

By Senator Dawson-White

30-1441-99

See HB 349

1 A bill to be entitled
2 An act relating to possession or discharge of
3 weapons or firearms on school property;
4 amending s. 790.115, F.S.; requiring a minor
5 charged with certain activities to be detained
6 in secure detention; requiring a hearing within
7 a time certain; authorizing a court to order
8 continued secure detention for a certain
9 period; providing requirements for such
10 detention; amending s. 985.215, F.S.; requiring
11 secure detention care placement for a child
12 charged with certain activities; authorizing a
13 court to continue detaining a child charged
14 with certain activities; amending s. 985.227,
15 F.S.; providing for discretionary direct file
16 for the offense of possessing or discharging
17 weapons or firearms on school property;
18 providing an effective date.

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

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22 Section 1. Subsection (4) is added to section 790.115,
23 Florida Statutes, to read:

24 790.115 Possessing or discharging weapons or firearms
25 on school property prohibited; penalties; exceptions.--

26 (4) Notwithstanding s. 985.213, s. 985.214, or s.
27 985.215(1), any minor under 18 years of age who is charged
28 under this section with possessing or discharging weapons or
29 firearms on school property shall be detained in secure
30 detention, unless the state attorney authorizes the release of
31 the minor, and shall be given a probable cause hearing within

1 24 hours after being taken into custody. At the hearing, the
2 court may order that the minor continue to be held in secure
3 detention for a period of 21 days, during which time the minor
4 shall receive medical, psychiatric, psychological, or
5 substance abuse examinations pursuant to s. 985.224 and a
6 written report shall be completed.

7 Section 2. Paragraph (b) of subsection (1) and
8 subsection (2) of section 985.215, Florida Statutes, 1998
9 Supplement, are amended to read:

10 985.215 Detention.--

11 (1) The juvenile probation officer shall receive
12 custody of a child who has been taken into custody from the
13 law enforcement agency and shall review the facts in the law
14 enforcement report or probable cause affidavit and make such
15 further inquiry as may be necessary to determine whether
16 detention care is required.

17 (b) The juvenile probation officer shall base the
18 decision whether or not to place the child into secure
19 detention care, home detention care, or nonsecure detention
20 care on an assessment of risk in accordance with the risk
21 assessment instrument and procedures developed by the
22 Department of Juvenile Justice under s. 985.213. However, a
23 child charged with possessing or discharging any weapon or
24 firearm on school property in violation of s. 790.115 shall be
25 placed in secure detention care.

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27 Under no circumstances shall the juvenile probation officer or
28 the state attorney or law enforcement officer authorize the
29 detention of any child in a jail or other facility intended or
30 used for the detention of adults, without an order of the
31 court.

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

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

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

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

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

19 (e) The child is charged with possession or
20 discharging any weapon or firearm on school property in
21 violation of 790.115.

22 (f)~~(e)~~ The child is charged with a capital felony, a
23 life felony, a felony of the first degree, a felony of the
24 second degree that does not involve a violation of chapter
25 893, or a felony of the third degree that is also a crime of
26 violence, including any such offense involving the use or
27 possession of a firearm.

28 (g)~~(f)~~ The child is charged with any second degree or
29 third degree felony involving a violation of chapter 893 or
30 any third degree felony that is not also a crime of violence,
31 and the child:

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

4 2. Has a record of law violations prior to court
5 hearings;

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

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

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

11 ~~(h)(g)~~ The child is alleged to have violated the
12 conditions of the child's community control or aftercare
13 supervision. However, a child detained under this paragraph
14 may be held only in a consequence unit as provided in s.
15 985.231(1)(a)1.c. If a consequence unit is not available, the
16 child shall be placed on home detention with electronic
17 monitoring.

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

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

17 Section 3. Paragraph (a) of subsection (1) of section
18 985.227, Florida Statutes, is amended to read:

19 985.227 Prosecution of juveniles as adults by the
20 direct filing of an information in the criminal division of
21 the circuit court; discretionary criteria; mandatory
22 criteria.--

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

24 (a) With respect to any child who was 14 or 15 years
25 of age at the time the alleged offense was committed, the
26 state attorney may file an information when in the state
27 attorney's judgment and discretion the public interest
28 requires that adult sanctions be considered or imposed and
29 when the offense charged is:

- 30 1. Arson;
31 2. Sexual battery;

- 1 3. Robbery;
- 2 4. Kidnapping;
- 3 5. Aggravated child abuse;
- 4 6. Aggravated assault;
- 5 7. Aggravated stalking;
- 6 8. Murder;
- 7 9. Manslaughter;
- 8 10. Unlawful throwing, placing, or discharging of a
- 9 destructive device or bomb;
- 10 11. Armed burglary in violation of s. 810.02(2)(b) or
- 11 specified burglary of a dwelling or structure in violation of
- 12 s. 810.02(2)(c);
- 13 12. Aggravated battery;
- 14 13. Lewd or lascivious assault or act in the presence
- 15 of a child;
- 16 14. Carrying, displaying, using, threatening, or
- 17 attempting to use a weapon or firearm during the commission of
- 18 a felony; ~~or~~
- 19 15. Grand theft in violation of s. 812.014(2)(a); ~~or~~
- 20 16. Possessing or discharging any weapon or firearm on
- 21 school property in violation of s. 790.115.

22 Section 4. This act shall take effect October 1, 1999.

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HOUSE SUMMARY

Requires a minor charged with possessing or discharging any weapon or firearm on school property to be detained in secure detention. Requires a hearing within 24 hours after detention. Authorizes a court to order continued secure detention for 21 days and requires for medical, psychiatric, psychological, or substance abuse examinations and a written report. Requires secure detention care placement for a child charged with certain activities. Authorizes a court to continue detaining in secure detention a child charged with possessing or discharging any weapon or firearm on school property. Provides for discretionary direct file for the offense of possessing or discharging any weapon or firearm on school property. See bill for details.