

By Senator Campbell

33-690-99

1 A bill to be entitled
2 An act relating to juvenile justice; amending
3 s. 943.0515, F.S.; requiring the Criminal
4 Justice Information Program to retain the
5 criminal history records of minors who are
6 committed to a maximum-risk residential
7 program; amending s. 960.001, F.S.; authorizing
8 state agencies to expend funds for crime
9 prevention and educational activities; amending
10 ss. 984.03, 985.03, F.S.; redefining the term
11 "delinquency program" to delete references to
12 furlough programs; defining the term
13 "aftercare" for purposes of ch. 985, F.S.;
14 providing for minimum-risk nonresidential
15 programs to be used for the aftercare placement
16 of juveniles; amending ss. 39.0132, 985.04,
17 F.S.; deleting a requirement that school
18 officials be informed of students who have a
19 history of sexual behavior with other
20 juveniles; conforming cross-references;
21 amending ss. 985.207, 985.208, F.S., relating
22 to conditions under which a juvenile may be
23 detained; deleting references to violation of
24 furlough; amending s. 985.212, F.S.; providing
25 for fingerprint records and photographs of
26 juveniles to be submitted to the Department of
27 Law Enforcement; amending s. 985.215, F.S.;
28 extending the period during which juveniles
29 charged with specified offenses may be held in
30 detention prior to an adjudicatory hearing;
31 amending s. 985.231, F.S.; providing for an

1 adjudicated delinquent juvenile to be placed in
2 postcommitment community control rather than in
3 an aftercare program under certain
4 circumstances; limiting the period that a
5 juvenile may be placed on home detention with
6 electronic monitoring; amending s. 985.316,
7 F.S.; providing legislative intent; providing
8 for the delivery of aftercare services to a
9 juvenile released from a residential commitment
10 program; deleting requirements for juveniles
11 released on furlough; amending s. 985.404,
12 F.S., relating to the juvenile justice
13 continuum; providing for release of a juvenile
14 into an aftercare program; amending s. 985.406,
15 F.S.; providing additional qualifications for
16 the program staff of the Department of Juvenile
17 Justice and its providers; requiring
18 competency-based examinations; amending s.
19 985.41, F.S.; authorizing the department to use
20 tax-exempt financing to provide juvenile
21 justice facilities; creating s. 985.4145, F.S.;
22 defining the term "direct-support
23 organization"; authorizing such an organization
24 to use property and facilities of the
25 Department of Juvenile Justice; requiring the
26 Secretary of Juvenile Justice to appoint a
27 board of directors for the direct-support
28 organization; requiring an annual audit of the
29 organization; amending s. 985.417, F.S.,
30 relating to the transfer of children from the
31 Department of Corrections to the Department of

1 Juvenile Justice; deleting references to the
2 furlough of a child convicted of a capital
3 felony; amending ss. 419.001, 784.075, 984.05,
4 985.227, 985.31, 985.311, 985.312, F.S.;
5 conforming cross-references to changes made by
6 the act; providing an effective date.

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

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10 Section 1. Subsection (1) of section 943.0515, Florida
11 Statutes, 1998 Supplement, is amended to read:

12 943.0515 Retention of criminal history records of
13 minors.--

14 (1)(a) The Criminal Justice Information Program shall
15 retain the criminal history record of a minor who is
16 classified as a serious or habitual juvenile offender or
17 committed to a maximum-risk residential program under chapter
18 985 for 5 years after the date the offender reaches 21 years
19 of age, at which time the record shall be expunged unless it
20 meets the criteria of paragraph (2)(a) or paragraph (2)(b).

21 (b) If the minor is not classified as a serious or
22 habitual juvenile offender or committed to a maximum-risk
23 residential program under chapter 985, the program shall
24 retain the minor's criminal history record for 5 years after
25 the date the minor reaches 19 years of age, at which time the
26 record shall be expunged unless it meets the criteria of
27 paragraph (2)(a) or paragraph (2)(b).

28 Section 2. Paragraph (r) is added to subsection (1) of
29 section 960.001, Florida Statutes, 1998 Supplement, to read:

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31

1 960.001 Guidelines for fair treatment of victims and
2 witnesses in the criminal justice and juvenile justice
3 systems.--

4 (1) The Department of Legal Affairs, the state
5 attorneys, the Department of Corrections, the Department of
6 Juvenile Justice, the Parole Commission, the State Courts
7 Administrator and circuit court administrators, the Department
8 of Law Enforcement, and every sheriff's department, police
9 department, or other law enforcement agency as defined in s.
10 943.10(4) shall develop and implement guidelines for the use
11 of their respective agencies, which guidelines are consistent
12 with the purposes of this act and s. 16(b), Art. I of the
13 State Constitution and are designed to implement the
14 provisions of s. 16(b), Art. I of the State Constitution and
15 to achieve the following objectives:

16 (r) Implementing crime prevention in order to protect
17 the safety of persons and property, as prescribed in the State
18 Comprehensive Plan.--By presenting crimes that create victims
19 or further harm former victims, crime-prevention efforts are
20 an essential part of providing effective service for victims
21 and witnesses. Therefore, the agencies identified in this
22 subsection may participate in and expend funds for crime
23 prevention, public awareness, public participation, and
24 educational activities.

25 Section 3. Subsection (16) of section 984.03, Florida
26 Statutes, 1998 Supplement, is amended to read:

27 984.03 Definitions.--When used in this chapter, the
28 term:

29 (16) "Delinquency program" means any intake, community
30 control ~~and furlough~~, or similar program; regional detention
31 center or facility; or community-based program, whether owned

1 and operated by or contracted by the Department of Juvenile
2 Justice, or institution owned and operated by or contracted by
3 the Department of Juvenile Justice, which provides intake,
4 supervision, or custody and care of children who are alleged
5 to be or who have been found to be delinquent pursuant to
6 chapter 985.

7 Section 4. Paragraph (a) of present subsection (15)
8 and paragraph (a) of present subsection (45) of section
9 985.03, Florida Statutes, 1998 Supplement, are amended, and
10 present subsections (4) through (59) are redesignated as
11 subsections (5) through (60), respectively, and a new
12 subsection (4) is added to that section, to read:

13 985.03 Definitions.--When used in this chapter, the
14 term:

15 (4) "Aftercare" means the care, treatment, help, and
16 supervision provided to a juvenile released from a residential
17 commitment program which is intended to promote rehabilitation
18 and prevent recidivism. The purpose of aftercare is to protect
19 the public, reduce recidivism, increase responsible productive
20 behavior, and provide for a successful transition of the youth
21 from the department to the family. Aftercare includes, but is
22 not limited to, minimum-risk nonresidential programs, reentry
23 services, and postcommitment community control.

24 (16)(15)(a) "Delinquency program" means any intake,
25 community control and furlough, or similar program; regional
26 detention center or facility; or community-based program,
27 whether owned and operated by or contracted by the Department
28 of Juvenile Justice, or institution owned and operated by or
29 contracted by the Department of Juvenile Justice, which
30 provides intake, supervision, or custody and care of children
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1 who are alleged to be or who have been found to be delinquent
2 pursuant to part II.

3 (47)~~(46)~~ "Restrictiveness level" means the level of
4 custody provided by programs that service the custody and care
5 needs of committed children. There shall be five
6 restrictiveness levels:

7 (a) Minimum-risk nonresidential.--Youth assessed and
8 classified for placement in programs at this restrictiveness
9 level represent a minimum risk to themselves and public safety
10 and do not require placement and services in residential
11 settings. Programs or program models in this restrictiveness
12 level include: community counselor supervision programs,
13 special intensive group programs, nonresidential marine
14 programs, nonresidential training and rehabilitation centers,
15 and other local community nonresidential programs, including
16 any nonresidential program or supervision program that is used
17 for aftercare placement.

18 Section 5. Paragraph (b) of subsection (4) of section
19 39.0132, Florida Statutes, 1998 Supplement, is amended to
20 read:

21 39.0132 Oaths, records, and confidential
22 information.--

23 (4)

24 (b) The department shall disclose to the school
25 superintendent the presence of any child in the care and
26 custody or under the jurisdiction or supervision of the
27 department who ~~has a known history of sexual behavior with~~
28 ~~other juveniles~~ is an alleged juvenile sex offender, as
29 defined in s. 39.01 ~~s. 415.50165~~; or has pled guilty or nolo
30 contendere to, or has been found to have committed, a
31 violation of chapter 794, chapter 796, chapter 800, s.

1 827.071, or s. 847.0133, regardless of adjudication. Any
2 employee of a district school board who knowingly and
3 willfully discloses such information to an unauthorized person
4 commits a misdemeanor of the second degree, punishable as
5 provided in s. 775.082 or s. 775.083.

6 Section 6. Paragraph (b) of subsection (3) of section
7 985.04, Florida Statutes, 1998 Supplement, is amended to read:

8 985.04 Oaths; records; confidential information.--

9 (3)

10 (b) The department shall disclose to the school
11 superintendent the presence of any child in the care and
12 custody or under the jurisdiction or supervision of the
13 department who ~~has a known history of sexual behavior with~~
14 ~~other juveniles~~; is an alleged juvenile sex offender, as
15 defined in s. 39.01 ~~s. 415.50165~~; or has pled guilty or nolo
16 contendere to, or has been found to have committed, a
17 violation of chapter 794, chapter 796, chapter 800, s.
18 827.071, or s. 847.0133, regardless of adjudication. Any
19 employee of a district school board who knowingly and
20 willfully discloses such information to an unauthorized person
21 commits a misdemeanor of the second degree, punishable as
22 provided in s. 775.082 or s. 775.083.

23 Section 7. Paragraph (d) of subsection (1) of section
24 985.207, Florida Statutes, 1998 Supplement, is amended to
25 read:

26 985.207 Taking a child into custody.--

27 (1) A child may be taken into custody under the
28 following circumstances:

29 (d) By a law enforcement officer who has probable
30 cause to believe that the child is in violation of the

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1 conditions of the child's community control, ~~furlough~~, or
2 aftercare supervision.

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4 Nothing in this subsection shall be construed to allow the
5 detention of a child who does not meet the detention criteria
6 in s. 985.215.

7 Section 8. Section 985.208, Florida Statutes, 1998
8 Supplement, is amended to read:

9 985.208 Detention of ~~furloughed child~~ or escapee on
10 authority of the department.--

11 (1) If an authorized agent of the department has
12 reasonable grounds to believe that any delinquent child
13 committed to the department has escaped from a facility of the
14 department or from being lawfully transported thereto or
15 therefrom, the agent may take the child into active custody
16 and may deliver the child to the facility or, if it is closer,
17 to a detention center for return to the facility. However, a
18 child may not be held in detention longer than 24 hours,
19 excluding Saturdays, Sundays, and legal holidays, unless a
20 special order so directing is made by the judge after a
21 detention hearing resulting in a finding that detention is
22 required based on the criteria in s. 985.215(2). The order
23 shall state the reasons for such finding. The reasons shall be
24 reviewable by appeal or in habeas corpus proceedings in the
25 district court of appeal.

26 (2) Any sheriff or other law enforcement officer, upon
27 the request of the secretary of the department or duly
28 authorized agent, shall take a child who has escaped or
29 absconded from a department facility for committed delinquent
30 children, or from being lawfully transported thereto or

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1 therefrom, into custody and deliver the child to the
2 appropriate juvenile probation officer of the department.

3 Section 9. Paragraph (b) of subsection (1) of section
4 985.212, Florida Statutes, is amended to read:

5 985.212 Fingerprinting and photographing.--

6 (1)

7 (b) A child who is charged with or found to have
8 committed one of the following misdemeanors shall be
9 fingerprinted and the fingerprints shall be submitted to the
10 Department of Law Enforcement as provided in s. 943.051(3)(b):

11 1. Assault, as defined in s. 784.011.

12 2. Battery, as defined in s. 784.03.

13 3. Carrying a concealed weapon, as defined in s.
14 790.01(1).

15 4. Unlawful use of destructive devices or bombs, as
16 defined in s. 790.1615(1).

17 5. Negligent treatment of children, as defined in
18 former s. 827.05.

19 6. Assault on a law enforcement officer, a
20 firefighter, or other specified officers, as defined in s.
21 784.07(2)(a).

22 7. Open carrying of a weapon, as defined in s.
23 790.053.

24 8. Exposure of sexual organs, as defined in s. 800.03.

25 9. Unlawful possession of a firearm, as defined in s.
26 790.22(5).

27 10. Petit theft, as defined in s. 812.014.

28 11. Cruelty to animals, as defined in s. 828.12(1).

29 12. Arson, resulting in bodily harm to a firefighter,
30 as defined in s. 806.031(1).

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1 A law enforcement agency may fingerprint and photograph a
2 child taken into custody upon probable cause that such child
3 has committed any other violation of law, as the agency deems
4 appropriate. Such fingerprint records and photographs shall be
5 retained by the law enforcement agency in a separate file, and
6 these records and all copies thereof must be marked "Juvenile
7 Confidential." These records are ~~shall~~ not ~~be~~ available for
8 public disclosure and inspection under s. 119.07(1) except as
9 provided in ss. 943.053 and 985.04(5), but shall be available
10 to other law enforcement agencies, criminal justice agencies,
11 state attorneys, the courts, the child, the parents or legal
12 custodians of the child, their attorneys, and any other person
13 authorized by the court to have access to such records. In
14 addition, such records may be submitted to the Department of
15 Law Enforcement for inclusion in the state criminal history
16 records and used by criminal justice agencies for criminal
17 justice purposes. These records may, in the discretion of the
18 court, be open to inspection by anyone upon a showing of
19 cause. The fingerprint and photograph records shall be
20 produced in the court whenever directed by the court. Any
21 photograph taken pursuant to this section may be shown by a
22 law enforcement officer to any victim or witness of a crime
23 for the purpose of identifying the person who committed such
24 crime.

25 Section 10. Paragraph (a) of subsection (2) and
26 paragraph (d) of subsection (5) of section 985.215, Florida
27 Statutes, 1998 Supplement, are amended to read:

28 985.215 Detention.--

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

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

8
9 A child who meets any of these criteria and who is ordered to
10 be detained pursuant to this subsection shall be given a
11 hearing within 24 hours after being taken into custody. The
12 purpose of the detention hearing is to determine the existence
13 of probable cause that the child has committed the delinquent
14 act or violation of law with which he or she is charged and
15 the need for continued detention. Unless a child is detained
16 under paragraph (d), the court shall utilize the results of
17 the risk assessment performed by the juvenile probation
18 officer and, based on the criteria in this subsection, shall
19 determine the need for continued detention. A child placed
20 into secure, nonsecure, or home detention care may continue to
21 be so detained by the court pursuant to this subsection. If
22 the court orders a placement more restrictive than indicated
23 by the results of the risk assessment instrument, the court
24 shall state, in writing, clear and convincing reasons for such
25 placement. Except as provided in s. 790.22(8) or in
26 subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c),
27 or paragraph (10)(d), when a child is placed into secure or
28 nonsecure detention care, or into a respite home or other
29 placement pursuant to a court order following a hearing, the
30 court order must include specific instructions that direct the
31 release of the child from such placement no later than 5 p.m.

1 on the last day of the detention period specified in paragraph
2 (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1.,
3 whichever is applicable, unless the requirements of such
4 applicable provision have been met or an order of continuance
5 has been granted pursuant to paragraph (5)(d).

6 (5)

7 (d) The time limits in paragraphs (b) and (c) do not
8 include periods of delay resulting from a continuance granted
9 by the court for cause on motion of the child or his or her
10 counsel or of the state. The time limit may be extended 9 days
11 for cause if the child is charged with a capital felony, life
12 felony, or felony of the first degree and the nature of the
13 charge requires additional time for the prosecution or defense
14 of the case. However, the time may not be extended beyond a
15 total of 30 days. Upon the issuance of an order granting a
16 continuance for cause on a motion by either the child, the
17 child's counsel, or the state, the court shall conduct a
18 hearing at the end of each 72-hour period, excluding
19 Saturdays, Sundays, and legal holidays, to determine the need
20 for continued detention of the child and the need for further
21 continuance of proceedings for the child or the state.

22 Section 11. Paragraph (a) of subsection (1) and
23 subsection (2) of section 985.231, Florida Statutes, 1998
24 Supplement, are amended to read:

25 985.231 Powers of disposition in delinquency cases.--

26 (1)

27 (a) The court that has jurisdiction of an adjudicated
28 delinquent child may, by an order stating the facts upon which
29 a determination of a sanction and rehabilitative program was
30 made at the disposition hearing:

31

1 1. Place the child in a community control program or a
2 postcommitment community control ~~an aftercare~~ program under
3 the supervision of an authorized agent of the Department of
4 Juvenile Justice or of any other person or agency specifically
5 authorized and appointed by the court, whether in the child's
6 own home, in the home of a relative of the child, or in some
7 other suitable place under such reasonable conditions as the
8 court may direct. A community control program for an
9 adjudicated delinquent child must include a penalty component
10 such as restitution in money or in kind, community service, a
11 curfew, revocation or suspension of the driver's license of
12 the child, or other nonresidential punishment appropriate to
13 the offense and must also include a rehabilitative program
14 component such as a requirement of participation in substance
15 abuse treatment or in school or other educational program.
16 Upon the recommendation of the department at the time of
17 disposition, or subsequent to disposition pursuant to the
18 filing of a petition alleging a violation of the child's
19 conditions of community control or aftercare supervision, the
20 court may order the child to submit to random testing for the
21 purpose of detecting and monitoring the use of alcohol or
22 controlled substances.

23 a. A restrictiveness level classification scale for
24 levels of supervision shall be provided by the department,
25 taking into account the child's needs and risks relative to
26 community control supervision requirements to reasonably
27 ensure the public safety. Community control programs for
28 children shall be supervised by the department or by any other
29 person or agency specifically authorized by the court. These
30 programs must include, but are not limited to, structured or
31 restricted activities as described in this subparagraph, and

1 shall be designed to encourage the child toward acceptable and
2 functional social behavior. If supervision or a program of
3 community service is ordered by the court, the duration of
4 such supervision or program must be consistent with any
5 treatment and rehabilitation needs identified for the child
6 and may not exceed the term for which sentence could be
7 imposed if the child were committed for the offense, except
8 that the duration of such supervision or program for an
9 offense that is a misdemeanor of the second degree, or is
10 equivalent to a misdemeanor of the second degree, may be for a
11 period not to exceed 6 months. When restitution is ordered by
12 the court, the amount of restitution may not exceed an amount
13 the child and the parent or guardian could reasonably be
14 expected to pay or make. A child who participates in any work
15 program under this part is considered an employee of the state
16 for purposes of liability, unless otherwise provided by law.

17 b. The court may conduct judicial review hearings for
18 a child placed on community control for the purpose of
19 fostering accountability to the judge and compliance with
20 other requirements, such as restitution and community service.
21 The court may allow early termination of community control for
22 a child who has substantially complied with the terms and
23 conditions of community control.

24 c. If the conditions of the community control program
25 or the postcommitment community control ~~aftercare~~ program are
26 violated, the department ~~agent supervising the program as it~~
27 ~~relates to the child involved,~~ or the state attorney, may
28 bring the child before the court on a petition alleging a
29 violation of the program. Any child who violates the
30 conditions of community control or postcommitment community
31 control ~~aftercare~~ must be brought before the court if

1 sanctions are sought. A child taken into custody under s.
2 985.207 for violating the conditions of community control or
3 postcommitment community control ~~aftercare~~ shall be held in a
4 consequence unit if such a unit is available. The child shall
5 be afforded a hearing within 24 hours after being taken into
6 custody to determine the existence of probable cause that the
7 child violated the conditions of community control or
8 postcommitment community control ~~aftercare~~. A consequence unit
9 is a secure facility specifically designated by the department
10 for children who are taken into custody under s. 985.207 for
11 violating community control or postcommitment community
12 control ~~aftercare~~, or who have been found by the court to have
13 violated the conditions of community control or postcommitment
14 community control ~~aftercare~~. If the violation involves a new
15 charge of delinquency, the child may be detained under s.
16 985.215 in a facility other than a consequence unit. If the
17 child is not eligible for detention for the new charge of
18 delinquency, the child may be held in the consequence unit
19 pending a hearing and is subject to the time limitations
20 specified in s. 985.215. If the child denies violating the
21 conditions of community control or postcommitment community
22 control ~~aftercare~~, the court shall appoint counsel to
23 represent the child at the child's request. Upon the child's
24 admission, or if the court finds after a hearing that the
25 child has violated the conditions of community control or
26 postcommitment community control ~~aftercare~~, the court shall
27 enter an order revoking, modifying, or continuing community
28 control or postcommitment community control ~~aftercare~~. In each
29 such case, the court shall enter a new disposition order and,
30 in addition to the sanctions set forth in this paragraph, may
31 impose any sanction the court could have imposed at the

1 original disposition hearing. If the child is found to have
2 violated the conditions of community control or postcommitment
3 community control ~~aftercare~~, the court may:

4 (I) Place the child in a consequence unit in that
5 judicial circuit, if available, for up to 5 days for a first
6 violation, and up to 15 days for a second or subsequent
7 violation.

8 (II) Place the child on home detention with electronic
9 monitoring for up to 5 days for a first violation and up to 15
10 days for a second or subsequent violation. However, this
11 sanction may be used only if a residential consequence unit is
12 not available.

13 (III) Modify or continue the child's community control
14 program or postcommitment community control ~~aftercare~~ program.

15 (IV) Revoke community control or postcommitment
16 community control ~~aftercare~~ and commit the child to the
17 department.

18 d. Notwithstanding s. 743.07 and paragraph (d), and
19 except as provided in s. 985.31, the term of any order placing
20 a child in a community control program must be until the
21 child's 19th birthday unless he or she is released by the
22 court, on the motion of an interested party or on its own
23 motion.

24 2. Commit the child to a licensed child-caring agency
25 willing to receive the child, but the court may not commit the
26 child to a jail or to a facility used primarily as a detention
27 center or facility or shelter.

28 3. Commit the child to the Department of Juvenile
29 Justice at a restrictiveness level defined in s. 985.03 ~~s.~~
30 ~~985.03(45)~~. Such commitment must be for the purpose of
31 exercising active control over the child, including, but not

1 limited to, custody, care, training, urine monitoring, and
2 treatment of the child and ~~release furlough~~ of the child into
3 the community in a postcommitment nonresidential aftercare
4 program. If the child is not successful in the aftercare
5 program, the department may use the transfer procedure under
6 s. 985.404. Notwithstanding s. 743.07 and paragraph (d), and
7 except as provided in s. 985.31, the term of the commitment
8 must be until the child is discharged by the department or
9 until he or she reaches the age of 21.

10 4. Revoke or suspend the driver's license of the
11 child.

12 5. Require the child and, if the court finds it
13 appropriate, the child's parent or guardian together with the
14 child, to render community service in a public service
15 program.

16 6. As part of the community control program to be
17 implemented by the Department of Juvenile Justice, or, in the
18 case of a committed child, as part of the community-based
19 sanctions ordered by the court at the disposition hearing or
20 before the child's release from commitment, order the child to
21 make restitution in money, through a promissory note cosigned
22 by the child's parent or guardian, or in kind for any damage
23 or loss caused by the child's offense in a reasonable amount
24 or manner to be determined by the court. The clerk of the
25 circuit court shall be the receiving and dispensing agent. In
26 such case, the court shall order the child or the child's
27 parent or guardian to pay to the office of the clerk of the
28 circuit court an amount not to exceed the actual cost incurred
29 by the clerk as a result of receiving and dispensing
30 restitution payments. The clerk shall notify the court if
31 restitution is not made, and the court shall take any further

1 action that is necessary against the child or the child's
2 parent or guardian. A finding by the court, after a hearing,
3 that the parent or guardian has made diligent and good faith
4 efforts to prevent the child from engaging in delinquent acts
5 absolves the parent or guardian of liability for restitution
6 under this subparagraph.

7 7. Order the child and, if the court finds it
8 appropriate, the child's parent or guardian together with the
9 child, to participate in a community work project, either as
10 an alternative to monetary restitution or as part of the
11 rehabilitative or community control program.

12 8. Commit the child to the Department of Juvenile
13 Justice for placement in a program or facility for serious or
14 habitual juvenile offenders in accordance with s. 985.31. Any
15 commitment of a child to a program or facility for serious or
16 habitual juvenile offenders must be for an indeterminate
17 period of time, but the time may not exceed the maximum term
18 of imprisonment that an adult may serve for the same offense.
19 The court may retain jurisdiction over such child until the
20 child reaches the age of 21, specifically for the purpose of
21 the child completing the program.

22 9. In addition to the sanctions imposed on the child,
23 order the parent or guardian of the child to perform community
24 service if the court finds that the parent or guardian did not
25 make a diligent and good faith effort to prevent the child
26 from engaging in delinquent acts. The court may also order the
27 parent or guardian to make restitution in money or in kind for
28 any damage or loss caused by the child's offense. The court
29 shall determine a reasonable amount or manner of restitution,
30 and payment shall be made to the clerk of the circuit court as
31 provided in subparagraph 6.

1 10. Subject to specific appropriation, commit the
2 juvenile sexual offender to the Department of Juvenile Justice
3 for placement in a program or facility for juvenile sexual
4 offenders in accordance with s. 985.308. Any commitment of a
5 juvenile sexual offender to a program or facility for juvenile
6 sexual offenders must be for an indeterminate period of time,
7 but the time may not exceed the maximum term of imprisonment
8 that an adult may serve for the same offense. The court may
9 retain jurisdiction over a juvenile sexual offender until the
10 juvenile sexual offender reaches the age of 21, specifically
11 for the purpose of completing the program.

12 (2) Following a delinquency adjudicatory hearing
13 pursuant to s. 985.228 and a delinquency disposition hearing
14 pursuant to s. 985.23 which results in a commitment
15 determination, the court shall, on its own or upon request by
16 the state or the department, determine whether the protection
17 of the public requires that the child be placed in a program
18 for serious or habitual juvenile offenders and whether the
19 particular needs of the child would be best served by a
20 program for serious or habitual juvenile offenders as provided
21 in s. 985.31. The determination shall be made pursuant to ss.
22 985.03(49)~~985.03(47)~~and 985.23(3).

23 Section 12. Section 985.316, Florida Statutes, is
24 amended to read:

25 985.316 ~~Furlough and intensive~~ Aftercare.--

26 (1) It is the intent of the Legislature that, in order
27 to prevent recidivism of juvenile offenders, aftercare be
28 provided statewide to each juvenile who returns to his or her
29 community from a residential commitment program and
30 demonstrates through an assessment a need for aftercare. The
31 Legislature intends that aftercare be included in the

1 continuum of care and that planning for the transition to
2 aftercare begin as early as possible in the commitment
3 process. The Legislature further intends that commitment
4 programs include rehabilitative efforts for preparing
5 committed juveniles for a successful release into the
6 community.

7 (2)~~(1)~~ With regard to children referred or committed
8 to the department, the function of the department may include,
9 but shall not be limited to, supervising the child when
10 released ~~furloughed~~ into the community from a facility of the
11 department, including providing such counseling and other
12 services as may be necessary for the families and assisting
13 their preparations for the return of the child.

14 (3) After a juvenile is released from a residential
15 commitment program, aftercare services may be delivered
16 through a minimum-risk nonresidential commitment program or
17 through postcommitment community control. A juvenile placed
18 into a minimum-risk nonresidential commitment program shall
19 continue on commitment status and is subject to transfer as
20 provided in s. 985.404. A juvenile placed on postcommitment
21 community control is subject to s. 985.213(1)(a).

22 (4)~~(2)~~ Whenever a delinquent child is committed to a
23 residential program operated by a private vendor under
24 contract, the department may negotiate with such vendor to
25 provide intensive aftercare for the child in the home
26 community following successful completion of the residential
27 program. Intensive aftercare shall involve regular contact
28 between the child and the staff of the vendor with whom the
29 child has developed a relationship during the course of the
30 commitment program. Contingent upon specific appropriation, a
31 contract for intensive aftercare provided by the residential

1 commitment program vendor shall provide for caseloads of 10 or
2 fewer children, intensive aftercare for 1 year, and a transfer
3 of the ongoing case management and reentry responsibilities
4 from the department to the vendor at the time the vendor
5 admits the child into the commitment program. The department
6 shall annually seek the necessary resources to provide
7 intensive aftercare.

8 (5)~~(3)~~ Subject to specific appropriation, the
9 department shall provide or contract for outpatient sexual
10 offender counseling for any juvenile sexual offender released
11 ~~furloughed~~ from a commitment program, as a component of
12 aftercare services.

13 ~~(4) Upon a recommendation that a child committed to~~
14 ~~the department have his or her furlough revoked, the~~
15 ~~department shall, within 30 days after the date the~~
16 ~~recommendation is made, hold an administrative hearing~~
17 ~~pursuant to chapter 120.~~

18 (6)~~(5)~~ It is the legislative intent that, to prevent
19 recidivism of juvenile offenders, ~~reentry and~~ aftercare
20 services be provided statewide to each juvenile who returns to
21 his or her community from a residential commitment program.
22 Accordingly, the Legislature further intends that reentry and
23 aftercare services be included in the continuum of care.

24 Section 13. Subsection (4) of section 985.404, Florida
25 Statutes, 1998 Supplement, is amended to read:

26 985.404 Administering the juvenile justice
27 continuum.--

28 (4) The department may transfer a child, when
29 necessary to appropriately administer the child's commitment,
30 from one facility or program to another facility or program
31 operated, contracted, subcontracted, or designated by the

1 department, including a postcommitment minimum-risk
2 nonresidential aftercare program. The department shall notify
3 the court that committed the child to the department, in
4 writing, of its transfer of the child from a commitment
5 facility or program to another facility or program of a higher
6 or lower restrictiveness level. The court that committed the
7 child may agree to the transfer or may set a hearing to review
8 the transfer. If the court does not respond within 10 days
9 after receipt of the notice, the transfer of the child shall
10 be deemed granted.

11 Section 14. Subsection (3) of section 985.406, Florida
12 Statutes, 1998 Supplement, is amended to read:

13 985.406 Juvenile justice training academies
14 established; Juvenile Justice Standards and Training
15 Commission created; Juvenile Justice Training Trust Fund
16 created.--

17 (3) JUVENILE JUSTICE TRAINING PROGRAM.--The commission
18 shall establish a certifiable program for juvenile justice
19 training pursuant to ~~the provisions of~~ this section, and all
20 Department of Juvenile Justice program staff and providers who
21 deliver direct care services pursuant to contract with the
22 department shall be required to participate in and
23 successfully complete the commission-approved program of
24 training pertinent to their areas of responsibility. Judges,
25 state attorneys, and public defenders, law enforcement
26 officers, and school district personnel may participate in
27 such training program. For the juvenile justice program staff,
28 the commission shall, based on a job-task analysis:

29 (a) Design, implement, maintain, evaluate, and revise
30 a basic training program, including a competency-based
31 ~~curriculum-based~~ examination, for the purpose of providing

1 minimum employment training qualifications for all juvenile
2 justice personnel. All program staff of the Department of
3 Juvenile Justice and providers who deliver direct-care
4 services who are hired after October 1, 1999, must meet the
5 following minimum requirements:

6 1. Be at least 19 years of age.

7 2. Be a citizen of the United States, notwithstanding
8 any law to the contrary.

9 3. Be a high school graduate or its equivalent as
10 determined by the commission.

11 4. Not have been convicted of any felony or a
12 misdemeanor involving perjury or a false statement, or have
13 received a dishonorable discharge from any of the Armed Forces
14 of the United States. Any person who, after September 30,
15 1999, pleads guilty or nolo contendere to or is found guilty
16 of any felony or a misdemeanor involving perjury or false
17 statement is not eligible for employment, notwithstanding
18 suspension of sentence or withholding of adjudication.

19 Notwithstanding this subparagraph, any person who pleads nolo
20 contendere to a misdemeanor involving a false statement before
21 October 1, 1999, and who has had such record of that plea
22 sealed or expunged is not ineligible for employment for that
23 reason.

24 5. Abide by all the provisions of s. 985.01(2)
25 regarding fingerprinting and background investigations and
26 other screening requirements for personnel.

27 6. Have passed a physical exam by a licensed
28 physician, based on specifications established by the
29 department, which must include preemployment drug screening
30 and testing.

31

1 7. Execute and submit to the department an
2 affidavit-of-application form, adopted by the department,
3 attesting to his or her compliance with subparagraphs 1.
4 through 6. The affidavit must be executed under oath and
5 constitutes an official statement under s. 837.06. The
6 affidavit must include conspicuous language that the
7 intentional false execution of the affidavit constitutes a
8 misdemeanor of the second degree. The employing agency shall
9 retain the affidavit.

10 8. Complete a basic training program approved by the
11 commission for the applicable juvenile justice
12 responsibilities.

13 (b) Design, implement, maintain, evaluate, and revise
14 an advanced training program, including a competency-based
15 ~~curriculum-based~~ examination for each training course, which
16 is intended to enhance knowledge, skills, and abilities
17 related to job performance.

18 (c) Design, implement, maintain, evaluate, and revise
19 a career development training program, including a
20 competency-based ~~curriculum-based~~ examination for each
21 training course. Career development courses are intended to
22 prepare personnel for promotion.

23 (d) The commission is encouraged to design, implement,
24 maintain, evaluate, and revise juvenile justice training
25 courses, or to enter into contracts for such training courses,
26 that are intended to provide for the safety and well-being of
27 both citizens and juvenile offenders.

28 Section 15. Paragraph (b) of subsection (15) of
29 section 985.41, Florida Statutes, 1998 Supplement, is amended
30 to read:

31 985.41 Siting of facilities; study; criteria.--

1 (15)
2 (b) Notwithstanding ss. 255.25(1)(b) and 255.25001(2),
3 the department may enter into lease-purchase agreements to
4 provide juvenile justice facilities for the housing of
5 committed youths contingent upon available funds. The
6 facilities provided through such agreements shall meet the
7 program plan and specifications of the department. The
8 department may enter into such lease agreements with private
9 corporations and other governmental entities. Notwithstanding
10 any provision of chapter 255 to the contrary, the department
11 may use tax-exempt financing to provide juvenile justice
12 facilities. Such financing may include the issuance of
13 tax-exempt bonds and certificates of participation. However,
14 notwithstanding the provisions of s. 255.255(3)(a), no such
15 lease agreement may be entered into except upon advertisement
16 for the receipt of competitive bids and award to the lowest
17 and best bidder except when contracting with other
18 governmental entities.

19 Section 16. Section 985.4145, Florida Statutes, is
20 created to read:

21 985.4145 Direct-support organization; definition; use
22 of property; board of directors; audit.--

23 (1) DEFINITION.--As used in this section, the term
24 "direct-support organization" means an organization that is:

25 (a) A corporation not for profit incorporated under
26 chapter 617 and approved by the Department of State;

27 (b) Organized and operated to conduct programs and
28 activities; raise funds; request and receive grants, gifts,
29 and bequests of moneys; acquire, receive, hold, invest, and
30 administer, in its own name, securities, funds, objects of
31 value, or other property, real or personal; and make

1 expenditures to or for the direct or indirect benefit of the
2 Department of Juvenile Justice or the juvenile justice system
3 operated by a county commission or a district board;

4 (c) Determined by the Department of Juvenile Justice
5 to be consistent with the goals of the juvenile justice
6 system, in the best interest of the state, and in accordance
7 with the adopted goals and mission of the Department of
8 Juvenile Justice.

9 (2) USE OF PROPERTY.--

10 (a) The Department of Juvenile Justice may permit,
11 without charge, appropriate use of fixed property and
12 facilities of the juvenile justice system by a direct-support
13 organization, subject to the provisions in this section.

14 (b) The department may prescribe any condition with
15 which a direct-support organization shall comply in order to
16 use fixed property or facilities of the juvenile justice
17 system.

18 (c) The department may not permit the use of any fixed
19 property or facilities of the juvenile justice system by a
20 direct-support organization that does not provide equal
21 membership and employment opportunities to all persons
22 regardless of race, color, religion, sex, age, or national
23 origin.

24 (3) BOARD OF DIRECTORS.--The Secretary of Juvenile
25 Justice shall appoint a board of directors of the
26 direct-support organization. Members of the organization must
27 include representatives from businesses, representatives from
28 each of the juvenile justice service districts, and one
29 representative appointed at-large.

30 (4) ANNUAL AUDIT.--The direct-support organization
31 shall make provision for an annual postaudit of its financial

1 accounts to be conducted by an independent certified public
2 accountant in accordance with s. 20.055. The annual audit
3 report must include a management letter and be submitted to
4 the Auditor General and the Department of Juvenile Justice for
5 review. The department and the Auditor General may require and
6 receive from the organization, or from its independent
7 auditor, any detail or supplemental data relative to the
8 operation of the organization.

9 Section 17. Subsection (5) of section 985.417, Florida
10 Statutes, is amended to read:

11 985.417 Transfer of children from the Department of
12 Corrections to the Department of Juvenile Justice.--

13 (5) Any child who has been convicted of a capital
14 felony while under the age of 18 years may not be released
15 ~~furloughed~~ on community control without the consent of the
16 Governor and three members of the Cabinet.

17 Section 18. Paragraph (d) of subsection (1) of section
18 419.001, Florida Statutes, 1998 Supplement, is amended to
19 read:

20 419.001 Site selection of community residential
21 homes.--

22 (1) For the purposes of this section, the following
23 definitions shall apply:

24 (d) "Resident" means any of the following: a frail
25 elder as defined in s. 400.618; a physically disabled or
26 handicapped person as defined in s. 760.22(7)(a); a
27 developmentally disabled person as defined in s. 393.063(11);
28 a nondangerous mentally ill person as defined in s.
29 394.455(18); or a child as defined in s. 39.01(11), s.
30 984.03(9) or (12), or s. 985.03(9)~~s. 985.03(8)~~.

31

1 Section 19. Section 784.075, Florida Statutes, 1998
2 Supplement, is amended to read:

3 784.075 Battery on detention or commitment facility
4 staff.--A person who commits a battery on a juvenile probation
5 officer ~~an intake counselor or case manager~~, as defined in s.
6 984.03 ~~s. 984.03(31)~~ or s. 985.03 ~~s. 985.03(30)~~, on other
7 staff of a detention center or facility as defined in s.
8 984.03 ~~s. 984.03(19)~~ or s. 985.03 ~~s. 985.03(19)~~, or on a staff
9 member of a commitment facility as defined in s. 985.03(47) ~~s.~~
10 ~~985.03(45)~~, commits a felony of the third degree, punishable
11 as provided in s. 775.082, s. 775.083, or s. 775.084. For
12 purposes of this section, a staff member of the facilities
13 listed includes persons employed by the Department of Juvenile
14 Justice, persons employed at facilities licensed by the
15 Department of Juvenile Justice, and persons employed at
16 facilities operated under a contract with the Department of
17 Juvenile Justice.

18 Section 20. Section 984.05, Florida Statutes, 1998
19 Supplement, is amended to read:

20 984.05 Rules relating to habitual truants; adoption by
21 Department of Education and Department of Juvenile
22 Justice.--The Department of Juvenile Justice and the
23 Department of Education shall work together on the development
24 of, and shall adopt, rules as necessary for the implementation
25 of ss. 232.19, 984.03(29), and 985.03(28) ~~985.03(27)~~.

26 Section 21. Paragraph (b) of subsection (2) of section
27 985.227, Florida Statutes, is amended to read:

28 985.227 Prosecution of juveniles as adults by the
29 direct filing of an information in the criminal division of
30 the circuit court; discretionary criteria; mandatory
31 criteria.--

1 (2) MANDATORY DIRECT FILE.--

2 (b) Notwithstanding subsection (1), regardless of the
3 child's age at the time the alleged offense was committed, the
4 state attorney must file an information with respect to any
5 child who previously has been adjudicated for offenses which,
6 if committed by an adult, would be felonies and such
7 adjudications occurred at three or more separate delinquency
8 adjudicatory hearings, and three of which resulted in
9 residential commitments as defined in s. 985.03(47)~~s.~~
10 ~~985.03(45)~~.

11 Section 22. Paragraph (e) of subsection (3) and
12 paragraph (a) of subsection (4) of section 985.31, Florida
13 Statutes, 1998 Supplement, are amended to read:

14 985.31 Serious or habitual juvenile offender.--

15 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
16 TREATMENT.--

17 (e) After a child has been adjudicated delinquent
18 pursuant to s. 985.228, the court shall determine whether the
19 child meets the criteria for a serious or habitual juvenile
20 offender pursuant to s. 985.03(49)~~s. 985.03(47)~~. If the court
21 determines that the child does not meet such criteria, the
22 provisions of s. 985.231(1) shall apply.

23 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

24 (a) Pursuant to the provisions of this section, the
25 department shall implement the comprehensive assessment
26 instrument for the treatment needs of serious or habitual
27 juvenile offenders and for the assessment, which assessment
28 shall include the criteria under s. 985.03(49)~~s. 985.03(47)~~
29 and shall also include, but not be limited to, evaluation of
30 the child's:

31 1. Amenability to treatment.

- 1 2. Proclivity toward violence.
- 2 3. Tendency toward gang involvement.
- 3 4. Substance abuse or addiction and the level thereof.
- 4 5. History of being a victim of child abuse or sexual
- 5 abuse, or indication of sexual behavior dysfunction.
- 6 6. Number and type of previous adjudications, findings
- 7 of guilt, and convictions.
- 8 7. Potential for rehabilitation.

9 Section 23. Paragraph (e) of subsection (3) and
10 paragraph (a) of subsection (4) of section 985.311, Florida
11 Statutes, 1998 Supplement, are amended to read:

12 985.311 Intensive residential treatment program for
13 offenders less than 13 years of age.--

14 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
15 TREATMENT.--

16 (e) After a child has been adjudicated delinquent
17 pursuant to s. 985.228(5), the court shall determine whether
18 the child is eligible for an intensive residential treatment
19 program for offenders less than 13 years of age pursuant to s.
20 985.03(8)~~s. 985.03(7)~~. If the court determines that the
21 child does not meet the criteria, the provisions of s.
22 985.231(1) shall apply.

23 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

24 (a) Pursuant to the provisions of this section, the
25 department shall implement the comprehensive assessment
26 instrument for the treatment needs of children who are
27 eligible for an intensive residential treatment program for
28 offenders less than 13 years of age and for the assessment,
29 which assessment shall include the criteria under s. 985.03(8)
30 ~~s. 985.03(7)~~ and shall also include, but not be limited to,
31 evaluation of the child's:

- 1 1. Amenability to treatment.
- 2 2. Proclivity toward violence.
- 3 3. Tendency toward gang involvement.
- 4 4. Substance abuse or addiction and the level thereof.
- 5 5. History of being a victim of child abuse or sexual
- 6 abuse, or indication of sexual behavior dysfunction.
- 7 6. Number and type of previous adjudications, findings
- 8 of guilt, and convictions.
- 9 7. Potential for rehabilitation.

10 Section 24. Section 985.312, Florida Statutes, is
11 amended to read:

12 985.312 Intensive residential treatment programs for
13 offenders less than 13 years of age; prerequisite for
14 commitment.--No child who is eligible for commitment to an
15 intensive residential treatment program for offenders less
16 than 13 years of age as established in s. 985.03(8)~~s.~~
17 ~~985.03(7)~~, may be committed to any intensive residential
18 treatment program for offenders less than 13 years of age as
19 established in s. 985.311, unless such program has been
20 established by the department through existing resources or
21 specific appropriation, for such program.

22 Section 25. Section 985.3141, Florida Statutes, is
23 amended to read:

24 985.3141 Escapes from secure detention or residential
25 commitment facility.--An escape from:

26 (1) Any secure detention facility maintained for the
27 temporary detention of children, pending adjudication,
28 disposition, or placement;

29 (2) Any residential commitment facility described in
30 s. 985.03(47)~~s. 985.03(45)~~, maintained for the custody,

31

1 treatment, punishment, or rehabilitation of children found to
2 have committed delinquent acts or violations of law; or

3 (3) Lawful transportation to or from any such secure
4 detention facility or residential commitment facility,

5
6 constitutes escape within the intent and meaning of s. 944.40
7 and is a felony of the third degree, punishable as provided in
8 s. 775.082, s. 775.083, or s. 775.084.

9 Section 26. This act shall take effect upon becoming a
10 law.

11
12 *****

13 SENATE SUMMARY

14 Revises various provisions governing juvenile justice
15 programs. Requires that the Criminal Justice Information
16 Program retain the criminal history records of certain
17 minors. Provides requirements for aftercare provided for
18 juvenile offenders. Deletes a requirement that school
19 officials be informed of students who have a history of
20 sexual behavior with other juveniles. Provides for
21 fingerprint records and photographs of juveniles to be
22 submitted to the Department of Law Enforcement. Extends
23 the period that a juvenile charged with a capitol offense
24 may be held in detention prior to an adjudicatory
25 hearing. Limits the period that a juvenile may be placed
26 on home detention with electronic monitoring. Provides
27 additional qualifications for the program staff of the
28 Department of Juvenile Justice and its providers.
29 Authorizes the Department of Juvenile Justice to use
30 tax-exempt financing to provide juvenile justice
31 facilities. Authorizes a direct-support organization for
the Department of Juvenile Justice. (See bill for
details.)