

By the Committee on Criminal Justice and Senator Webster

307-1943-99

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. A child placed
15 in home detention under this subparagraph shall not be placed
16 in the home where the victim resides when necessary to protect
17 the victim from further injury.

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

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

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

29 Section 2. For the purpose of incorporating the
30 amendments to section 985.213, Florida Statutes, 1998
31 Supplement, and section 985.215, Florida Statutes, 1998

1 Supplement, in references thereto, subsection (20) of section
2 985.03, Florida Statutes, 1998 Supplement, is reenacted to
3 read:

4 985.03 Definitions.--When used in this chapter, the
5 term:

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

10 Section 3. Section 985.215, Florida Statutes, 1998
11 Supplement, is amended to read:

12 985.215 Detention.--

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

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

28 (b) The juvenile probation officer shall base the
29 decision whether or not to place the child into secure
30 detention care, home detention care, or nonsecure detention
31 care on an assessment of risk in accordance with the risk

1 assessment instrument and procedures developed by the
2 Department of Juvenile Justice under s. 985.213.

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

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

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

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

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

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

31

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

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

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

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

17 2. Has a record of law violations prior to court
18 hearings;

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

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

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

24 (g) The child is alleged to have violated the
25 conditions of the child's community control or aftercare
26 supervision, and the underlying offense qualifies the child
27 for detention. A court may order a child who qualifies for
28 secure detention pursuant to this paragraph to be held in a
29 consequence unit in lieu of secure detention. If the
30 underlying offense does not qualify a child for detention

31 ~~However, the a child may be~~ detained under this paragraph ~~may~~

1 ~~be held only~~ in a consequence unit as provided in s.
2 985.231(1)(a)1.c. If a consequence unit is not available for a
3 child alleged to have committed a first violation of community
4 control, the child shall be placed on home detention with
5 electronic monitoring. A child alleged to have committed a
6 second violation of community control may be detained for 48
7 hours and then placed on home detention with electronic
8 monitoring if a consequence unit is not available. A child
9 alleged to have committed a third or subsequent violation of
10 community control may be detained for 5 days and then placed
11 on home detention with electronic monitoring if a consequence
12 unit is not available. For purposes of this subsection, a
13 second or subsequent violation of community control may occur
14 while the initial violation is still pending before the court.

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

25
26 A child who meets any of these criteria and who is ordered to
27 be detained pursuant to this subsection shall be given a
28 hearing within 24 hours after being taken into custody. The
29 purpose of the detention hearing is to determine the existence
30 of probable cause that the child has committed the delinquent
31 act or violation of law with which he or she is charged and

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

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

28 (4) The court shall order the delivery of a child to a
29 jail or other facility intended or used for the detention of
30 adults:

31

1 (a) When the child has been transferred or indicted
2 for criminal prosecution as an adult pursuant to this part,
3 except that the court may not order or allow a child alleged
4 to have committed a misdemeanor who is being transferred for
5 criminal prosecution pursuant to either s. 985.226 or s.
6 985.227 to be detained or held in a jail or other facility
7 intended or used for the detention of adults; however, such
8 child may be held temporarily in a detention facility; or

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

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

26 (5)(a) A child may not be placed into or held in
27 secure, nonsecure, or home detention care for longer than 24
28 hours unless the court orders such detention care, and the
29 order includes specific instructions that direct the release
30 of the child from such detention care, in accordance with
31 subsection (2). The order shall be a final order, reviewable

1 by appeal pursuant to s. 985.234 and the Florida Rules of
2 Appellate Procedure. Appeals of such orders shall take
3 precedence over other appeals and other pending matters.

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

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

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

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

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

31

1 (7) If a child is detained and a petition for
2 delinquency is filed, the child shall be arraigned in
3 accordance with the Florida Rules of Juvenile Procedure within
4 48 hours after the filing of the petition for delinquency.

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

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

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

30 2. The court must place all children who are
31 adjudicated and awaiting placement in a residential commitment

1 program in detention care. Children who are in home detention
2 care or nonsecure detention care may be placed on electronic
3 monitoring. A child committed to a moderate-risk residential
4 program may be held in a juvenile assignment center pursuant
5 to s. 985.307 until placement or commitment is accomplished.

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

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

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

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

29 (11)(a) When a juvenile sexual offender is placed in
30 detention, detention staff shall provide appropriate
31

1 monitoring and supervision to ensure the safety of other
2 children in the facility.

3 (b) When a juvenile sexual offender, pursuant to this
4 subsection, is released from detention or transferred to home
5 detention or nonsecure detention, detention staff shall
6 immediately notify the appropriate law enforcement agency and
7 school personnel.

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

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

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

1 detention in accordance with the applicable time periods
2 specified in s. 985.215(5), if the court finds that the minor
3 meets the criteria specified in s. 985.215(2), or if the court
4 finds by clear and convincing evidence that the minor is a
5 clear and present danger to himself or herself or the
6 community. The Department of Juvenile Justice shall prepare a
7 form for all minors charged under this subsection that states
8 the period of detention and the relevant demographic
9 information, including, but not limited to, the sex, age, and
10 race of the minor; whether or not the minor was represented by
11 private counsel or a public defender; the current offense; and
12 the minor's complete prior record, including any pending
13 cases. The form shall be provided to the judge to be
14 considered when determining whether the minor should be
15 continued in secure detention under this subsection. An order
16 placing a minor in secure detention because the minor is a
17 clear and present danger to himself or herself or the
18 community must be in writing, must specify the need for
19 detention and the benefits derived by the minor or the
20 community by placing the minor in secure detention, and must
21 include a copy of the form provided by the department. The
22 Department of Juvenile Justice must send the form, including a
23 copy of any order, without client-identifying information, to
24 the Office of Economic and Demographic Research.

25 985.208 Detention of furloughed child or escapee on
26 authority of the department.--

27 (1) If an authorized agent of the department has
28 reasonable grounds to believe that any delinquent child
29 committed to the department has escaped from a facility of the
30 department or from being lawfully transported thereto or
31 therefrom, the agent may take the child into active custody

1 and may deliver the child to the facility or, if it is closer,
2 to a detention center for return to the facility. However, a
3 child may not be held in detention longer than 24 hours,
4 excluding Saturdays, Sundays, and legal holidays, unless a
5 special order so directing is made by the judge after a
6 detention hearing resulting in a finding that detention is
7 required based on the criteria in s. 985.215(2). The order
8 shall state the reasons for such finding. The reasons shall be
9 reviewable by appeal or in habeas corpus proceedings in the
10 district court of appeal.

11 985.211 Release or delivery from custody.--

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

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

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

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

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

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

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

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

1 has so ordered pursuant to s. 985.215, to a detention center
2 or facility. Upon delivery of the child, the person taking the
3 child into custody shall make a written report or probable
4 cause affidavit to the appropriate juvenile probation officer.
5 Such written report or probable cause affidavit must:

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

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

12 985.219 Process and service.--

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

21 985.228 Adjudicatory hearings; withheld adjudications;
22 orders of adjudication.--

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

31 985.231 Powers of disposition in delinquency cases.--

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

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

27 a. A restrictiveness level classification scale for
28 levels of supervision shall be provided by the department,
29 taking into account the child's needs and risks relative to
30 community control supervision requirements to reasonably
31 ensure the public safety. Community control programs for

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

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

28 c. If the conditions of the community control program
29 or the aftercare program are violated, the agent supervising
30 the program as it relates to the child involved, or the state
31 attorney, may bring the child before the court on a petition

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

1 | violated the conditions of community control or aftercare, the
2 | court may:

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

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

10 | (III) Modify or continue the child's community control
11 | program or aftercare program.

12 | (IV) Revoke community control or aftercare and commit
13 | the child to the department.

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

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

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

1 until the child is discharged by the department or until he or
2 she reaches the age of 21.

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

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

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

31

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

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

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

26 10. Subject to specific appropriation, commit the
27 juvenile sexual offender to the Department of Juvenile Justice
28 for placement in a program or facility for juvenile sexual
29 offenders in accordance with s. 985.308. Any commitment of a
30 juvenile sexual offender to a program or facility for juvenile
31 sexual offenders must be for an indeterminate period of time,

1 but the time may not exceed the maximum term of imprisonment
2 that an adult may serve for the same offense. The court may
3 retain jurisdiction over a juvenile sexual offender until the
4 juvenile sexual offender reaches the age of 21, specifically
5 for the purpose of completing the program.

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

7
8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 Senate Bill 1634

11 Ensures that when it is necessary to protect the victim from
12 domestic violence injury, the juvenile charged with committing
13 domestic violence can not be placed on home detention in the
14 home where the victim resides.
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31