

By Senator Webster

18-1314-99

See HB

1 A bill to be entitled
2 An act relating to juvenile detention; amending
3 s. 985.213, F.S., relating to use of detention;
4 revising criteria for the holding in detention
5 of a child who is charged with committing an
6 offense of domestic violence and who does not
7 meet detention criteria; providing that such a
8 child may not be held in secure, nonsecure, or
9 home detention more than a specified period
10 unless ordered by the court; providing for a
11 hearing under specified circumstances when
12 there is request for continued detention;
13 revising criteria for continued detention;
14 providing for time limitations; reenacting s.
15 985.03(20), F.S., relating to definition of
16 "detention hearing," to incorporate the
17 amendments to ss. 985.213, 985.215, F.S., in
18 references; amending s. 985.215, F.S., relating
19 to detention; providing that under certain
20 circumstances a child shall be detained
21 pursuant to a pickup order issued by a court
22 until the detention hearing is provided;
23 revising criteria for continued detention;
24 providing that under certain circumstances a
25 child whose underlying offense qualifies the
26 child for detention and who is alleged to have
27 violated supervision may be held in a
28 consequence unit in lieu of secure detention;
29 providing for detention for a specified period,
30 and subsequent placement on home detention with
31 electronic monitoring if a consequence unit is

1 not available, for a child alleged to have
2 committed a second or subsequent violation of
3 community control; providing for continued
4 detention up to 5 days of a child detained on a
5 judicial order for failure to appear at two or
6 more court hearings on the same case,
7 regardless of the risk assessment instrument;
8 providing that a child's failure to keep the
9 court and defense counsel informed of a current
10 mailing address does not provide an adequate
11 ground for excusal of the child's nonappearance
12 at the hearings; reenacting s. 790.22(8), F.S.,
13 relating to limitations upon, prohibitions
14 against, and penalties for unlawful use of BB
15 guns, air or gas-operated guns, or electric
16 weapons or devices by minor under 16 years of
17 age, s. 985.208(1), F.S., relating to detention
18 of furloughed child or escapee on authority of
19 the department, s. 985.211(2) and (4), F.S.,
20 relating to release or delivery from custody,
21 s. 985.219(5), F.S., relating to process and
22 service, s. 985.228(1), F.S., relating to
23 adjudicatory hearings, withheld adjudications,
24 and orders of adjudication, and s.
25 985.231(1)(a), F.S., relating to powers of
26 disposition in delinquency cases, to
27 incorporate amendments in references; providing
28 an effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. Section 985.213 , Florida Statutes, 1998
2 Supplement, is amended to read:

3 985.213 Use of detention.--

4 (1) All determinations and court orders regarding the
5 use of secure, nonsecure, or home detention shall be based
6 primarily upon findings that the child:

7 (a) Presents a substantial risk of not appearing at a
8 subsequent hearing;

9 (b) Presents a substantial risk of inflicting bodily
10 harm on others as evidenced by recent behavior;

11 (c) Presents a history of committing a property
12 offense prior to adjudication, disposition, or placement;

13 (d) Has committed contempt of court by:

14 1. Intentionally disrupting the administration of the
15 court;

16 2. Intentionally disobeying a court order; or

17 3. Engaging in a punishable act or speech in the
18 court's presence which shows disrespect for the authority and
19 dignity of the court; or

20 (e) Requests protection from imminent bodily harm.

21 (2)(a) All determinations and court orders regarding
22 placement of a child into detention care shall comply with all
23 requirements and criteria provided in this part and shall be
24 based on a risk assessment of the child, unless the child is
25 placed into detention care as provided in subparagraph (b)3.

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

1 Each association shall appoint two individuals, one
2 representing an urban area and one representing a rural area.
3 The parties involved shall evaluate and revise the risk
4 assessment instrument as is considered necessary using the
5 method for revision as agreed by the parties. The risk
6 assessment instrument shall take into consideration, but need
7 not be limited to, prior history of failure to appear, prior
8 offenses, offenses committed pending adjudication, any
9 unlawful possession of a firearm, theft of a motor vehicle or
10 possession of a stolen motor vehicle, and community control
11 status at the time the child is taken into custody. The risk
12 assessment instrument shall also take into consideration
13 appropriate aggravating and mitigating circumstances, and
14 shall be designed to target a narrower population of children
15 than s. 985.215(2). The risk assessment instrument shall also
16 include any information concerning the child's history of
17 abuse and neglect. The risk assessment shall indicate whether
18 detention care is warranted, and, if detention care is
19 warranted, whether the child should be placed into secure,
20 nonsecure, or home detention care.

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

25 3. A child who is charged with committing an offense
26 of domestic violence as defined in s. 741.28(1) and who does
27 not meet detention criteria may be held in secure detention if
28 the court makes specific written findings that:

29 ~~a. The offense of domestic violence which the child is~~
30 ~~charged with committing caused physical injury to the victim;~~

31 a.b. Respite care for the child is not available; and

1 **b.e.** It is necessary to place the child in secure,
2 nonsecure, or home detention in order to protect the victim
3 from ~~further~~ injury.

4
5 The child may not be held in secure, nonsecure, or home
6 detention under this subparagraph for more than 48 hours
7 unless ordered by the court. After 48 hours, the court shall
8 hold a hearing if the state attorney or victim requests that
9 secure, nonsecure, or home detention be continued. The child
10 may continue to be held in ~~secure~~ detention care if the court
11 makes a specific, written finding that ~~secure~~ detention care
12 is necessary to protect the victim from ~~further~~ injury.
13 However, the child may not be held in ~~secure~~ detention care
14 beyond the time limits set forth in s. 985.215.

15 (3)(a) While a child who is currently enrolled in
16 school is in nonsecure or home detention care, the child shall
17 continue to attend school unless otherwise ordered by the
18 court.

19 (b) While a child is in secure detention care, the
20 child shall receive education commensurate with his or her
21 grade level and educational ability.

22 (4) The Department of Juvenile Justice shall continue
23 to identify alternatives to secure detention care and shall
24 develop such alternatives and annually submit them to the
25 Legislature for authorization and appropriation.

26 Section 2. For the purpose of incorporating the
27 amendments to section 985.213, Florida Statutes, 1998
28 Supplement, and section 985.215, Florida Statutes, 1998
29 Supplement, in references thereto, subsection (20) of section
30 985.03, Florida Statutes, 1998 Supplement, is reenacted to
31 read:

1 985.03 Definitions.--When used in this chapter, the
2 term:

3 (20) "Detention hearing" means a hearing for the court
4 to determine if a child should be placed in temporary custody,
5 as provided for under ss. 985.213 and 985.215 in delinquency
6 cases.

7 Section 3. Section 985.215, Florida Statutes, 1998
8 Supplement, is amended to read:

9 985.215 Detention.--

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

16 (a) During the period of time from the taking of the
17 child into custody to the date of the detention hearing, the
18 initial decision as to the child's placement into secure
19 detention care, nonsecure detention care, or home detention
20 care shall be made by the juvenile probation officer pursuant
21 to ss. 985.213 and 985.214. However, a child shall be detained
22 pursuant to a pickup order issued by a court until the
23 detention hearing is provided to determine whether further
24 detention is authorized.

25 (b) The juvenile probation officer shall base the
26 decision whether or not to place the child into secure
27 detention care, home detention care, or nonsecure detention
28 care on an assessment of risk in accordance with the risk
29 assessment instrument and procedures developed by the
30 Department of Juvenile Justice under s. 985.213.

31

1 (c) If the juvenile probation officer determines that
2 a child who is eligible for detention based upon the results
3 of the risk assessment instrument should be released, the
4 juvenile probation officer shall contact the state attorney,
5 who may authorize release. If detention is not authorized, the
6 child may be released by the juvenile probation officer in
7 accordance with s. 985.211.

8
9 Under no circumstances shall the juvenile probation officer or
10 the state attorney or law enforcement officer authorize the
11 detention of any child in a jail or other facility intended or
12 used for the detention of adults, without an order of the
13 court.

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

18 (a) The child is alleged to be an escapee or an
19 absconder from a commitment program, a community control
20 program, furlough, or aftercare supervision, or is alleged to
21 have escaped while being lawfully transported to or from such
22 program or supervision.

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

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

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

1 (e) The child is charged with a capital felony, a life
2 felony, a felony of the first degree, a felony of the second
3 degree that does not involve a violation of chapter 893, or a
4 felony of the third degree that is also a crime of violence,
5 including any such offense involving the use or possession of
6 a firearm.

7 (f) The child is charged with any second degree or
8 third degree felony involving a violation of chapter 893 or
9 any third degree felony that is not also a crime of violence,
10 and the child:

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

14 2. Has a record of law violations prior to court
15 hearings;

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

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

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

21 (g) The child is alleged to have violated the
22 conditions of the child's community control or aftercare
23 supervision, and the underlying offense qualifies the child
24 for detention. A court may order a child who qualifies for
25 secure detention pursuant to this paragraph to be held in a
26 consequence unit in lieu of secure detention. If the
27 underlying offense does not qualify a child for detention
28 ~~However, the a child may be~~ detained under this paragraph ~~may~~
29 ~~be held only~~ in a consequence unit as provided in s.
30 985.231(1)(a)1.c. If a consequence unit is not available for a
31 child alleged to have committed a first violation of community

1 control, the child shall be placed on home detention with
2 electronic monitoring. A child alleged to have committed a
3 second violation of community control may be detained for 48
4 hours and then placed on home detention with electronic
5 monitoring if a consequence unit is not available. A child
6 alleged to have committed a third or subsequent violation of
7 community control may be detained for 5 days and then placed
8 on home detention with electronic monitoring if a consequence
9 unit is not available. For purposes of this subsection, a
10 second or subsequent violation of community control may occur
11 while the initial violation is still pending before the court.

12 (h) The child is detained on a judicial order for
13 failure to appear and has failed to appear at two or more
14 court hearings on the same case, regardless of the risk
15 assessment instrument. A child may not be held for more than
16 5 days pursuant to this paragraph. The failure by the child
17 to keep the clerk of court and defense counsel informed of a
18 current and valid mailing address, where the child will
19 receive notice to appear at court proceedings, does not
20 provide an adequate ground for excusal of the child's
21 nonappearance at the hearings.

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

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

20 (3) Except in emergency situations, a child may not be
21 placed into or transported in any police car or similar
22 vehicle that at the same time contains an adult under arrest,
23 unless the adult is alleged or believed to be involved in the
24 same offense or transaction as the child.

25 (4) The court shall order the delivery of a child to a
26 jail or other facility intended or used for the detention of
27 adults:

28 (a) When the child has been transferred or indicted
29 for criminal prosecution as an adult pursuant to this part,
30 except that the court may not order or allow a child alleged
31 to have committed a misdemeanor who is being transferred for

1 criminal prosecution pursuant to either s. 985.226 or s.
2 985.227 to be detained or held in a jail or other facility
3 intended or used for the detention of adults; however, such
4 child may be held temporarily in a detention facility; or

5 (b) When a child taken into custody in this state is
6 wanted by another jurisdiction for prosecution as an adult.

7
8 The child shall be housed separately from adult inmates to
9 prohibit a child from having regular contact with incarcerated
10 adults, including trustees. "Regular contact" means sight and
11 sound contact. Separation of children from adults shall permit
12 no more than haphazard or accidental contact. The receiving
13 jail or other facility shall contain a separate section for
14 children and shall have an adequate staff to supervise and
15 monitor the child's activities at all times. Supervision and
16 monitoring of children includes physical observation and
17 documented checks by jail or receiving facility supervisory
18 personnel at intervals not to exceed 15 minutes. This
19 paragraph does not prohibit placing two or more children in
20 the same cell. Under no circumstances shall a child be placed
21 in the same cell with an adult.

22 (5)(a) A child may not be placed into or held in
23 secure, nonsecure, or home detention care for longer than 24
24 hours unless the court orders such detention care, and the
25 order includes specific instructions that direct the release
26 of the child from such detention care, in accordance with
27 subsection (2). The order shall be a final order, reviewable
28 by appeal pursuant to s. 985.234 and the Florida Rules of
29 Appellate Procedure. Appeals of such orders shall take
30 precedence over other appeals and other pending matters.

31

1 (b) A child may not be held in secure, nonsecure, or
2 home detention care under a special detention order for more
3 than 21 days unless an adjudicatory hearing for the case has
4 been commenced by the court.

5 (c) A child may not be held in secure, nonsecure, or
6 home detention care for more than 15 days following the entry
7 of an order of adjudication.

8 (d) The time limits in paragraphs (b) and (c) do not
9 include periods of delay resulting from a continuance granted
10 by the court for cause on motion of the child or his or her
11 counsel or of the state. Upon the issuance of an order
12 granting a continuance for cause on a motion by either the
13 child, the child's counsel, or the state, the court shall
14 conduct a hearing at the end of each 72-hour period, excluding
15 Saturdays, Sundays, and legal holidays, to determine the need
16 for continued detention of the child and the need for further
17 continuance of proceedings for the child or the state.

18 (6) When any child is placed into secure, nonsecure,
19 or home detention care or into other placement pursuant to a
20 court order following a detention hearing, the court shall
21 order the natural or adoptive parents of such child, the
22 natural father of such child born out of wedlock who has
23 acknowledged his paternity in writing before the court, or the
24 guardian of such child's estate, if possessed of assets which
25 under law may be disbursed for the care, support, and
26 maintenance of the child, to pay to the Department of Juvenile
27 Justice, or institution having custody of the child, fees
28 equal to the actual cost of the care, support, and maintenance
29 of the child, as established by the Department of Juvenile
30 Justice, unless the court determines that the parent or
31 guardian of the child is indigent. The court may reduce the

1 fees or waive the fees upon a showing by the parent or
2 guardian of an inability to pay the full cost of the care,
3 support, and maintenance of the child. In addition, the court
4 may waive the fees if it finds that the child's parent or
5 guardian was the victim of the child's delinquent act or
6 violation of law or if the court finds that the parent or
7 guardian has made a diligent and good faith effort to prevent
8 the child from engaging in the delinquent act or violation of
9 law. With respect to a child who has been found to have
10 committed a delinquent act or violation of law, whether or not
11 adjudication is withheld, and whose parent or guardian
12 receives public assistance for any portion of that child's
13 care, the department must seek a federal waiver to garnish or
14 otherwise order the payments of the portion of the public
15 assistance relating to that child to offset the costs of
16 providing care, custody, maintenance, rehabilitation,
17 intervention, or corrective services to the child. When the
18 order affects the guardianship estate, a certified copy of the
19 order shall be delivered to the judge having jurisdiction of
20 the guardianship estate. The department may employ a
21 collection agency for the purpose of receiving, collecting,
22 and managing the payment of unpaid and delinquent fees. The
23 collection agency must be registered and in good standing
24 under chapter 559. The department may pay to the collection
25 agency a fee from the amount collected under the claim or may
26 authorize the agency to deduct the fee from the amount
27 collected.

28 (7) If a child is detained and a petition for
29 delinquency is filed, the child shall be arraigned in
30 accordance with the Florida Rules of Juvenile Procedure within
31 48 hours after the filing of the petition for delinquency.

1 (8) If a child is detained pursuant to this section,
2 the Department of Juvenile Justice may transfer the child from
3 nonsecure or home detention care to secure detention care only
4 if significantly changed circumstances warrant such transfer.

5 (9) If a child is on release status and not detained
6 pursuant to this section, the child may be placed into secure,
7 nonsecure, or home detention care only pursuant to a court
8 hearing in which the original risk assessment instrument,
9 rescored based on newly discovered evidence or changed
10 circumstances with the results recommending detention, is
11 introduced into evidence.

12 (10)(a)1. When a child is committed to the Department
13 of Juvenile Justice awaiting dispositional placement, removal
14 of the child from detention care shall occur within 5 days,
15 excluding Saturdays, Sundays, and legal holidays. Any child
16 held in secure detention during the 5 days must meet detention
17 admission criteria pursuant to this section. If the child is
18 committed to a moderate-risk residential program, the
19 department may seek an order from the court authorizing
20 continued detention for a specific period of time necessary
21 for the appropriate residential placement of the child.
22 However, such continued detention in secure detention care may
23 not exceed 15 days after commitment, excluding Saturdays,
24 Sundays, and legal holidays, and except as otherwise provided
25 in this subsection.

26 2. The court must place all children who are
27 adjudicated and awaiting placement in a residential commitment
28 program in detention care. Children who are in home detention
29 care or nonsecure detention care may be placed on electronic
30 monitoring. A child committed to a moderate-risk residential
31

1 program may be held in a juvenile assignment center pursuant
2 to s. 985.307 until placement or commitment is accomplished.

3 (b) A child who is placed in home detention care,
4 nonsecure detention care, or home or nonsecure detention care
5 with electronic monitoring, while awaiting placement in a
6 low-risk or moderate-risk program, may be held in secure
7 detention care for 5 days, if the child violates the
8 conditions of the home detention care, the nonsecure detention
9 care, or the electronic monitoring agreement. For any
10 subsequent violation, the court may impose an additional 5
11 days in secure detention care.

12 (c) If the child is committed to a high-risk
13 residential program, the child must be held in detention care
14 or in a juvenile assignment center pursuant to s. 985.307
15 until placement or commitment is accomplished.

16 (d) If the child is committed to a maximum-risk
17 residential program, the child must be held in detention care
18 or in an assignment center pursuant to s. 985.307 until
19 placement or commitment is accomplished.

20 (e) Upon specific appropriation, the department may
21 obtain comprehensive evaluations, including, but not limited
22 to, medical, academic, psychological, behavioral,
23 sociological, and vocational needs of a youth with multiple
24 arrests for all level criminal acts or a youth committed to a
25 minimum-risk or low-risk commitment program.

26 (11)(a) When a juvenile sexual offender is placed in
27 detention, detention staff shall provide appropriate
28 monitoring and supervision to ensure the safety of other
29 children in the facility.

30 (b) When a juvenile sexual offender, pursuant to this
31 subsection, is released from detention or transferred to home

1 detention or nonsecure detention, detention staff shall
2 immediately notify the appropriate law enforcement agency and
3 school personnel.

4 Section 4. For the purpose of incorporating the
5 amendment to section 985.215, Florida Statutes, 1998
6 Supplement, in references thereto, subsection (8) of section
7 790.22, Florida Statutes, subsection (1) of section 985.208,
8 Florida Statutes, 1998 Supplement, subsections (2) and (4) of
9 section 985.211, Florida Statutes, 1998 Supplement, subsection
10 (5) of section 985.219, Florida Statutes, subsection (1) of
11 section 985.228, Florida Statutes, and paragraph (a) of
12 subsection (1) of section 985.231, Florida Statutes, 1998
13 Supplement, are reenacted to read:

14 790.22 Use of BB guns, air or gas-operated guns, or
15 electric weapons or devices by minor under 16; limitation;
16 possession of firearms by minor under 18 prohibited;
17 penalties.--

18 (8) Notwithstanding s. 985.213 or s. 985.215(1), if a
19 minor under 18 years of age is charged with an offense that
20 involves the use or possession of a firearm, as defined in s.
21 790.001, other than a violation of subsection (3), or is
22 charged for any offense during the commission of which the
23 minor possessed a firearm, the minor shall be detained in
24 secure detention, unless the state attorney authorizes the
25 release of the minor, and shall be given a hearing within 24
26 hours after being taken into custody. At the hearing, the
27 court may order that the minor continue to be held in secure
28 detention in accordance with the applicable time periods
29 specified in s. 985.215(5), if the court finds that the minor
30 meets the criteria specified in s. 985.215(2), or if the court
31 finds by clear and convincing evidence that the minor is a

1 clear and present danger to himself or herself or the
2 community. The Department of Juvenile Justice shall prepare a
3 form for all minors charged under this subsection that states
4 the period of detention and the relevant demographic
5 information, including, but not limited to, the sex, age, and
6 race of the minor; whether or not the minor was represented by
7 private counsel or a public defender; the current offense; and
8 the minor's complete prior record, including any pending
9 cases. The form shall be provided to the judge to be
10 considered when determining whether the minor should be
11 continued in secure detention under this subsection. An order
12 placing a minor in secure detention because the minor is a
13 clear and present danger to himself or herself or the
14 community must be in writing, must specify the need for
15 detention and the benefits derived by the minor or the
16 community by placing the minor in secure detention, and must
17 include a copy of the form provided by the department. The
18 Department of Juvenile Justice must send the form, including a
19 copy of any order, without client-identifying information, to
20 the Office of Economic and Demographic Research.

21 985.208 Detention of furloughed child or escapee on
22 authority of the department.--

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

1 special order so directing is made by the judge after a
2 detention hearing resulting in a finding that detention is
3 required based on the criteria in s. 985.215(2). The order
4 shall state the reasons for such finding. The reasons shall be
5 reviewable by appeal or in habeas corpus proceedings in the
6 district court of appeal.

7 985.211 Release or delivery from custody.--

8 (2) Unless otherwise ordered by the court pursuant to
9 s. 985.215, and unless there is a need to hold the child, a
10 person taking a child into custody shall attempt to release
11 the child as follows:

12 (a) To the child's parent, guardian, or legal
13 custodian or, if the child's parent, guardian, or legal
14 custodian is unavailable, unwilling, or unable to provide
15 supervision for the child, to any responsible adult. Prior to
16 releasing the child to a responsible adult, other than the
17 parent, guardian, or legal custodian, the person taking the
18 child into custody may conduct a criminal history background
19 check of the person to whom the child is to be released. If
20 the person has a prior felony conviction, or a conviction for
21 child abuse, drug trafficking, or prostitution, that person is
22 not a responsible adult for the purposes of this section. The
23 person to whom the child is released shall agree to inform the
24 department or the person releasing the child of the child's
25 subsequent change of address and to produce the child in court
26 at such time as the court may direct, and the child shall join
27 in the agreement.

28 (b) Contingent upon specific appropriation, to a
29 shelter approved by the department or to an authorized agent
30 pursuant to s. 39.401(2)(b).

31

1 (c) If the child is believed to be suffering from a
2 serious physical condition which requires either prompt
3 diagnosis or prompt treatment, to a law enforcement officer
4 who shall deliver the child to a hospital for necessary
5 evaluation and treatment.

6 (d) If the child is believed to be mentally ill as
7 defined in s. 394.463(1), to a law enforcement officer who
8 shall take the child to a designated public receiving facility
9 as defined in s. 394.455 for examination pursuant to the
10 provisions of s. 394.463.

11 (e) If the child appears to be intoxicated and has
12 threatened, attempted, or inflicted physical harm on himself
13 or herself or another, or is incapacitated by substance abuse,
14 to a law enforcement officer who shall deliver the child to a
15 hospital, addictions receiving facility, or treatment
16 resource.

17 (f) If available, to a juvenile assessment center
18 equipped and staffed to assume custody of the child for the
19 purpose of assessing the needs of the child in custody. The
20 center may then release or deliver the child pursuant to this
21 section with a copy of the assessment.

22 (4) A person taking a child into custody who
23 determines, pursuant to s. 985.215, that the child should be
24 detained or released to a shelter designated by the
25 department, shall make a reasonable effort to immediately
26 notify the parent, guardian, or legal custodian of the child
27 and shall, without unreasonable delay, deliver the child to
28 the appropriate juvenile probation officer or, if the court
29 has so ordered pursuant to s. 985.215, to a detention center
30 or facility. Upon delivery of the child, the person taking the
31 child into custody shall make a written report or probable

1 cause affidavit to the appropriate juvenile probation officer.

2 Such written report or probable cause affidavit must:

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

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

9 985.219 Process and service.--

10 (5) If the petition alleges that the child has
11 committed a delinquent act or violation of law and the judge
12 deems it advisable to do so, pursuant to the criteria of s.
13 985.215, the judge may, by endorsement upon the summons and
14 after the entry of an order in which valid reasons are
15 specified, order the child to be taken into custody
16 immediately, and in such case the person serving the summons
17 shall immediately take the child into custody.

18 985.228 Adjudicatory hearings; withheld adjudications;
19 orders of adjudication.--

20 (1) The adjudicatory hearing must be held as soon as
21 practicable after the petition alleging that a child has
22 committed a delinquent act or violation of law is filed and in
23 accordance with the Florida Rules of Juvenile Procedure; but
24 reasonable delay for the purpose of investigation, discovery,
25 or procuring counsel or witnesses shall be granted. If the
26 child is being detained, the time limitations provided for in
27 s. 985.215(5)(b) and (c) apply.

28 985.231 Powers of disposition in delinquency cases.--

29 (1)(a) The court that has jurisdiction of an
30 adjudicated delinquent child may, by an order stating the
31

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

25 a. A restrictiveness level classification scale for
26 levels of supervision shall be provided by the department,
27 taking into account the child's needs and risks relative to
28 community control supervision requirements to reasonably
29 ensure the public safety. Community control programs for
30 children shall be supervised by the department or by any other
31 person or agency specifically authorized by the court. These

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

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

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

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

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

5 (II) Place the child on home detention with electronic
6 monitoring. However, this sanction may be used only if a
7 residential consequence unit is not available.

8 (III) Modify or continue the child's community control
9 program or aftercare program.

10 (IV) Revoke community control or aftercare and commit
11 the child to the department.

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

18 2. Commit the child to a licensed child-caring agency
19 willing to receive the child, but the court may not commit the
20 child to a jail or to a facility used primarily as a detention
21 center or facility or shelter.

22 3. Commit the child to the Department of Juvenile
23 Justice at a restrictiveness level defined in s. 985.03(45).
24 Such commitment must be for the purpose of exercising active
25 control over the child, including, but not limited to,
26 custody, care, training, urine monitoring, and treatment of
27 the child and furlough of the child into the community.
28 Notwithstanding s. 743.07 and paragraph (d), and except as
29 provided in s. 985.31, the term of the commitment must be
30 until the child is discharged by the department or until he or
31 she reaches the age of 21.

1 4. Revoke or suspend the driver's license of the
2 child.

3 5. Require the child and, if the court finds it
4 appropriate, the child's parent or guardian together with the
5 child, to render community service in a public service
6 program.

7 6. As part of the community control program to be
8 implemented by the Department of Juvenile Justice, or, in the
9 case of a committed child, as part of the community-based
10 sanctions ordered by the court at the disposition hearing or
11 before the child's release from commitment, order the child to
12 make restitution in money, through a promissory note cosigned
13 by the child's parent or guardian, or in kind for any damage
14 or loss caused by the child's offense in a reasonable amount
15 or manner to be determined by the court. The clerk of the
16 circuit court shall be the receiving and dispensing agent. In
17 such case, the court shall order the child or the child's
18 parent or guardian to pay to the office of the clerk of the
19 circuit court an amount not to exceed the actual cost incurred
20 by the clerk as a result of receiving and dispensing
21 restitution payments. The clerk shall notify the court if
22 restitution is not made, and the court shall take any further
23 action that is necessary against the child or the child's
24 parent or guardian. A finding by the court, after a hearing,
25 that the parent or guardian has made diligent and good faith
26 efforts to prevent the child from engaging in delinquent acts
27 absolves the parent or guardian of liability for restitution
28 under this subparagraph.

29 7. Order the child and, if the court finds it
30 appropriate, the child's parent or guardian together with the
31 child, to participate in a community work project, either as

1 an alternative to monetary restitution or as part of the
2 rehabilitative or community control program.

3 8. Commit the child to the Department of Juvenile
4 Justice for placement in a program or facility for serious or
5 habitual juvenile offenders in accordance with s. 985.31. Any
6 commitment of a child to a program or facility for serious or
7 habitual juvenile offenders must be for an indeterminate
8 period of time, but the time may not exceed the maximum term
9 of imprisonment that an adult may serve for the same offense.
10 The court may retain jurisdiction over such child until the
11 child reaches the age of 21, specifically for the purpose of
12 the child completing the program.

13 9. In addition to the sanctions imposed on the child,
14 order the parent or guardian of the child to perform community
15 service if the court finds that the parent or guardian did not
16 make a diligent and good faith effort to prevent the child
17 from engaging in delinquent acts. The court may also order the
18 parent or guardian to make restitution in money or in kind for
19 any damage or loss caused by the child's offense. The court
20 shall determine a reasonable amount or manner of restitution,
21 and payment shall be made to the clerk of the circuit court as
22 provided in subparagraph 6.

23 10. Subject to specific appropriation, commit the
24 juvenile sexual offender to the Department of Juvenile Justice
25 for placement in a program or facility for juvenile sexual
26 offenders in accordance with s. 985.308. Any commitment of a
27 juvenile sexual offender to a program or facility for juvenile
28 sexual offenders must be for an indeterminate period of time,
29 but the time may not exceed the maximum term of imprisonment
30 that an adult may serve for the same offense. The court may
31 retain jurisdiction over a juvenile sexual offender until the

1 juvenile sexual offender reaches the age of 21, specifically
2 for the purpose of completing the program.

3 Section 5. This act shall take effect July 1, 1999.

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LEGISLATIVE SUMMARY

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8 Revises criteria for the holding in detention of a child
9 who is charged with committing an offense of domestic
10 violence and who does not meet detention criteria.
11 Provides that such a child may not be held in secure,
12 nonsecure, or home detention more than a specified period
13 unless ordered by the court. Provides for a hearing under
14 specified circumstances when there is request for
15 continued detention. Revises criteria for the continued
16 detention, and provides for time limitations. Provides
17 that under certain circumstances a child shall be
18 detained pursuant to a pickup order issued by a court
19 until the detention hearing is provided. Revises criteria
20 for continued detention. Provides that under certain
21 circumstances a child whose underlying offense qualifies
22 the child for detention and who is alleged to have
23 violated supervision may be held in a consequence unit in
24 lieu of secure detention. Provides detention for a
25 specified period, and subsequent placement on home
26 detention with electronic monitoring if a consequence
27 unit is not available, for a child alleged to have
28 committed a second or subsequent violation of community
29 control. Provides for continued detention up to 5 days of
30 a child detained on a judicial order for failure to
31 appear at two or more court hearings on the same case,
regardless of the risk assessment instrument. Specifies
consequences of the child's failure to keep the court and
defense counsel informed of a current mailing address.

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