

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 to serve within the Fourth, Fifth, Seventh, Eighth, Ninth, and  
22 Eighteenth Judicial Circuits ~~a single judicial circuit~~ for the  
23 purpose of operating one or more physically secure facilities  
24 designated exclusively for the placement of children in need  
25 of services who meet the criteria provided in this section ~~are~~  
26 ~~found in direct contempt or indirect contempt of a valid court~~  
27 ~~order~~.

28           (2) When ~~if any party files~~ a petition is filed in the  
29 Fourth, Fifth, Seventh, Eighth, Ninth, or Eighteenth Judicial  
30 Circuit alleging that a child is a child in need of services  
31 ~~within such judicial circuit~~, the child must be represented by

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

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

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

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1           ~~(b)(a)~~ Run away from a staff-secure shelter following  
2 placement under s. 984.225 or s. 984.09.~~s. 985.216~~; or

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

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

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

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

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

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

31

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

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

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

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

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

30           (7)(5) The court shall order the parent, guardian, or  
31 legal custodian to cooperate with efforts to reunite the child

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

10 ~~(8)(6)~~ The Juvenile Justice Accountability Advisory  
11 Board shall monitor the implementation and operation of the  
12 pilot program and issue a preliminary evaluation report to the  
13 President of the Senate and the Speaker of the House of  
14 Representatives Legislature by July 1, 1999, and a report that  
15 evaluates the effectiveness of the pilot physically secure  
16 shelter in reuniting the children served with their parent or  
17 guardian and avoiding subsequent out-of-home placements shall  
18 be submitted to the Legislature by January 15, 2000 ~~December~~  
19 ~~1, 1998~~. The Department of Juvenile Justice ~~and the Juvenile~~  
20 ~~Justice Advisory Board~~ shall recommend ~~issue a joint final~~  
21 ~~report~~ to the Legislature, ~~including~~ any proposed legislation  
22 concerning the pilot project, by January 15, 2000 ~~December 1,~~  
23 ~~1999~~.

24 Section 3. The Department of Juvenile Justice shall  
25 submit to the President of the Senate, the Speaker of the  
26 House of Representatives, and the Juvenile Justice  
27 Accountability Board, within 45 days after this act becomes a  
28 law or by August 1, 1999, whichever is earlier, a report that  
29 describes departmental efforts to implement the pilot project  
30 authorized in this act. The report must include the following  
31 data for each judicial circuit included in the pilot project:

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

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

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

7           (4) The number of physically secure shelter beds  
8 available;

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

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

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

22           Section 4. This act shall take effect upon becoming a  
23 law.