped from a facility of the  
26 department or from being lawfully transported thereto or  
27 therefrom, the agent may take the child into active custody  
28 and may deliver the child to the facility or, if it is closer,  
29 to a detention center for return to the facility. However, a  
30 child may not be held in detention longer than 24 hours,  
31 excluding Saturdays, Sundays, and legal holidays, unless a

1 special order so directing is made by the judge after a  
2 detention hearing resulting in a finding that detention is  
3 required based on the criteria in s. 39.044(2). The order  
4 shall state the reasons for such finding. The reasons shall be  
5 reviewable by appeal or in habeas corpus proceedings in the  
6 district court of appeal.

7           790.22 Use of BB guns, air or gas-operated guns, or  
8 electric weapons or devices by minor under 16; limitation;  
9 possession of firearms by minor under 18 prohibited;  
10 penalties.--

11           (8) Notwithstanding s. 39.042 or s. 39.044(1), if a  
12 minor under 18 years of age is charged with an offense that  
13 involves the use or possession of a firearm, as defined in s.  
14 790.001, other than a violation of subsection (3), or is  
15 charged for any offense during the commission of which the  
16 minor possessed a firearm, the minor shall be detained in  
17 secure detention, unless the state attorney authorizes the  
18 release of the minor, and shall be given a hearing within 24  
19 hours after being taken into custody. Effective April 15,  
20 1994, at the hearing, the court may order that the minor  
21 continue to be held in secure detention in accordance with the  
22 applicable time periods specified in s. 39.044(5), if the  
23 court finds that the minor meets the criteria specified in s.  
24 39.044(2), or if the court finds by clear and convincing  
25 evidence that the minor is a clear and present danger to  
26 himself or the community. The Department of Juvenile Justice  
27 shall prepare a form for all minors charged under this  
28 subsection that states the period of detention and the  
29 relevant demographic information, including, but not limited  
30 to, the sex, age, and race of the minor; whether or not the  
31 minor was represented by private counsel or a public defender;

1 the current offense; and the minor's complete prior record,  
2 including any pending cases. The form shall be provided to the  
3 judge to be considered when determining whether the minor  
4 should be continued in secure detention under this subsection.  
5 An order placing a minor in secure detention because the minor  
6 is a clear and present danger to himself or the community must  
7 be in writing, must specify the need for detention and the  
8 benefits derived by the minor or the community by placing the  
9 minor in secure detention, and must include a copy of the form  
10 provided by the department. The Department of Juvenile Justice  
11 must send the form, including a copy of any order, without  
12 client-identifying information, to the Division of Economic  
13 and Demographic Research of the Joint Legislative Management  
14 Committee.

15 Section 5. Section 39.0471, Florida Statutes, is  
16 amended to read:

17 39.0471 Juvenile justice assessment centers.--

18 (1) The department shall work cooperatively with  
19 substance abuse facilities, mental health providers, law  
20 enforcement agencies, schools, health services providers, and  
21 other entities involved with children to establish a juvenile  
22 justice assessment center in each service district. The  
23 assessment center shall serve as central intake and screening  
24 for children referred to the department. Each juvenile justice  
25 assessment center shall provide services needed to facilitate  
26 initial screening of children, including intake and needs  
27 assessment, substance abuse screening, physical and mental  
28 health screening, and diagnostic testing, as appropriate. The  
29 entities involved in the assessment center shall make the  
30 resources for the provision of these services available at the  
31 same level to which they are available to the general public.

1           (2) Juvenile justice assessment centers are authorized  
2 and encouraged to establish truancy programs. A truancy  
3 program may serve as providing the central intake and  
4 screening of truant children for a specific geographic area  
5 that is based upon written agreements between the assessment  
6 center, affected law enforcement agencies, and affected school  
7 boards. The assessment center may work cooperatively with any  
8 truancy program operating in the area served by the assessment  
9 center.

10           (3) When a law enforcement officer takes into custody  
11 a truant student, the officer may transport or refer the  
12 truant student to a truancy program operating in the officer's  
13 jurisdiction. For the purpose of this section, a truant  
14 student is defined as any student between the ages of 6 and  
15 18, who is enrolled in public or private school, and is absent  
16 from school without excuse as defined in s. 232.19(3), even if  
17 that student is not subject to compulsory school attendance  
18 under s. 232.01.

19           Section 6. Paragraph (d) of subsection (4) of section  
20 230.2316, Florida Statutes, 1996 Supplement, is amended to  
21 read:

22           230.2316 Dropout prevention.--

23           (4) STUDENT ELIGIBILITY AND PROGRAM CRITERIA.--All  
24 programs funded pursuant to the provisions of this section  
25 shall be positive and shall reflect strong parental and  
26 community involvement. In addition, specific programs shall  
27 meet the following criteria:

28           (d) Educational services in certain ~~Department of~~  
29 ~~Health and Rehabilitative Services~~ programs.--

30           1. The student is assigned to a rehabilitation program  
31 provided pursuant to chapter 39 which is sponsored by a state



1 or community-based agency or is operated or contracted for by  
2 the Department of Health and Rehabilitative Services.

3 2. Programs shall provide intensive counseling,  
4 behavior modification, and therapy in order to meet the  
5 student's individual needs. Programs may be residential or  
6 nonresidential.

7 3. Any student served in a Department of Health and  
8 Rehabilitative Services program shall be provided the  
9 equivalent of instruction provided for the definition of a  
10 "school day" pursuant to s. 228.041. However, the educational  
11 services may be provided at times of the day most appropriate  
12 for the program.

13 4. A program is provided which shall consist of  
14 appropriate basic academic, vocational, or exceptional  
15 curricula and related services which support the  
16 rehabilitation program goals and which may lead to completion  
17 of the requirements for receipt of a high school diploma or  
18 its equivalent, provided that the educational component of  
19 youth services programs of less than 40 days' duration which  
20 take place in a park or wilderness setting may be limited to  
21 tutorial activities and vocational employability skills.

22 5. Participation in the program by students of  
23 compulsory school attendance age as provided for in s. 232.01  
24 shall be mandatory.

25 6. Districts are encouraged to implement programs that  
26 assist students in the transition between dismissal from  
27 Department of Health and Rehabilitative Services programs and  
28 school reentry.

29 7. A school district may contract with a private  
30 nonprofit entity or a state or local government agency for the  
31 provision of educational programs to clients of the Department

1 of Juvenile Justice ~~Health and Rehabilitative Services~~ and may  
2 generate state funding through the Florida Education Finance  
3 Program for such students. School district administrative  
4 costs for administering juvenile justice purchase-of-service  
5 contracts shall not exceed 10 percent of the total FTE revenue  
6 generated by the youth in the program unless written  
7 justification is provided and agreed upon by the Department of  
8 Juvenile Justice and the Department of Education.

9 Section 7. Subsection (7) of section 230.23161,  
10 Florida Statutes, 1996 Supplement, is amended to read:

11 230.23161 Educational services in Department of  
12 Juvenile Justice programs.--

13 (7) A school district may contract with a private  
14 provider for the provision of educational programs to youths  
15 placed with the Department of Juvenile Justice and may  
16 generate local, state, and federal funding, including funding  
17 through the Florida Education Finance Program for such  
18 students. Unless written justification otherwise is provided  
19 to and agreed to by the Department of Juvenile Justice and the  
20 Department of Education, administrative costs under any  
21 contract awarded for such educational programs shall not  
22 exceed 10 percent of the total contract amount.

23 Section 8. Paragraph (b) of subsection (1) of section  
24 806.13, Florida Statutes, is amended to read:

25 806.13 Criminal mischief; penalties; penalty for  
26 minor.--

27 (1)

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

31

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

4           3. If the damage is \$500~~\$1,000~~ or greater, or if  
 5 there is interruption or impairment of a business operation or  
 6 public communication, transportation, supply of water, gas or  
 7 power, or other public service which costs \$500~~\$1,000~~ or more  
 8 in labor and supplies to restore, it is a felony of the third  
 9 degree, punishable as provided in s. 775.082, s. 775.083, or  
 10 s. 775.084.

11           Section 9. Paragraph (b) of subsection (3) of section  
 12 921.0012, Florida Statutes, 1996 Supplement, is amended to  
 13 read:

14           921.0012 Sentencing guidelines offense levels; offense  
 15 severity ranking chart.--

16           (3) OFFENSE SEVERITY RANKING CHART

| Florida<br>Statute | Felony<br>Degree | Description  |
|--------------------|------------------|--|
|                    |                  | (b) LEVEL 2  |
| 403.413(5)(c)      | 3rd              | Dumps waste litter exceeding 500<br>lbs. in weight or 100 cubic feet<br>in volume or any quantity for<br>commercial purposes, or hazardous<br>waste. |
| 517.07             | 3rd              | Registration of securities and<br>furnishing of prospectus<br>required.  |
| 590.28(1)          | 3rd              | Willful, malicious, or<br>intentional burning.   |

|    |                 |     |  |
|----|-----------------|-----|--|
| 1  | 784.05(3)       | 3rd | Storing or leaving a loaded            |
| 2  |                 |     | firearm within reach of minor who      |
| 3  |                 |     | uses it to inflict injury or           |
| 4  |                 |     | death.                                 |
| 5  | 787.04(1)       | 3rd | In violation of court order,           |
| 6  |                 |     | take, entice, etc., minor beyond       |
| 7  |                 |     | state limits.                          |
| 8  | 806.13(1)(b)3.  | 3rd | Criminal mischief; damage <u>\$500</u> |
| 9  |                 |     | <del>\$1,000</del> or more to public   |
| 10 |                 |     | communication or any other public      |
| 11 |                 |     | service.                               |
| 12 | 810.09(2)(e)    | 3rd | Trespassing on posted commerical       |
| 13 |                 |     | horticulture property.                 |
| 14 | 812.014(2)(c)1. | 3rd | Grand theft, 3rd degree; \$300 or      |
| 15 |                 |     | more but less than \$5,000.            |
| 16 | 812.014(2)(d)   | 3rd | Grand theft, 3rd degree; \$100 or      |
| 17 |                 |     | more but less than \$300, taken        |
| 18 |                 |     | from unenclosed curtilage of           |
| 19 |                 |     | dwelling.                              |
| 20 | 817.234(1)(a)2. | 3rd | False statement in support of          |
| 21 |                 |     | insurance claim.                       |
| 22 | 817.481(3)(a)   | 3rd | Obtain credit or purchase with         |
| 23 |                 |     | false, expired, counterfeit,           |
| 24 |                 |     | etc., credit card, value over          |
| 25 |                 |     | \$300.                                 |
| 26 | 817.52(3)       | 3rd | Failure to redeliver hired             |
| 27 |                 |     | vehicle.                               |
| 28 | 817.54          | 3rd | With intent to defraud, obtain         |
| 29 |                 |     | mortgage note, etc., by false          |
| 30 |                 |     | representation.                        |
| 31 |                 |     |  |

|    |   |     |                                   |
|----|---|-----|-----------------------------------|
| 1  | 817.60(5)   | 3rd | Dealing in credit cards of        |
| 2  |   |     | another.                          |
| 3  | 817.60(6)(a)  | 3rd | Forgery; purchase goods, services |
| 4  |   |     | with false card.                  |
| 5  | 817.61  | 3rd | Fraudulent use of credit cards    |
| 6  |   |     | over \$100 or more within 6       |
| 7  |   |     | months.                           |
| 8  | 826.04  | 3rd | Knowingly marries or has sexual   |
| 9  |   |     | intercourse with person to whom   |
| 10 |   |     | related.                          |
| 11 | 831.01  | 3rd | Forgery.                          |
| 12 | 831.02  | 3rd | Uttering forged instrument;       |
| 13 |   |     | utters or publishes alteration    |
| 14 |   |     | with intent to defraud.           |
| 15 | 831.07  | 3rd | Forging bank bills or promissory  |
| 16 |   |     | note.                             |
| 17 | 831.08  | 3rd | Possession of 10 or more forged   |
| 18 |   |     | notes.                            |
| 19 | 831.09  | 3rd | Uttering forged bills; passes as  |
| 20 |   |     | bank bill or promissory note.     |
| 21 | 832.05(3)(a)  | 3rd | Cashing or depositing item with   |
| 22 |   |     | intent to defraud.                |
| 23 | 843.08  | 3rd | Falsely impersonating an officer. |
| 24 | 893.13(2)(a)2.  | 3rd | Purchase of any s. 893.03(1)(c),  |
| 25 |   |     | (2)(c), (3), or (4) drugs other   |
| 26 |   |     | than cannabis.                    |
| 27 | 893.147(2)  | 3rd | Manufacture or delivery of drug   |
| 28 |   |     | paraphernalia.                    |
| 29 | Section 10. Paragraph (c) of subsection (2) of section    |     |                                   |
| 30 | 812.014, Florida Statutes, 1996 Supplement, is amended to |     |                                   |
| 31 | read:   |     |                                   |

1           812.014 Theft.--

2           (2)

3           (c) It is grand theft of the third degree and a felony  
4 of the third degree, punishable as provided in s. 775.082, s.  
5 775.083, or s. 775.084, if the property stolen is:

- 6           1. Valued at \$300 or more, but less than \$5,000.
- 7           2. Valued at \$5,000 or more, but less than \$10,000.
- 8           3. Valued at \$10,000 or more, but less than \$20,000.
- 9           4. A will, codicil, or other testamentary instrument.
- 10          5. A firearm.
- 11          6. A motor vehicle, except as provided in subparagraph

12          (2)(a). However, a person who commits grand theft of a motor  
13 vehicle and who has previously been convicted two or more  
14 times of any theft of a motor vehicle commits a felony of the  
15 second degree, punishable as provided in s. 775.082, s.  
16 775.083, or s. 775.084.

17          7. Any commercially farmed animal, including any  
18 animal of the equine, bovine, or swine class, or other grazing  
19 animal, and including aquaculture species raised at a  
20 certified aquaculture facility. If the property stolen is  
21 aquaculture species raised at a certified aquaculture  
22 facility, then a \$10,000 fine shall be imposed.

23          8. Any fire extinguisher.

24          9. Any amount of citrus fruit consisting of 2,000 or  
25 more individual pieces of fruit.

26          10. Taken from a designated construction site  
27 identified by the posting of a sign as provided for in s.  
28 810.09(2)(d).

29          Section 11. For the purpose of incorporating the  
30 amendments to s. 812.014, Florida Statutes, 1996 Supplement,

31

1 in references thereto, the following sections or subdivisions  
2 of Florida Statutes, are reenacted to read:

3 39.052 Hearings.--

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

5 (a)1. The court shall transfer and certify a child's  
6 criminal case for trial as an adult if the child is alleged to  
7 have committed a violation of law and, prior to the  
8 commencement of an adjudicatory hearing, the child, joined by  
9 a parent or, in the absence of a parent, by the guardian or  
10 guardian ad litem, demands in writing to be tried as an adult.  
11 Once a child has been transferred for criminal prosecution  
12 pursuant to a voluntary waiver hearing and has been found to  
13 have committed the presenting offense or a lesser included  
14 offense, the child shall be handled thereafter in every  
15 respect as an adult for any subsequent violation of state law,  
16 unless the court imposes juvenile sanctions under s.  
17 39.059(4)(b) or (c).

18 2.a. The state attorney may file a motion requesting  
19 the court to transfer the child for criminal prosecution if  
20 the child was 14 years of age or older at the time the alleged  
21 delinquent act or violation of law was committed. If the child  
22 has been previously adjudicated delinquent for murder, sexual  
23 battery, armed or strong-armed robbery, carjacking,  
24 home-invasion robbery, aggravated battery, or aggravated  
25 assault, and is currently charged with a second or subsequent  
26 violent crime against a person, the state attorney shall file  
27 a motion requesting the court to transfer and certify the  
28 juvenile for prosecution as an adult, or proceed pursuant to  
29 subparagraph 5.

30 b. If the child was 14 years of age or older at the  
31 time of commission of a fourth or subsequent alleged felony

1 offense and the child was previously adjudicated delinquent or  
2 had adjudication withheld for or was found to have committed,  
3 or to have attempted or conspired to commit, three offenses  
4 that are felony offenses if committed by an adult, and one or  
5 more of such felony offenses involved the use or possession of  
6 a firearm or violence against a person, the state attorney  
7 shall request the court to transfer and certify the child for  
8 prosecution as an adult or shall provide written reasons to  
9 the court for not making such request, or proceed pursuant to  
10 subparagraph 5. Upon the state attorney's request, the court  
11 shall either enter an order transferring the case and  
12 certifying the case for trial as if the child were an adult or  
13 provide written reasons for not issuing such an order.

14 3. If the court finds, after a waiver hearing under  
15 subsection (2), that a juvenile who was 14 years of age or  
16 older at the time the alleged violation of state law was  
17 committed should be charged and tried as an adult, the court  
18 shall enter an order transferring the case and certifying the  
19 case for trial as if the child were an adult. The child shall  
20 thereafter be subject to prosecution, trial, and sentencing as  
21 if the child were an adult but subject to the provisions of s.  
22 39.059(7). Once a child has been transferred for criminal  
23 prosecution pursuant to an involuntary waiver hearing and has  
24 been found to have committed the presenting offense or a  
25 lesser included offense, the child shall thereafter be handled  
26 in every respect as an adult for any subsequent violation of  
27 state law, unless the court imposes juvenile sanctions under  
28 s. 39.059(4)(b) or (c).

29 4.a. A child of any age who is charged with a  
30 violation of state law punishable by death or by life  
31 imprisonment is subject to the jurisdiction of the court as



1 set forth in s. 39.049(7) unless and until an indictment on  
2 the charge is returned by the grand jury. When such indictment  
3 is returned, the petition for delinquency, if any, must be  
4 dismissed and the child must be tried and handled in every  
5 respect as an adult:

6 (I) On the offense punishable by death or by life  
7 imprisonment; and

8 (II) On all other felonies or misdemeanors charged in  
9 the indictment which are based on the same act or transaction  
10 as the offense punishable by death or by life imprisonment or  
11 on one or more acts or transactions connected with the offense  
12 punishable by death or by life imprisonment.

13 b. An adjudicatory hearing may not be held until 21  
14 days after the child is taken into custody and charged with  
15 having committed an offense punishable by death or by life  
16 imprisonment, unless the state attorney advises the court in  
17 writing that he or she does not intend to present the case to  
18 the grand jury, or has presented the case to the grand jury  
19 and the grand jury has not returned an indictment. If the  
20 court receives such a notice from the state attorney, or if  
21 the grand jury fails to act within the 21-day period, the  
22 court may proceed as otherwise authorized under this part.

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

30 (I) Pursuant to s. 39.059;

31

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

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

4 d. Once a child has been indicted pursuant to this  
5 subsection and has been found to have committed any offense  
6 for which he or she was indicted as a part of the criminal  
7 episode, the child shall be handled thereafter in every  
8 respect as if an adult for any subsequent violation of state  
9 law, unless the court imposes juvenile sanctions under s.  
10 39.059.

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

17 (I) Arson;

18 (II) Sexual battery;

19 (III) Robbery;

20 (IV) Kidnapping;

21 (V) Aggravated child abuse;

22 (VI) Aggravated assault;

23 (VII) Aggravated stalking;

24 (VIII) Murder;

25 (IX) Manslaughter;

26 (X) Unlawful throwing, placing, or discharging of a  
27 destructive device or bomb;

28 (XI) Armed burglary in violation of s. 810.02(2)(b) or  
29 specified burglary of a dwelling or structure in violation of  
30 s. 810.02(2)(c);

31 (XII) Aggravated battery;

1 (XIII) Lewd or lascivious assault or act in the  
2 presence of a child;

3 (XIV) Carrying, displaying, using, threatening, or  
4 attempting to use a weapon or firearm during the commission of  
5 a felony; or

6 (XV) Grand theft in violation of s. 812.014(2)(a).

7 b. With respect to any child who was 16 or 17 years of  
8 age at the time the alleged offense was committed, the state  
9 attorney:

10 (I) May file an information when in the state  
11 attorney's judgment and discretion the public interest  
12 requires that adult sanctions be considered or imposed.  
13 However, the state attorney may not file an information on a  
14 child charged with a misdemeanor, unless the child has had at  
15 least two previous adjudications or adjudications withheld for  
16 delinquent acts, one of which involved an offense classified  
17 as a felony under state law.

18 (II) Shall file an information if the child has been  
19 previously adjudicated delinquent for murder, sexual battery,  
20 armed or strong-armed robbery, carjacking, home-invasion  
21 robbery, aggravated battery, or aggravated assault, and is  
22 currently charged with a second or subsequent violent crime  
23 against a person.

24 c. Effective January 1, 1995, notwithstanding  
25 subparagraphs 1. and 2., regardless of the child's age at the  
26 time the alleged offense was committed, the state attorney  
27 must file an information with respect to any child who  
28 previously has been adjudicated for offenses which, if  
29 committed by an adult, would be felonies and such  
30 adjudications occurred at three or more separate delinquency  
31

1 adjudicatory hearings, and three of which resulted in  
2 residential commitments as defined in s. 39.01(59).

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

9 e. Each state attorney shall develop and annually  
10 update written policies and guidelines to govern  
11 determinations for filing an information on a juvenile, to be  
12 submitted to the Executive Office of the Governor, the  
13 President of the Senate, the Speaker of the House of  
14 Representatives, and the Juvenile Justice Advisory Board not  
15 later than January 1 of each year.

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

1 taking. For purposes of this section, "willing passengers"  
2 means all willing passengers who have participated in the  
3 underlying offense.

4 538.23 Violations and penalties.--

5 (2) A secondary metals recycler is presumed to know  
6 upon receipt of stolen regulated metals property in a purchase  
7 transaction that the regulated metals property has been stolen  
8 from another if the secondary metals recycler knowingly and  
9 intentionally fails to maintain the information required in s.  
10 538.19 and shall, upon conviction of a violation of s.  
11 812.015, be punished as provided in s. 812.014(2) or (3).

12 Section 12. (1) The Department of Juvenile Justice  
13 and the Department of Children and Family Services shall  
14 develop a cooperative agreement on the delivery of mental  
15 health and substance abuse treatment services to youth in the  
16 juvenile justice system. A district specific cooperative  
17 agreement shall be negotiated between and agreed upon by the  
18 Department of Juvenile Justice's district juvenile justice  
19 manager and the Department of Children and Family Services'  
20 district administrator that addresses funding levels, access  
21 to services, and accounting for the use of mental health and  
22 substance abuse treatment funding designated for youth in the  
23 juvenile justice system. These cooperative agreements shall  
24 be reviewed and updated annually.

25 (2) The Office of Program Policy Analysis and  
26 Government Accountability shall conduct a performance review  
27 of the provision of mental health and substance abuse  
28 treatment services to children and youth in the juvenile  
29 justice system. Issues addressed in this performance review  
30 shall include, but are not limited to, the following: the  
31 apportionment of funds to the Department of Children and

1 Family Services and the Department of Juvenile Justice for  
2 mental health and substance abuse services for children and  
3 youth in the juvenile justice system; what barriers to either  
4 the provision or accessing of such services may be identified;  
5 and whether there exists an adequate and valid monitoring  
6 system for the use of mental health and substance abuse  
7 funding and the provision of such services designated for  
8 children and youth in the juvenile justice system. The Office  
9 of Program Policy Analysis and Government Accountability shall  
10 submit its report with findings and recommendations to the  
11 President of the Senate and the Speaker of the House of  
12 Representatives by December 1, 1997.

13           Section 13. Effective July 1, 1997, paragraph (b) of  
14 subsection (1) of section 39.069, Florida Statutes, is amended  
15 to read:

16           39.069 Appeal.--

17           (1) An appeal from an order of the court affecting a  
18 party to a case involving a child pursuant to this part may be  
19 taken to the appropriate district court of appeal within the  
20 time and in the manner prescribed by the Florida Rules of  
21 Appellate Procedure by:

22           (b) The state, which may appeal from:

- 23           1. An order dismissing a petition or any section  
24 thereof;
- 25           2. An order granting a new adjudicatory hearing;
- 26           3. An order arresting judgment;
- 27           4. A ruling on a question of law when the child is  
28 adjudicated delinquent and appeals from the judgment;
- 29           5. The disposition, on the ground that it is illegal;
- 30           6. A judgment discharging a child on habeas corpus;

31

1           7. An order adjudicating a child insane under the  
2 Florida Rules of Juvenile Procedure; and

3           8. All other preadjudicatory hearings, except that the  
4 state may not take more than one appeal under this subsection  
5 in any case.

6           9. An order denying restitution.

7  
8 In the case of an appeal by the state, the notice of appeal  
9 shall be filed by the appropriate state attorney or his or her  
10 authorized assistant pursuant to the provisions of s. 27.18.  
11 Such an appeal shall embody all assignments of error in each  
12 preadjudicatory hearing order that the state seeks to have  
13 reviewed. The state shall pay all costs of the appeal except  
14 for the child's attorney's fee.

15           Section 14. Except as otherwise provided herein, this  
16 act shall take effect October 1, 1997.