

By Senator Burt

16-593A-99

1 A bill to be entitled
2 An act relating to children in need of
3 services; amending s. 984.225, F.S., relating
4 to powers of disposition; amending the
5 requirements for placing a child in a
6 staff-secure shelter; correcting
7 cross-references; amending s. 984.226, F.S.;
8 amending the judicial circuits included in a
9 physically-secure-shelter pilot project;
10 providing for waiver of the right to counsel in
11 prescribed circumstances; amending the criteria
12 for placement of a child in a physically secure
13 shelter; providing time limits for placement in
14 a physically secure shelter; providing for
15 judicial review of the status of a child who is
16 placed in a physically secure shelter;
17 providing for referral of a child to the
18 Department of Children and Family Services for
19 dependency or mental health services; directing
20 the Juvenile Justice Accountability Board to
21 submit an implementation report and an
22 evaluation report to the Legislature; requiring
23 the Department of Juvenile Justice to submit
24 proposed legislation and an implementation
25 report; providing an effective date.

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

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29 Section 1. Subsections (2), (5), and (6) of section
30 984.225, Florida Statutes, 1998 Supplement, are amended to
31 read:

1 984.225 Powers of disposition; placement in a
2 staff-secure shelter.--

3 (2) The court shall order the parent, guardian, or
4 legal custodian to cooperate with efforts to reunite the child
5 with the family, participate in counseling, and pay all costs
6 associated with the care and counseling provided to the child
7 and family, in accordance with the family's ability to pay as
8 determined by the court. Placement ~~Commitment~~ of a child in a
9 staff-secure shelter under this section is designed to provide
10 residential care on a temporary basis. Such placement
11 ~~commitment~~ does not abrogate the legal responsibilities of the
12 parent, guardian, or legal custodian with respect to the
13 child, except to the extent that those responsibilities are
14 temporarily altered by court order.

15 (5) The department is deemed to have exhausted the
16 reasonable remedies offered under this chapter if, at the end
17 of the placement in a staff-secure shelter ~~commitment period~~,
18 the parent, guardian, or legal custodian continues to refuse
19 to allow the child to remain at home or creates unreasonable
20 conditions for the child's return. If, at the end of the
21 placement in a staff-secure shelter ~~commitment period~~, the
22 child is not reunited with his or her parent, guardian, or
23 custodian due solely to the continued refusal of the parent,
24 guardian, or custodian to provide food, clothing, shelter, and
25 parental support, the child is considered to be threatened
26 with harm as a result of such acts or omissions, and the court
27 shall direct that the child be handled in every respect as a
28 dependent child. Jurisdiction shall be transferred to the
29 Department of Children and Family Services and the child's
30 care shall be governed under ~~parts II and III~~ of chapter 39.

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1 (6) The court shall review the child's placement in a
2 staff-secure shelter commitment once every 45 days as provided
3 in s. 984.20. The court shall determine if the parent,
4 guardian, or custodian has reasonably participated in and
5 financially contributed to the child's counseling and
6 treatment program. The court shall also determine whether the
7 department's efforts to reunite the family have been
8 reasonable. If the court finds an inadequate level of support
9 or participation by the parent, guardian, or custodian prior
10 to the end of the placement commitment period, the court shall
11 direct that the child be handled in every respect as a
12 dependent child. Jurisdiction shall be transferred to the
13 Department of Children and Family Services and the child's
14 care shall be governed under ~~parts II and III of~~ chapter 39.

15 Section 2. Section 984.226, Florida Statutes, 1998
16 Supplement, is amended to read:

17 984.226 Pilot program for a physically secure
18 facility; contempt of court.--

19 (1) Subject to specific legislative appropriation, the
20 Department of Juvenile Justice shall establish a pilot program
21 within the Third, Fourth, Fifth, Seventh, and Eighth Judicial
22 Circuits ~~a single judicial circuit~~ for the purpose of
23 operating one or more physically secure facilities designated
24 exclusively for the placement of children in need of services
25 who meet the criteria provided in this section ~~are found in~~
26 ~~direct contempt or indirect contempt of a valid court order.~~

27 (2) When ~~if any party files~~ a petition is filed in the
28 Third, Fourth, Fifth, Seventh, or Eighth Judicial Circuit
29 alleging that a child is a child in need of services ~~within~~
30 ~~such judicial circuit~~, the child must be represented by
31 counsel at each court appearance, unless the record in that

1 proceeding affirmatively demonstrates by clear and convincing
2 evidence that the child knowingly and intelligently waived the
3 right to counsel after fully being advised by the court of the
4 nature of the proceedings and the dispositional alternatives
5 available to the court under this section. If the court
6 decides to appoint counsel for the child and if the child is
7 indigent, the court shall appoint an attorney to represent the
8 child as provided under s. 985.203. Nothing precludes the
9 court from requesting reimbursement of attorney's fees and
10 costs from the nonindigent parent or legal guardian.

11 (3)(2) When ~~if~~ a child is adjudicated as a child in
12 need of services by a court in any of the judicial circuits
13 specified in this section, the court may order the child to be
14 placed in a pilot physically secure facility authorized in
15 this section if ~~is held in direct contempt or indirect~~
16 ~~contempt of a valid court order, as an alternative to placing~~
17 ~~the child in a staff-secure facility as provided under s.~~
18 ~~984.225 or s. 985.216, the court may order that the child be~~
19 ~~placed within the circuit in a physically secure facility~~
20 ~~operated under the pilot program. A child may be committed to~~
21 ~~the facility only if the department, or an authorized~~
22 ~~representative of the department, verifies to the court that a~~
23 ~~bed is available for the child at the physically secure~~
24 ~~facility and the child has:~~

25 (a) Failed to appear for placement in a staff-secure
26 shelter under s. 984.225, or failed to comply with any other
27 provision of a valid court order relating to such placement
28 and, as a result of such failure, has been found to be in
29 direct or indirect contempt of court; or

30 (b)(a) Run away from a staff-secure shelter following
31 placement under s. 984.225 or s. 985.216. ~~or~~

1 ~~(b) Committed at least two prior acts of direct or~~
2 ~~indirect contempt.~~

3
4 The department or an authorized representative of the
5 department must verify to the court that a bed is available
6 for the child. If a bed is not available, the court shall stay
7 the placement until a bed is available, and the department
8 must place the child's name on a waiting list. The child who
9 has been on the waiting list the longest has first priority
10 for placement in the physically secure shelter.

11 (4)(3) A child may be placed in a physically secure
12 facility for up to 90 5 days for the first commitment and up
13 to 15 days for a second or subsequent commitment. If a child
14 has not been reunited with his or her parent, guardian, or
15 legal custodian at the expiration of the placement in a
16 physically secure shelter, the court may order that the child
17 remain in the physically secure shelter for an additional 30
18 days if the court finds that reunification could be achieved
19 within that period.

20 (5)(a) The court shall review the child's placement
21 once every 45 days as provided in s. 984.20.

22 (b) At any time during the placement of a child in
23 need of services in a physically secure shelter, the
24 department or an authorized representative of the department
25 may submit to the court a report that recommends:

26 1. That the child has received all of the services
27 available from the program and is ready for reunification with
28 a parent or guardian; or

29 2. That the child is unlikely to benefit from
30 continued placement in the physically secure shelter and is
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1 more likely to have his or her needs met in a different type
2 of placement.

3 (c) The court shall determine if the parent, guardian,
4 or custodian has reasonably participated in and has
5 financially contributed to the child's counseling and
6 treatment program.

7 (d) The court shall also determine whether the
8 department's efforts to reunite the family have been
9 reasonable. If the court finds an inadequate level of support
10 or participation by the parent, guardian, or custodian before
11 the end of the placement, the court shall direct that the
12 child be handled as a dependent child, jurisdiction shall be
13 transferred to the Department of Children and Family Services,
14 and the child's care shall be governed by chapter 39.

15 (e) If the child requires residential mental health
16 treatment or residential care for a developmental disability,
17 the court shall refer the child to the Department of Children
18 and Family Services for the provision of necessary services.

19 (6)(4) Prior to being ordered committed to a
20 physically secure facility, the child must be afforded all
21 rights of due process required under s. 985.216. While in the
22 physically secure facility, the child shall receive
23 appropriate assessment, treatment, and educational services
24 that are designed to eliminate or reduce the child's truant,
25 ungovernable, or runaway behavior. The child and family shall
26 be provided with family counseling and other support services
27 necessary for reunification.

28 (7)(5) The court shall order the parent, guardian, or
29 legal custodian to cooperate with efforts to reunite the child
30 with the family, participate in counseling, and pay all costs
31 associated with the care and counseling provided to the child

1 and family, in accordance with the family's ability to pay as
2 determined by the court. Placement ~~Commitment~~ of a child under
3 this section is designed to provide residential care on a
4 temporary basis. Such placement ~~commitment~~ does not abrogate
5 the legal responsibilities of the parent, guardian, or legal
6 custodian with respect to the child, except to the extent that
7 those responsibilities are temporarily altered by court order.

8 (8)~~(6)~~ The Juvenile Justice Accountability ~~Advisory~~
9 Board shall monitor the implementation and operation of the
10 pilot program and issue a preliminary ~~evaluation~~ report to the
11 President of the Senate and the Speaker of the House of
12 Representatives ~~Legislature~~ by July 1, 1999, and a report that
13 evaluates the effectiveness of the pilot physically secure
14 shelter in reuniting the children served with their parent or
15 guardian and avoiding subsequent out-of-home placements shall
16 be submitted to the Legislature by January 15, 2000 ~~December~~
17 ~~1, 1998~~. The Department of Juvenile Justice ~~and the Juvenile~~
18 ~~Justice Advisory Board~~ shall recommend ~~issue a joint final~~
19 ~~report~~ to the Legislature, ~~including~~ any proposed legislation
20 concerning the pilot project, by January 15, 2000 ~~December 1,~~
21 ~~1999~~.

22 Section 3. The Department of Juvenile Justice shall
23 submit to the President of the Senate, the Speaker of the
24 House of Representatives, and the Juvenile Justice
25 Accountability Board, within 45 days after this act becomes a
26 law or by April 30, 1999, whichever is earlier, a report that
27 describes departmental efforts to implement the pilot project
28 authorized in this act. The report must include the following
29 data for each judicial circuit included in the pilot project:

30 (1) The number of youths who have been adjudicated as
31 children in need of services since July 1, 1998;

1 (2) The number of available staff-secure shelter beds;

2 (3) The number of youths who have been placed in
3 staff-secure shelter beds since July 1, 1998, and the average
4 length of stay;

5 (4) The number of physically secure shelter beds
6 available;

7 (5) The number of youths who have been placed in
8 physically secure shelter beds since July 1, 1998, and the
9 average length of stay;

10 (6) The efforts that the department has made, in
11 cooperation with the chief judge, the court administrator, the
12 local bar associations, and other individuals or groups within
13 each judicial circuit, to ensure the appointment of counsel in
14 child-in-need-of-services cases as appropriate under this act;
15 and

16 (7) The efforts that the department has made to
17 educate the public concerning the availability of and access
18 to services to meet the needs of families who have children
19 who are runaways, truants, or ungovernable.

20 Section 4. This act shall take effect upon becoming a
21 law.

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SENATE SUMMARY

Relates to children in need of services. Amends the requirements for placing such a child in a staff-secure shelter. Specifies which judicial circuits are to be included in a pilot project pertaining to physically secure shelters. Provides for waiver of the right to counsel in specified circumstances. Amends the criteria for placing a child in a physically secure shelter. Provides time limits for placement in a physically secure shelter. Provides for judicial review of the status of a child who is placed in a physically secure shelter. Provides for referral of a child to the Department of Children and Family Services for dependency or mental health services. Directs the Juvenile Justice Accountability Board to submit an implementation report and an evaluation report to the Legislature. Requires the Department of Juvenile Justice to submit proposed legislation and an implementation report.