

By Representative Murman

1 A bill to be entitled
2 An act relating to delinquent acts or criminal
3 offenses committed by juveniles; amending s.
4 90.610, F.S., relating to conviction of certain
5 crimes as impeachment; providing that certain
6 adjudications of delinquency are admissible
7 into evidence for impeachment purposes;
8 providing an exception; amending s. 921.0021,
9 F.S.; redefining the term "prior record" with
10 respect to specified provisions relating to
11 sentencing; providing for scoring as adult
12 offenses of an offender's prior juvenile
13 offenses that would be crimes if committed by
14 an adult; amending s. 943.0515, F.S., relating
15 to retention of criminal history records of
16 minors; providing for an minor offender's
17 criminal history record of forcible or
18 nonforcible felonies to be merged and retained
19 as a part of the person's adult criminal
20 history record, under specified circumstances;
21 amending s. 985.03, F.S.; defining "violation
22 of supervision" with respect to specified
23 provisions relating to delinquency; amending s.
24 985.04, F.S., relating to oaths, records, and
25 confidential information; providing for public
26 disclosure of orders of disposition and
27 criminal history records showing juvenile
28 offenses charged and their resolution;
29 providing for a withholding of an adjudication
30 of delinquency or an adjudication of guilt to
31 be considered a conviction for certain purposes

1 relating to disclosure of the records;
2 reenacting s. 985.31(4)(k), F.S., relating to
3 serious or habitual juvenile offenders, to
4 incorporate said amendment in a reference;
5 amending s. 985.05, F.S., relating to court
6 records; providing for nonapplicability of
7 certain recordkeeping requirements to
8 nonconfidential juvenile history records;
9 providing for admissibility in other civil or
10 criminal proceedings of certain court records
11 of juvenile proceedings; providing for merger
12 of a defendant's record of prior delinquent
13 acts with the defendant's adult record, under
14 specified circumstances; amending s. 985.201,
15 F.S.; correcting a cross reference for purposes
16 of application to terms of certain restitution
17 orders; amending s. 985.21, F.S.; deleting an
18 authorization for a juvenile probation officer
19 to make certain recommendations to the state
20 attorney; clarifying certain contents of intake
21 reports; requiring the State Attorney and
22 Department of Juvenile Justice district
23 managers to enter into certain interagency
24 agreements for certain purposes; amending s.
25 985.211, F.S., relating to release or delivery
26 from custody; providing for reference to
27 violation of supervision in certain written
28 reports or probable cause affidavits; amending
29 s. 985.225, F.S.; requiring transfer certain
30 felony cases relating to certain children to
31 adult court for prosecution as an adult;

1 providing for application of certain penalties
2 certain felony cases under certain
3 circumstances; amending s. 985.226, F.S.,
4 relating to criteria for discretionary waiver
5 and mandatory waiver of juvenile court
6 jurisdiction; providing for the state attorney
7 to file motion requesting the court to transfer
8 a child of at least 14 years of age for
9 criminal prosecution, under specified
10 circumstances; providing for exceptions;
11 requiring transfer certain felony cases
12 relating to certain children to adult court for
13 prosecution as an adult; providing for
14 application of certain penalties certain felony
15 cases under certain circumstances; amending s.
16 985.227, F.S., relating to discretionary
17 direct-file criteria and mandatory direct-file
18 criteria; permitting the filing of an
19 information when a child was 14 or 15 years of
20 age at the time the child attempted to commit
21 any one of specified offenses; revising the
22 list of specified offenses to include certain
23 additional offenses; requiring the state
24 attorney to file an information for certain
25 illegal acts when the child committing the act
26 is at least 16 years of age and has a specified
27 history of delinquent acts; revising duties of
28 the court and guidelines for transfer of cases
29 pertaining to the child when a child is
30 transferred for adult prosecution; providing
31 for application of certain penalties in certain

1 felony cases; removing requirement for annual
2 updating by state attorney of direct-file
3 policies and guidelines; providing that the
4 information filed pursuant to specified
5 provisions may include all charges which are
6 based on the same act, criminal episode, or
7 transaction as the primary offense; amending s.
8 985.228, F.S.; specifying disqualification for
9 possessing a firearm until a certain age for
10 persons adjudicated delinquent for certain
11 felony offenses; amending s. 790.23, F.S.;
12 limiting a prohibition against possession of
13 firearms or weapons by certain persons under
14 certain circumstances; amending s. 985.231,
15 F.S.; excluding aftercare from certain
16 disposition provisions; revising powers of
17 disposition in delinquency cases; conforming
18 references; providing for exceptions to conform
19 to changes made by the act; amending s.
20 985.233, F.S., relating to sentencing powers,
21 procedures, and dispositional alternatives for
22 juveniles prosecuted as adults; revising
23 sentencing alternatives in cases when a child
24 is prosecuted on indictment and other cases;
25 providing that a court may withhold
26 adjudication of guilt and place the child on
27 probation or community control to be supervised
28 by the Department of Juvenile Justice, under
29 specified circumstances; providing for
30 completion of a residential program under the
31 Department of Juvenile Justice as a special

1 condition of the probation or community
2 control; authorizing a judge in adult court to
3 access the juvenile commitment programs for
4 sentencing purposes; prohibiting imposition of
5 certain sentencing alternatives and juvenile
6 sanctions and prohibiting withholding of
7 adjudication as an adult when the state
8 attorney's motion to transfer and certify the
9 child for prosecution as an adult is granted
10 under specified provisions; revising guidelines
11 for sentencing to juvenile sanctions; providing
12 duties of the Department of Juvenile Justice
13 and the court under conditions of offender
14 violation of commitment or supervision;
15 providing for arrest and hearing; providing for
16 imposition of adult sentencing under certain
17 circumstances; providing for the scope of
18 certain sanctions and a return of custody to
19 the sentencing court under certain
20 circumstances; removing requirement that the
21 court stay adjudication of guilt when the child
22 is sentenced to juvenile sanctions under
23 specified provisions; removing provisions that
24 the adjudication of delinquency shall not be
25 deemed to be a conviction or operate to impose
26 civil disabilities resulting from a conviction;
27 removing prohibition against the imposition of
28 a combination of juvenile and adult sanctions;
29 reenacting s. 985.225(3), relating to
30 indictment of a juvenile, and s. 985.31(3)(k),
31 relating to serious or habitual juvenile

1 offender, to incorporate said amendment in
2 references; amending s. 985.309, F.S., relating
3 to criteria for placement of child in a boot
4 camp program; providing for boot camp placement
5 in connection with a juvenile disposition of a
6 child at least 14 years of age who has not
7 entered a plea of guilty or nolo contendere to,
8 or been adjudicated of, a capital felony, life
9 felony, or violent felony of the first degree;
10 providing for early intervention boot camp
11 placement of a child at least 12 years of age
12 under specified circumstances; providing for
13 certain minimum periods of participation in
14 aftercare; authorizing operation of an early
15 intervention boot camp program by the
16 Department of Juvenile Justice, or a county or
17 municipality; providing purpose of program;
18 providing criteria for disqualification from
19 participation in the early intervention boot
20 camp program; reenacting s. 985.231(1)(j),
21 relating to powers of disposition in
22 delinquency cases, s. 985.31(3)(i), relating to
23 serious or habitual juvenile offender, s.
24 985.311(3)(i), relating to intensive
25 residential treatment programs for offenders
26 less than 13 years of age, and s.
27 985.314(1)(a), relating to commitment program
28 for juvenile felony offenders, to incorporate
29 said amendment in references; amending s.
30 985.404, F.S., relating to administration of
31 the juvenile justice continuum; specifying

1 factors to be considered in the report ranking
2 commitment programs; providing for measuring
3 the recidivism rate for certain programs;
4 amending s. 985.219, F.S.; providing for
5 assessing an additional civil penalty against
6 parents, legal guardians, or adult relatives
7 under certain circumstances; repealing s.
8 985.218(6), F.S., relating to adjudicatory
9 hearings for children committing delinquent
10 acts or violations of law; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 90.610, Florida Statutes, is
16 amended to read:

17 90.610 Conviction of certain crimes or adjudication of
18 delinquency as impeachment.--

19 (1) A party may attack the credibility of any witness,
20 including an accused, by evidence that the witness has been
21 convicted of a crime if the crime was punishable by death or
22 imprisonment in excess of 1 year under the law under which the
23 witness was convicted, or if the crime involved dishonesty or
24 a false statement regardless of the punishment. However, with
25 ~~the following exceptions:~~

26 ~~(a)~~ evidence of any such conviction is inadmissible in
27 a civil trial if it is so remote in time as to have no bearing
28 on the present character of the witness.

29 ~~(b) Evidence of juvenile adjudications are~~
30 ~~inadmissible under this subsection.~~

31

1 (2) A party may attack the credibility of any witness,
2 including an accused, by evidence of an adjudication of
3 delinquency for an act that would be punishable by death or
4 imprisonment in excess of 1 year if the act were committed by
5 an adult under the law under which the witness was adjudicated
6 delinquent, or if the delinquent act involved dishonesty or a
7 false statement regardless of punishment. However, evidence of
8 any such adjudication of delinquency is inadmissible to
9 impeach a person 24 years of age or older.

10 ~~(3)~~~~(2)~~ The pendency of an appeal or the granting of a
11 pardon relating to such crime or delinquent act does not
12 render evidence of the conviction or adjudication of
13 delinquency from which the appeal was taken or for which the
14 pardon was granted inadmissible. Evidence of the pendency of
15 the appeal is admissible.

16 ~~(4)~~~~(3)~~ Nothing in this section affects the
17 admissibility of evidence under s. 90.404 or s. 90.608.

18 Section 2. Subsection (5) of section 921.0021, Florida
19 Statutes, 1998 Supplement, is amended to read:

20 921.0021 Definitions.--As used in this chapter, for
21 any felony offense, except any capital felony, committed on or
22 after October 1, 1998, the term:

23 (5) "Prior record" means a conviction for a crime
24 committed by the offender, as an adult or a juvenile, prior to
25 the time of the primary offense. Convictions by federal,
26 out-of-state, military, or foreign courts, and convictions for
27 violations of county or municipal ordinances that incorporate
28 by reference a penalty under state law, are included in the
29 offender's prior record. Convictions for offenses committed
30 by the offender more than 10 years before the primary offense
31 are not included in the offender's prior record if the

1 offender has not been convicted of any other crime for a
2 period of 10 consecutive years from the most recent date of
3 release from confinement, supervision, or sanction, whichever
4 is later, to the date of the primary offense. All of an
5 offender's prior juvenile history of acts that would be crimes
6 if committed by an adult shall be scored and considered to the
7 same extent as offenses committed by an adult. For the
8 purposes of this subsection, a withholding of adjudication of
9 delinquency or a withholding of adjudication of guilt shall be
10 considered a conviction ~~Juvenile dispositions of offenses~~
11 ~~committed by the offender within 3 years before the primary~~
12 ~~offense are included in the offender's prior record when the~~
13 ~~offense would have been a crime had the offender been an adult~~
14 ~~rather than a juvenile. Juvenile dispositions of sexual~~
15 ~~offenses committed by the offender which were committed 3~~
16 ~~years or more before the primary offense are included in the~~
17 ~~offender's prior record if the offender has not maintained a~~
18 ~~conviction-free record, either as an adult or a juvenile, for~~
19 ~~a period of 3 consecutive years from the most recent date of~~
20 ~~release from confinement, supervision, or sanction, whichever~~
21 ~~is later, to the date of the primary offense.~~

22 Section 3. Subsection (2) of section 943.0515, Florida
23 Statutes, 1998 Supplement, is amended to read:

24 943.0515 Retention of criminal history records of
25 minors.--

26 (2)(a) If a person is convicted or has adjudication
27 withheld for a 18 years of age or older is charged with or
28 ~~convicted of a forcible~~ felony and the person's criminal
29 history record as a minor has not yet been destroyed, the
30 person's record as a minor must be merged with the person's
31

1 adult criminal history record and must be retained as a part
2 of the person's adult record.

3 (b) If, at any time, a minor is adjudicated as an
4 adult for a ~~forcible~~ felony, the minor's criminal history
5 record prior to the time of the minor's adjudication as an
6 adult must be merged with his or her record as an adjudicated
7 adult.

8 Section 4. Subsection (59) of section 985.03, Florida
9 Statutes, 1998 Supplement, is renumbered as subsection (60)
10 and new subsection (59) is added to said section to read:

11 985.03 Definitions.--When used in this chapter, the
12 term:

13 (59) "Violation of supervision" means a violation of
14 community control or a violation of any other sanction that is
15 imposed as a result of a disposition of a delinquent act,
16 including, but not limited to, furlough, aftercare, or any
17 violation occurring during home detention or home visits.

18 Section 5. Subsection (3) of section 985.04, Florida
19 Statutes, 1998 Supplement, is amended, and subsection (9) is
20 added to said section, to read:

21 985.04 Oaths; records; confidential information.--

22 (3)(a) Except as provided in subsections (2), (4),
23 (5), ~~and~~ (6), and (9)and s. 943.053, all information obtained
24 under this part in the discharge of official duty by any
25 judge, any employee of the court, any authorized agent of the
26 Department of Juvenile Justice, the Parole Commission, the
27 Juvenile Justice Advisory Board, the Department of
28 Corrections, the district juvenile justice boards, any law
29 enforcement agent, or any licensed professional or licensed
30 community agency representative participating in the
31 assessment or treatment of a juvenile is confidential and may

1 be disclosed only to the authorized personnel of the court,
2 the Department of Juvenile Justice and its designees, the
3 Department of Corrections, the Parole Commission, the Juvenile
4 Justice Advisory Board, law enforcement agents, school
5 superintendents and their designees, any licensed professional
6 or licensed community agency representative participating in
7 the assessment or treatment of a juvenile, and others entitled
8 under this chapter to receive that information, or upon order
9 of the court. Within each county, the sheriff, the chiefs of
10 police, the district school superintendent, and the department
11 shall enter into an interagency agreement for the purpose of
12 sharing information about juvenile offenders among all
13 parties. The agreement must specify the conditions under which
14 summary criminal history information is to be made available
15 to appropriate school personnel, and the conditions under
16 which school records are to be made available to appropriate
17 department personnel. Such agreement shall require
18 notification to any classroom teacher of assignment to the
19 teacher's classroom of a juvenile who has been placed in a
20 community control or commitment program for a felony offense.
21 The agencies entering into such agreement must comply with s.
22 943.0525, and must maintain the confidentiality of information
23 that is otherwise exempt from s. 119.07(1), as provided by
24 law.

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

1 chapter 794, chapter 796, chapter 800, s. 827.071, or s.
2 847.0133, regardless of adjudication. Any employee of a
3 district school board who knowingly and willfully discloses
4 such information to an unauthorized person commits a
5 misdemeanor of the second degree, punishable as provided in s.
6 775.082 or s. 775.083.

7 (9) Notwithstanding any other provision to the
8 contrary, orders of disposition and criminal history records
9 showing juvenile offenses charged, and how such offenses were
10 resolved, are public records and are not confidential.

11 Section 6. For the purpose of incorporating the
12 amendment to s. 985.04, Florida Statutes, 1998 Supplement, in
13 a reference thereto, paragraph (k) of subsection (4) of
14 section 985.31, Florida Statutes, 1998 Supplement, is
15 reenacted to read:

16 985.31 Serious or habitual juvenile offender.--

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

18 (k) Assessment and treatment records are confidential
19 as described in this paragraph and exempt from the provisions
20 of s. 119.07(1) and s. 24(a), Art. I of the State
21 Constitution.

22 1. The department shall have full access to the
23 assessment and treatment records to ensure coordination of
24 services to the child.

25 2. The principles of confidentiality of records as
26 provided in s. 985.04 shall apply to the assessment and
27 treatment records of serious or habitual juvenile offenders.

28 Section 7. Subsection (1) of section 985.05, Florida
29 Statutes, is amended, and paragraph (f) is added to subsection
30 (4) of said section, to read:

31 985.05 Court records.--

1 (1) The clerk of the court shall make and keep records
2 of all cases brought before it pursuant to this part. The
3 court shall preserve the records pertaining to a child charged
4 with committing a delinquent act or violation of law until the
5 child reaches 24 years of age or reaches 26 years of age if he
6 or she is a serious or habitual delinquent child, ~~until 5~~
7 ~~years after the last entry was made, or until 3 years after~~
8 ~~the death of the child, whichever is earlier, and may then~~
9 ~~destroy them, except that records made of traffic offenses in~~
10 ~~which there is no allegation of delinquency may be destroyed~~
11 ~~as soon as this can be reasonably accomplished. If a defendant~~
12 ~~is sentenced for a felony committed before reaching 24 years~~
13 ~~of age, the clerk shall merge any juvenile criminal history~~
14 ~~records of such person, showing juvenile offenses charged and~~
15 ~~how such offenses were resolved, with his or her adult record.~~
16 ~~Records merged pursuant to this section are not confidential.~~
17 The court shall make official records of all petitions and
18 orders filed in a case arising pursuant to this part and of
19 any other pleadings, certificates, proofs of publication,
20 summonses, warrants, and writs that are filed pursuant to the
21 case.

22 (4) A court record of proceedings under this part is
23 not admissible in evidence in any other civil or criminal
24 proceeding, except that:

25 (f) Records that are not confidential as provided in
26 s. 985.04(9) are admissible to the same extent that records of
27 offenses committed by adults are admissible.

28 Section 8. Paragraph (c) of subsection (4) of section
29 985.201, Florida Statutes, is amended to read:

30 985.201 Jurisdiction.--

31 (4)

1 (c) The court may retain jurisdiction over a child and
2 the child's parent or legal guardian whom the court has
3 ordered to pay restitution until the restitution order is
4 satisfied or until the court orders otherwise. If the court
5 retains such jurisdiction after the date upon which the
6 court's jurisdiction would cease under this section, it shall
7 do so solely for the purpose of enforcing the restitution
8 order. The terms of the restitution order are subject to the
9 provisions of s. 775.089(5)~~(6)~~.

10 Section 9. Subsection (4) of section 985.21, Florida
11 Statutes, 1998 Supplement, is amended to read:

12 985.21 Intake and case management.--

13 (4) The juvenile probation officer shall make a
14 preliminary determination as to whether the report, affidavit,
15 or complaint is complete, consulting with the state attorney
16 as may be necessary. In any case where the juvenile probation
17 officer or the state attorney finds that the report,
18 affidavit, or complaint is insufficient by the standards for a
19 probable cause affidavit, the juvenile probation officer or
20 state attorney shall return the report, affidavit, or
21 complaint, without delay, to the person or agency originating
22 the report, affidavit, or complaint or having knowledge of the
23 facts or to the appropriate law enforcement agency having
24 investigative jurisdiction of the offense, and shall request,
25 and the person or agency shall promptly furnish, additional
26 information in order to comply with the standards for a
27 probable cause affidavit.

28 ~~(a) The juvenile probation officer, upon determining~~
29 ~~that the report, affidavit, or complaint is complete, may, in~~
30 ~~the case of a child who is alleged to have committed a~~
31 ~~delinquent act or violation of law, recommend that the state~~

1 ~~attorney file a petition of delinquency or an information or~~
2 ~~seek an indictment by the grand jury. However, such a~~
3 ~~recommendation is not a prerequisite for any action taken by~~
4 ~~the state attorney.~~

5 (a)~~(b)~~ The juvenile probation officer, upon
6 determining that the report, affidavit, or complaint is
7 complete, pursuant to uniform procedures established by the
8 department, shall:

9 1. When indicated by the preliminary screening,
10 provide for a comprehensive assessment of the child and family
11 for substance abuse problems, using community-based licensed
12 programs with clinical expertise and experience in the
13 assessment of substance abuse problems.

14 2. When indicated by the preliminary screening,
15 provide for a comprehensive assessment of the child and family
16 for mental health problems, using community-based
17 psychologists, psychiatrists, or other licensed mental health
18 professionals with clinical expertise and experience in the
19 assessment of mental health problems.

20
21 When indicated by the comprehensive assessment, the department
22 is authorized to contract within appropriated funds for
23 services with a local nonprofit community mental health or
24 substance abuse agency licensed or authorized under chapter
25 394, or chapter 397, or other authorized nonprofit social
26 service agency providing related services. The determination
27 of mental health or substance abuse services shall be
28 conducted in coordination with existing programs providing
29 mental health or substance abuse services in conjunction with
30 the intake office. Client information resulting from the
31 screening and evaluation shall be documented pursuant to rules

1 established by the department and shall serve to assist the
2 juvenile probation officer in providing the most appropriate
3 services and recommendations in the least intrusive manner.
4 Such client information shall be used in the multidisciplinary
5 assessment and classification of the child, but such
6 information, and any information obtained directly or
7 indirectly through the assessment process, is inadmissible in
8 court prior to the disposition hearing, unless the child's
9 written consent is obtained. At the disposition hearing,
10 documented client information shall serve to assist the court
11 in making the most appropriate custody, adjudicatory, and
12 dispositional decision. If the screening and assessment
13 indicate that the interest of the child and the public will be
14 best served thereby, the juvenile probation officer, with the
15 approval of the state attorney, may refer the child for care,
16 diagnostic and evaluation services, substance abuse treatment
17 services, mental health services, retardation services, a
18 diversionary or arbitration or mediation program, community
19 service work, or other programs or treatment services
20 voluntarily accepted by the child and the child's parents or
21 legal guardians. The victim, if any, and the law enforcement
22 agency which investigated the offense shall be notified
23 immediately by the state attorney of the action taken under
24 this paragraph. Whenever a child volunteers to participate in
25 any work program under this chapter or volunteers to work in a
26 specified state, county, municipal, or community service
27 organization supervised work program or to work for the
28 victim, the child shall be considered an employee of the state
29 for the purposes of liability. In determining the child's
30 average weekly wage, unless otherwise determined by a specific
31 funding program, all remuneration received from the employer

1 is considered a gratuity, and the child is not entitled to any
2 benefits otherwise payable under s. 440.15, regardless of
3 whether the child may be receiving wages and remuneration from
4 other employment with another employer and regardless of the
5 child's future wage-earning capacity.

6 (b)~~(c)~~ The juvenile probation officer, upon
7 determining that the report, affidavit, or complaint complies
8 with the standards of a probable cause affidavit and that the
9 interest of the child and the public will be best served, may
10 recommend that a delinquency petition not be filed. If such a
11 recommendation is made, the juvenile probation officer shall
12 advise in writing the person or agency making the report,
13 affidavit, or complaint, the victim, if any, and the law
14 enforcement agency having investigative jurisdiction of the
15 offense of the recommendation and the reasons therefor; and
16 that the person or agency may submit, within 10 days after the
17 receipt of such notice, the report, affidavit, or complaint to
18 the state attorney for special review. The state attorney,
19 upon receiving a request for special review, shall consider
20 the facts presented by the report, affidavit, or complaint,
21 and by the juvenile probation officer who made the
22 recommendation that no petition be filed, before making a
23 final decision as to whether a petition or information should
24 or should not be filed.

25 (c)~~(d)~~ In all cases in which the child is alleged to
26 have committed a violation of law or delinquent act and is not
27 detained, the juvenile probation officer shall submit a
28 written report to the state attorney, including the original
29 report, complaint, or affidavit, or a copy thereof, including
30 a copy of the child's prior juvenile record, within 20 days
31 after the date the child is taken into custody. In cases in

1 which the child is in detention, the intake office report must
2 be submitted within 24 hours after the child is placed into
3 detention. The intake office report may include a
4 recommendation ~~must recommend either~~ that a petition or
5 information be filed or that no petition or information be
6 filed, and may ~~must~~ set forth reasons for the recommendation.
7 The State Attorney and the Department of Juvenile Justice
8 district manager in each district shall enter into an
9 interagency agreement denoting the cases which will require a
10 recommendation and those for which a recommendation is
11 unnecessary.

12 (d)~~(e)~~ The state attorney may in all cases take action
13 independent of the action or lack of action of the juvenile
14 probation officer, and shall determine the action which is in
15 the best interest of the public and the child. If the child
16 meets the criteria requiring prosecution as an adult pursuant
17 to s. 985.226, the state attorney shall request the court to
18 transfer and certify the child for prosecution as an adult or
19 shall provide written reasons to the court for not making such
20 request. In all other cases, the state attorney may:

- 21 1. File a petition for dependency;
- 22 2. File a petition pursuant to chapter 984;
- 23 3. File a petition for delinquency;
- 24 4. File a petition for delinquency with a motion to
25 transfer and certify the child for prosecution as an adult;
- 26 5. File an information pursuant to s. 985.227;
- 27 6. Refer the case to a grand jury;
- 28 7. Refer the child to a diversionary, pretrial
29 intervention, arbitration, or mediation program, or to some
30 other treatment or care program if such program commitment is
31

1 voluntarily accepted by the child or the child's parents or
2 legal guardians; or

3 8. Decline to file.

4 ~~(e)(f)~~ In cases in which a delinquency report,
5 affidavit, or complaint is filed by a law enforcement agency
6 and the state attorney determines not to file a petition, the
7 state attorney shall advise the clerk of the circuit court in
8 writing that no petition will be filed thereon.

9 Section 10. Paragraph (b) of subsection (4) of section
10 985.211, Florida Statutes, 1998 Supplement, is amended to
11 read:

12 985.211 Release or delivery from custody.--

13 (4) A person taking a child into custody who
14 determines, pursuant to s. 985.215, that the child should be
15 detained or released to a shelter designated by the
16 department, shall make a reasonable effort to immediately
17 notify the parent, guardian, or legal custodian of the child
18 and shall, without unreasonable delay, deliver the child to
19 the appropriate juvenile probation officer or, if the court
20 has so ordered pursuant to s. 985.215, to a detention center
21 or facility. Upon delivery of the child, the person taking the
22 child into custody shall make a written report or probable
23 cause affidavit to the appropriate juvenile probation officer.
24 Such written report or probable cause affidavit must:

25 (b) Establish that the child was legally taken into
26 custody, with sufficient information to establish the
27 jurisdiction of the court and to make a prima facie showing
28 that the child has committed a violation of law or a violation
29 of supervision.

30 Section 11. Subsection (4) of section 985.225, Florida
31 Statutes, is amended to read:

1 985.225 Indictment of a juvenile.--

2 (4)(a) Once a child has been indicted pursuant to this
3 subsection and has been found to have committed any offense
4 for which he or she was indicted as a part of the criminal
5 episode, the child shall be handled thereafter in every
6 respect as if an adult for any subsequent violation of state
7 law, unless the court imposes juvenile sanctions under s.
8 985.233.

9 (b) When a child has been indicted pursuant to this
10 subsection the court shall immediately transfer and certify to
11 the adult court all felony cases pertaining to the child, for
12 prosecution of the child as an adult, which have not yet
13 resulted in a plea of guilty or nolo contendere or in which a
14 finding of guilt has not been made. If the child is acquitted
15 of all charged offenses or lesser included offenses contained
16 in the indictment case, all felony cases which were
17 transferred to adult court pursuant to this paragraph shall be
18 subject to the same penalties such cases were subject to
19 before being transferred to adult court.

20 Section 12. Subsection (6) of section 985.218, Florida
21 Statutes, 1998 Supplement, is repealed.

22 Section 13. Subsections (2) and (4) of section
23 985.226, Florida Statutes, 1998 Supplement, are amended to
24 read:

25 985.226 Criteria for waiver of juvenile court
26 jurisdiction; hearing on motion to transfer for prosecution as
27 an adult.--

28 (2) INVOLUNTARY WAIVER.--

29 (a) Discretionary ~~involuntary~~ waiver.--Except as
30 provided in paragraph (b),the state attorney may file a
31 motion requesting the court to transfer the child for criminal

1 prosecution if the child was 14 years of age or older at the
2 time the alleged delinquent act or violation of law was
3 committed.

4 (b) Mandatory waiver.--

5 1. If the child was 14 years of age or older, and if
6 the child has been previously adjudicated delinquent for an
7 act classified as a felony, which adjudication was for the
8 commission of, attempt to commit, or conspiracy to commit
9 murder, sexual battery, armed or strong-armed robbery,
10 carjacking, home-invasion robbery, aggravated battery, or
11 aggravated assault, or burglary with an assault or battery,
12 and the child is currently charged with a second or subsequent
13 violent crime against a person; or, the state attorney shall
14 file a motion requesting the court to transfer and certify the
15 juvenile for prosecution as an adult, or proceed pursuant to
16 s. 985.227(1).

17 ~~2.(b) Mandatory involuntary waiver.--~~If the child was
18 14 years of age or older at the time of commission of a fourth
19 or subsequent alleged felony offense and the child was
20 previously adjudicated delinquent or had adjudication withheld
21 for or was found to have committed, or to have attempted or
22 conspired to commit, three offenses that are felony offenses
23 if committed by an adult, and one or more of such felony
24 offenses involved the use or possession of a firearm or
25 violence against a person;7

26
27 the state attorney shall request the court to transfer and
28 certify the child for prosecution as an adult or shall provide
29 written reasons to the court for not making such request, or
30 proceed pursuant to s. 985.227(1). Upon the state attorney's
31 request, the court shall either enter an order transferring

1 the case and certifying the case for trial as if the child
2 were an adult or provide written reasons for not issuing such
3 an order.

4 (4) EFFECT OF ORDER WAIVING JURISDICTION.--

5 ~~(a) If the court finds, after a waiver hearing under~~
6 ~~subsection (3), that a juvenile who was 14 years of age or~~
7 ~~older at the time the alleged violation of state law was~~
8 ~~committed should be charged and tried as an adult, the court~~
9 ~~shall enter an order transferring the case and certifying the~~
10 ~~case for trial as if the child were an adult. The child shall~~
11 ~~thereafter be subject to prosecution, trial, and sentencing as~~
12 ~~if the child were an adult but subject to the provisions of s.~~
13 ~~985.233. Once a child has been transferred for criminal~~
14 ~~prosecution pursuant to an involuntary waiver hearing and has~~
15 ~~been found to have committed the presenting offense or a~~
16 ~~lesser included offense, the child shall thereafter be handled~~
17 ~~in every respect as an adult for any subsequent violation of~~
18 ~~state law, unless the court imposes juvenile sanctions under~~
19 ~~s. 985.233.~~

20 (b) When a child is transferred for criminal
21 prosecution as an adult, the court shall immediately transfer
22 and certify to the adult court all felony cases pertaining to
23 the child, for prosecution of the child as an adult, which
24 have not yet resulted in a plea of guilty or nolo contendere
25 or in which a finding of guilt has not been made. If the child
26 is acquitted of all charged offenses or lesser included
27 offenses contained in the original case transferred to adult
28 court, all felony cases which were transferred to adult court
29 pursuant to this paragraph shall be subject to the same
30 penalties such cases were subject to before being transferred
31 to adult court.

1 Section 14. Subsections (1), (2), (3), and (4) of
2 section 985.227, Florida Statutes, are amended, and new
3 subsection (5) is added to said section, to read:

4 985.227 Prosecution of juveniles as adults by the
5 direct filing of an information in the criminal division of
6 the circuit court; discretionary criteria; mandatory
7 criteria.--

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

9 (a) With respect to any child who was 14 or 15 years
10 of age at the time the alleged offense was committed, the
11 state attorney may file an information when in the state
12 attorney's judgment and discretion the public interest
13 requires that adult sanctions be considered or imposed and
14 when the offense charged is for the commission of, attempt to
15 commit, or conspiracy to commit:

16 1. Arson;

17 2. Sexual battery;

18 3. Robbery;

19 4. Kidnapping;

20 5. Aggravated child abuse;

21 6. Aggravated assault;

22 7. Aggravated stalking;

23 8. Murder;

24 9. Manslaughter;

25 10. Unlawful throwing, placing, or discharging of a
26 destructive device or bomb;

27 11. Armed burglary in violation of s. 810.02(2)(b) or
28 specified burglary of a dwelling or structure in violation of
29 s. 810.02(2)(c), or burglary with an assault or battery in
30 violation of s. 810.02(2)(a);

31 12. Aggravated battery;

1 13. Lewd or lascivious assault or act in the presence
2 of a child;

3 14. Carrying, displaying, using, threatening, or
4 attempting to use a weapon or firearm during the commission of
5 a felony; or

6 15. Grand theft in violation of s. 812.014(2)(a);~~;~~

7 16. Home invasion robbery; or

8 17. Carjacking.

9 (b) Except as provided in subsection (2),with respect
10 to any child who was 16 or 17 years of age at the time the
11 alleged offense was committed, the state attorney may file an
12 information when in the state attorney's judgment and
13 discretion the public interest requires that adult sanctions
14 be considered or imposed. Except as provided in subsection (2)
15 ~~However~~, the state attorney may not file an information on a
16 child charged with a misdemeanor, unless the child has had at
17 least two previous adjudications or adjudications withheld for
18 delinquent acts, one of which involved an offense classified
19 as a felony under state law.

20 (2) MANDATORY DIRECT FILE.--

21 (a) With respect to any child who was 16 or 17 years
22 of age at the time the alleged offense was committed, the
23 state attorney shall file an information if the child has been
24 previously adjudicated delinquent for an act classified as a
25 felony, which adjudication was for the commission of, attempt
26 to commit, or conspiracy to commit murder, sexual battery,
27 armed or strong-armed robbery, carjacking, home-invasion
28 robbery, aggravated battery, or aggravated assault, and the
29 child is currently charged with a second or subsequent violent
30 crime against a person.

31

1 (b) The state attorney must file an information
2 charging a person as an adult for an offense committed by any
3 child if the child is 16 years of age or older at the time of
4 the offense that would be a misdemeanor or a felony, if
5 committed by an adult, and either:

6 1. The child has received adjudications of
7 delinquency, or adjudications of delinquency have been
8 withheld for the child, for three acts which would be
9 felonies, if committed by an adult; or

10 2. The child has received adjudications of
11 delinquency, or adjudications of delinquency have been
12 withheld for the child, for six acts which would be either
13 felonies or misdemeanors, if committed by an adult.

14
15 However, an act shall not be counted as an additional act
16 under this paragraph if it occurred within 45 days of another
17 act that is counted towards the maximum number of offenses
18 under this paragraph that a juvenile may commit before adult
19 sanctions must be imposed. Multiple counts within a case shall
20 be considered one offense for the purposes of this paragraph
21 ~~Notwithstanding subsection (1), regardless of the child's age~~
22 ~~at the time the alleged offense was committed, the state~~
23 ~~attorney must file an information with respect to any child~~
24 ~~who previously has been adjudicated for offenses which, if~~
25 ~~committed by an adult, would be felonies and such~~
26 ~~adjudications occurred at three or more separate delinquency~~
27 ~~adjudicatory hearings, and three of which resulted in~~
28 ~~residential commitments as defined in s. 985.03(45).~~

29 (c) The state attorney must file an information if a
30 child, regardless of the child's age at the time the alleged
31 offense was committed, is alleged to have committed an act

1 that would be a violation of law if the child were an adult,
2 that involves stealing a motor vehicle, including, but not
3 limited to, a violation of s. 812.133, relating to carjacking,
4 or s. 812.014(2)(c)6., relating to grand theft of a motor
5 vehicle, and while the child was in possession of the stolen
6 motor vehicle the child caused serious bodily injury to or the
7 death of a person who was not involved in the underlying
8 offense. For purposes of this section, the driver and all
9 willing passengers in the stolen motor vehicle at the time
10 such serious bodily injury or death is inflicted shall also be
11 subject to mandatory transfer to adult court. "Stolen motor
12 vehicle," for the purposes of this section, means a motor
13 vehicle that has been the subject of any criminal wrongful
14 taking. For purposes of this section, "willing passengers"
15 means all willing passengers who have participated in the
16 underlying offense.

17 (3) EFFECT OF DIRECT FILE.--

18 (a) Once a child has been transferred for criminal
19 prosecution pursuant to an information and has been found to
20 have committed the presenting offense or a lesser included
21 offense, the child shall be handled thereafter in every
22 respect as if an adult for any subsequent violation of state
23 law, unless the court imposes juvenile sanctions under s.
24 985.233.

25 (b) When a child is transferred for criminal
26 prosecution as an adult, the court shall immediately transfer
27 and certify to the adult ~~appropriate~~ court all felony
28 ~~preadjudicatory~~ cases pertaining to the child, for prosecution
29 of the child as an adult, which have not yet resulted in a
30 plea of guilty or nolo contendere or in which a finding of
31 guilt has not been made. If a child is acquitted of all

1 charged offenses or lesser included offenses contained in the
2 original case transferred to adult court, all felony cases
3 which were transferred to adult court as a result of this
4 paragraph shall be subject to the same penalties to which such
5 cases would have been subject before being transferred to
6 adult court that pertain to that child which are pending in
7 juvenile court, including, but not limited to, all cases
8 involving offenses that occur or are referred between the date
9 of transfer and sentencing in adult court and all outstanding
10 juvenile disposition orders. The juvenile court shall make
11 every effort to dispose of all predispositional cases and
12 transfer those cases to the adult court prior to adult
13 sentencing. It is the intent of the Legislature to require all
14 cases occurring prior to the sentencing hearing in adult court
15 to be handled by the adult court for final resolution with the
16 original transfer case.

17 (c) When a child has been transferred for criminal
18 prosecution as an adult and has been found to have committed a
19 violation of state law, the disposition of the case may be
20 made under s. 985.233 and may include the enforcement of any
21 restitution ordered in any juvenile proceeding.

22 (4) DIRECT-FILE POLICIES AND GUIDELINES.--Each state
23 attorney shall develop ~~and annually update~~ written policies
24 and guidelines to govern determinations for filing an
25 information on a juvenile, to be submitted to the Executive
26 Office of the Governor, the President of the Senate, the
27 Speaker of the House of Representatives, and the Juvenile
28 Justice Advisory Board not later than January 1 of each year.

29 (5) An information filed pursuant to this section may
30 include all charges which are based on the same act, criminal
31 episode, or transaction as the primary offenses.

1 Section 15. Subsection (7) is added to section
2 985.228, Florida Statutes, to read:

3 985.228 Adjudicatory hearings; withheld adjudications;
4 orders of adjudication.--

5 (7) Notwithstanding any other provision of law, an
6 adjudication of delinquency for an offense classified as a
7 felony shall disqualify a person from lawfully possessing a
8 firearm until such person reaches 24 years of age.

9 Section 16. Subsection (1) of section 790.23, Florida
10 Statutes, 1998 Supplement, is amended to read:

11 790.23 Felons and delinquents; possession of firearms
12 or electric weapons or devices unlawful.--

13 (1) It is unlawful for any person to own or to have in
14 his or her care, custody, possession, or control any firearm
15 or electric weapon or device, or to carry a concealed weapon,
16 including a tear gas gun or chemical weapon or device, if that
17 person has been:

18 (a) ~~Convicted of a felony or found to have committed a~~
19 ~~delinquent act that would be a felony if committed by an adult~~
20 ~~in the courts of this state;~~

21 (b) Found, in the courts of this state, to have
22 committed a delinquent act that would be a felony if committed
23 by an adult and such person is under 24 years of age.

24 (c)~~(b)~~ Convicted of or found to have committed a crime
25 against the United States which is designated as a felony;

26 (d)~~(c)~~ Found to have committed a delinquent act in
27 another state, territory, or country that would be a felony if
28 committed by an adult and which was punishable by imprisonment
29 for a term exceeding 1 year and such person is under 24 years
30 of age; or

31

1 (e)~~(d)~~ Found guilty of an offense that is a felony in
2 another state, territory, or country and which was punishable
3 by imprisonment for a term exceeding 1 year.

4 Section 17. Paragraph (a) of subsection (1) of section
5 985.231, Florida Statutes, 1998 Supplement, is amended to
6 read:

7 985.231 Powers of disposition in delinquency cases.--

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

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

1 detecting and monitoring the use of alcohol or controlled
2 substances.

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

28 b. The court may conduct judicial review hearings for
29 a child placed on community control for the purpose of
30 fostering accountability to the judge and compliance with
31 other requirements, such as restitution and community service.

1 The court may allow early termination of community control for
2 a child who has substantially complied with the terms and
3 conditions of community control.
4 c. If the conditions of the community control program
5 ~~or the aftercare program~~ are violated, the agent supervising
6 the program as it relates to the child involved, or the state
7 attorney, may bring the child before the court on an affidavit
8 ~~petition~~ alleging a violation of the program. Any child who
9 violates the conditions of community control ~~or aftercare~~ must
10 be brought before the court if sanctions are sought. A child
11 taken into custody under s. 985.207 for violating the
12 conditions of community control ~~or aftercare~~ shall be held in
13 a consequence unit if such a unit is available. The child
14 shall be afforded a hearing within 24 hours after being taken
15 into custody to determine the existence of probable cause that
16 the child violated the conditions of community control ~~or~~
17 ~~aftercare~~. A consequence unit is a secure facility
18 specifically designated by the department for children who are
19 taken into custody under s. 985.207 for violating community
20 control ~~or aftercare~~, or who have been found by the court to
21 have violated the conditions of community control ~~or~~
22 ~~aftercare~~. If the violation involves a new charge of
23 delinquency, the child may be detained under s. 985.215 in a
24 facility other than a consequence unit. If the child is not
25 eligible for detention for the new charge of delinquency, the
26 child may be held in the consequence unit pending a hearing
27 and is subject to the time limitations specified in s.
28 985.215. If the child denies violating the conditions of
29 community control ~~or aftercare~~, the court shall appoint
30 counsel to represent the child at the child's request. Upon
31 the child's admission, or if the court finds after a hearing

1 that the child has violated the conditions of community
2 control ~~or aftercare~~, the court shall enter an order revoking,
3 modifying, or continuing community control ~~or aftercare~~. In
4 each such case, the court shall enter a new disposition order
5 and, in addition to the sanctions set forth in this paragraph,
6 may impose any sanction the court could have imposed at the
7 original disposition hearing. If the child is found to have
8 violated the conditions of community control ~~or aftercare~~, the
9 court may:

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

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

17 (III) Modify or continue the child's community control
18 program ~~or aftercare program~~.

19 (IV) Revoke community control ~~or aftercare~~ and commit
20 the child to the department.

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

27 2. Commit the child to a licensed child-caring agency
28 willing to receive the child, ~~but~~ The court may not commit
29 the child to a jail or to a facility used primarily as a
30 detention center or facility or shelter.

31

1 3. Commit the child to the Department of Juvenile
2 Justice at a restrictiveness level defined in s. 985.03(45).
3 Such commitment must be for the purpose of exercising active
4 control over the child, including, but not limited to,
5 custody, care, training, urine monitoring, and treatment of
6 the child and furlough of the child into the community.
7 Notwithstanding s. 743.07 and paragraph (d), and except as
8 provided in s. 985.31, the term of the commitment must be
9 until the child is discharged by the department or until he or
10 she reaches the age of 21.

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

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

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

1 restitution is not made, and the court shall take any further
2 action that is necessary against the child or the child's
3 parent or guardian. A finding by the court, after a hearing,
4 that the parent or guardian has made diligent and good faith
5 efforts to prevent the child from engaging in delinquent acts
6 absolves the parent or guardian of liability for restitution
7 under this subparagraph.

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

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

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

1 and payment shall be made to the clerk of the circuit court as
2 provided in subparagraph 6.

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

14 Section 18. Subsection (4) of section 985.233, Florida
15 Statutes, is amended to read:

16 985.233 Sentencing powers; procedures; alternatives
17 for juveniles prosecuted as adults.--

18 (4) SENTENCING ALTERNATIVES.--

19 (a) Sentencing to adult sanctions.--

20 1. Cases prosecuted on indictment.--If the child is
21 found to have committed the offense punishable by death or
22 life imprisonment, the child shall be sentenced as an adult.
23 If the juvenile is not found to have committed the indictable
24 offense but is found to have committed a lesser included
25 offense or any other offense for which he or she was indicted
26 as a part of the criminal episode, the court may sentence as
27 follows:

28 a. As an adult ~~pursuant to this section;~~

29 b. By withholding adjudication of guilt as an adult
30 and committing the offender to a residential program with the
31 Department of Juvenile Justice. Such residential program must

1 be followed by aftercare, postcommitment community control, or
2 other supervision by the department or a provider under
3 contract with the department for a minimum of 1 year after the
4 conclusion of the residential program. The court shall order
5 appropriate conditions of supervision and commitment and
6 violations of such conditions shall be prosecuted pursuant to
7 s. 985.233(4)(d). A judge in adult court shall have the
8 authority to access programs of the Department of Juvenile
9 Justice for purposes of sentencing a person pursuant to this
10 provision;

11 ~~c.b.~~ Pursuant to chapter 958, ~~notwithstanding any~~
12 ~~other provision of that chapter to the contrary; or~~

13 ~~d.e.~~ As a juvenile pursuant to this section.

14 2. Other cases.--If a child who has been transferred
15 for criminal prosecution pursuant to information or waiver of
16 juvenile court jurisdiction is found to have committed a
17 violation of state law or a lesser included offense for which
18 he or she was charged as a part of the criminal episode, the
19 court may sentence as follows:

20 a. As an adult ~~pursuant to this section;~~

21 b. By withholding adjudication of guilt as an adult
22 and committing the offender to a residential program with the
23 Department of Juvenile Justice. Such residential program must
24 be followed by aftercare, postcommitment community control, or
25 other supervision by the department or a provider under
26 contract with the department for a minimum of 1 year after the
27 conclusion of the residential program. The court shall order
28 appropriate conditions of supervision and commitment and
29 violations of such conditions shall be prosecuted pursuant to
30 s. 985.233(4)(d). A judge in adult court shall have the
31 authority to access programs of the Department of Juvenile

1 Justice for purposes of sentencing a person pursuant to this
2 provision;

3 ~~c.b.~~ Pursuant to chapter 958, ~~notwithstanding any~~
4 ~~other provision of that chapter to the contrary;~~ or

5 ~~d.c.~~ As a juvenile pursuant to this section.

6 3. Notwithstanding any other provision to the
7 contrary, if the state attorney is required to file a motion
8 to transfer and certify the juvenile for prosecution as an
9 adult pursuant to s. 985.226(2)(b) and that motion is granted,
10 or if the state attorney is required to file an information
11 pursuant to s. 985.227(2)(a) or (b), the court may not impose
12 juvenile sanctions or impose a sentence pursuant to
13 subparagraph 1.b. or subparagraph 2.b.

14 ~~4.3.~~ Any sentence imposing adult sanctions is presumed
15 appropriate, and the court is not required to set forth
16 specific findings or enumerate the criteria in this subsection
17 as any basis for its decision to impose adult sanctions.

18 ~~5.4.~~ When a child has been transferred for criminal
19 prosecution as an adult and has been found to have committed a
20 violation of state law, the disposition of the case may
21 include the enforcement of any restitution ordered in any
22 juvenile proceeding.

23 (b) Sentencing to juvenile sanctions.--For juveniles
24 transferred to adult court but who do not qualify for such
25 transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or
26 (b), the court may impose juvenile sanctions under this
27 paragraph. The court shall ~~In order to use this paragraph, the~~
28 ~~court shall stay adjudication of guilt and instead shall~~
29 ~~adjudge the child to have committed a delinquent act.~~
30 ~~Adjudication of delinquency shall not be deemed a conviction,~~
31 ~~nor shall it operate to impose any of the civil disabilities~~

1 ~~ordinarily resulting from a conviction. The court shall impose~~
2 ~~an adult sanction or a juvenile sanction and may not sentence~~
3 ~~the child to a combination of adult and juvenile punishments.~~
4 ~~An adult sanction or a juvenile sanction may include~~
5 ~~enforcement of an order of restitution or community control~~
6 ~~previously ordered in any juvenile proceeding. However, if the~~
7 ~~court imposes a juvenile sanction and the department~~
8 ~~determines that the sanction is unsuitable for the child, the~~
9 ~~department shall return custody of the child to the sentencing~~
10 ~~court for further proceedings, including the imposition of~~
11 ~~adult sanctions.~~ Upon adjudicating a child delinquent under
12 subsection (1), the court may:

13 1. Place the child in a community control program
14 under the supervision of the department for an indeterminate
15 period of time until the child reaches the age of 19 years or
16 sooner if discharged by order of the court.

17 2. Commit the child to the department for treatment in
18 an appropriate program for children for an indeterminate
19 period of time until the child is 21 or sooner if discharged
20 by the department. The department shall notify the court of
21 its intent to discharge no later than 14 days prior to
22 discharge. Failure of the court to timely respond to the
23 department's notice shall be considered approval for
24 discharge.

25 3. Order disposition pursuant to s. 985.231 as an
26 alternative to youthful offender or adult sentencing if the
27 court determines not to impose youthful offender or adult
28 sanctions.

29 (c) Imposition of adult sanctions upon failure of
30 juvenile sanctions.--If a child proves not to be suitable to a
31 community control program or for a treatment program under the

1 provisions of subparagraph (b)2., the court may revoke the
2 previous adjudication, impose an adjudication of guilt,
3 classify the child as a youthful offender when appropriate,
4 and impose any sentence which it may lawfully impose, giving
5 credit for all time spent by the child in the department.

6 (d) Violation of commitment or supervision.--If an
7 offender violates the conditions of commitment, aftercare,
8 postcommitment community control, or other supervision and an
9 adjudication of guilt as an adult was withheld for such
10 offender pursuant to s. 985.233(4)(b)1.b. or s.
11 985.233(4)(b)2.b., the Department of Juvenile Justice shall
12 file an affidavit with the sentencing court alleging the
13 violation. Upon receiving the affidavit, the court shall
14 issue a warrant for the arrest of the offender and hold a
15 hearing on the merits of the affidavit. If the offender if
16 found to be in violation, the court may revoke the previous
17 commitment or supervision and impose any lawful adult sentence
18 that does not include supervision or commitment by the
19 Department of Juvenile Justice, giving credit for all time
20 spent under the department.

21 (e)~~(d)~~ Recoupment of cost of care in juvenile justice
22 facilities.--When the court orders commitment of a child to
23 the Department of Juvenile Justice for treatment in any of the
24 department's programs for children, the court shall order the
25 natural or adoptive parents of such child, the natural father
26 of such child born out of wedlock who has acknowledged his
27 paternity in writing before the court, or guardian of such
28 child's estate, if possessed of assets which under law may be
29 disbursed for the care, support, and maintenance of the child,
30 to pay fees to the department equal to the actual cost of the
31 care, support, and maintenance of the child, unless the court

1 determines that the parent or legal guardian of the child is
2 indigent. The court may reduce the fees or waive the fees upon
3 a showing by the parent or guardian of an inability to pay the
4 full cost of the care, support, and maintenance of the child.
5 In addition, the court may waive the fees if it finds that the
6 child's parent or guardian was the victim of the child's
7 delinquent act or violation of law or if the court finds that
8 the parent or guardian has made a diligent and good faith
9 effort to prevent the child from engaging in the delinquent
10 act or violation of law. When the order affects the
11 guardianship estate, a certified copy of the order shall be
12 delivered to the judge having jurisdiction of the guardianship
13 estate.

14 (f)~~(e)~~ Further proceedings heard in adult court.--When
15 a child is sentenced to juvenile sanctions, further
16 proceedings involving those sanctions shall continue to be
17 heard in the adult court.

18 (g) Scope of sanction; custody return to sentencing
19 court.--An adult sanction or a juvenile sanction may include
20 enforcement of an order of restitution or community control
21 previously ordered in any juvenile proceeding. However, if the
22 court imposes a juvenile sanction and the department
23 determines that the sanction is unsuitable for the child, the
24 department shall return custody of the child to the sentencing
25 court for further proceedings, including the imposition of
26 adult sanctions.

27
28 It is the intent of the Legislature that the criteria and
29 guidelines in this subsection are mandatory and that a
30 determination of disposition under this subsection is subject
31

1 to the right of the child to appellate review under s.
2 985.234.

3 Section 19. For the purpose of incorporating the
4 amendment to section 985.233, Florida Statutes, in references
5 thereto, the following sections or subdivisions of Florida
6 Statutes or Florida Statutes, 1998 Supplement, are reenacted
7 to read:

8 985.225 Indictment of a juvenile.--

9 (3) If the child is found to have committed the
10 offense punishable by death or by life imprisonment, the child
11 shall be sentenced as an adult. If the juvenile is not found
12 to have committed the indictable offense but is found to have
13 committed a lesser included offense or any other offense for
14 which he or she was indicted as a part of the criminal
15 episode, the court may sentence pursuant to s. 985.233.

16 985.31 Serious or habitual juvenile offender.--

17 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
18 TREATMENT.--

19 (k) Any commitment of a child to the department for
20 placement in a serious or habitual juvenile offender program
21 or facility shall be for an indeterminate period of time, but
22 the time shall not exceed the maximum term of imprisonment
23 which an adult may serve for the same offense. Notwithstanding
24 the provisions of ss. 743.07 and 985.231(1)(d), a serious or
25 habitual juvenile offender shall not be held under commitment
26 from a court pursuant to this section, s. 985.231, or s.
27 985.233 after becoming 21 years of age. This provision shall
28 apply only for the purpose of completing the serious or
29 habitual juvenile offender program pursuant to this chapter
30 and shall be used solely for the purpose of treatment.

31

1 Section 20. Subsections (2) and (6) of section
2 985.309, Florida Statutes, 1998 Supplement, are amended to
3 read:

4 985.309 Boot camp for children.--

5 (2) A child may be placed in a boot camp program, in
6 connection with a juvenile disposition,if he or she is at
7 least 14 years of age and has not entered a plea of guilty or
8 nolo contendere to, or been adjudicated of,~~but less than 18~~
9 ~~years of age at the time of adjudication and has been~~
10 ~~committed to the department for any offense that, if committed~~
11 ~~by an adult, would be a felony, other than a capital felony, a~~
12 ~~life felony, or a violent felony of the first degree. A child~~
13 may be placed in an early intervention boot camp program if he
14 or she is at least 12 years of age, has not entered a plea of
15 guilty or nolo contendere to, or been adjudicated of, a
16 capital felony, a life felony, or a violent felony of the
17 first degree, and otherwise qualifies pursuant to paragraph
18 (6)(c).

19 (6) A boot camp operated by the department, a county,
20 or a municipality must provide for the following minimum
21 periods of participation:

22 (a) A participant in a low-risk residential program
23 must spend at least 2 months in the boot camp component of the
24 program and at least 2 months in aftercare.

25 (b) A participant in a moderate-risk residential
26 program must spend at least 4 months in the boot camp
27 component of the program and at least 4 months in aftercare.

28 (c) The department, a county, or a municipality may
29 operate an early intervention boot camp program consisting of
30 at least a 10-day residential boot camp component, followed by
31 at least 2 months in aftercare. The purpose of an early

1 intervention boot camp program is to discourage young
2 offenders from having further contact with the criminal
3 justice system, by emphasizing intensive educational and
4 physical training, discipline, and personal responsibility.
5 Any participant in an early intervention boot camp who does
6 not successfully complete the program is automatically
7 disqualified from future participation in an early
8 intervention boot camp unless good cause is shown for the
9 participant's failure to complete the program due to
10 exceptional circumstances. A participant in an early
11 intervention boot camp program shall not have more than two
12 prior cases involving acts that would be felonies if committed
13 by an adult, nor shall a participant in an early intervention
14 boot camp program have more than four prior cases involving
15 any combination of acts that would be either misdemeanors or
16 felonies if committed by an adult.

17
18 This subsection does not preclude the operation of a program
19 that requires the participants to spend more than 4 months in
20 the boot camp component of the program or that requires the
21 participants to complete two sequential programs of 4 months
22 each in the boot camp component of the program.

23 Section 21. For the purpose of incorporating the
24 amendment to section 985.309, Florida Statutes, 1998
25 Supplement, in references thereto, the following sections or
26 subdivisions of Florida Statutes or Florida Statutes, 1998
27 Supplement, are reenacted to read:

28 985.231 Powers of disposition in delinquency cases.--

29 (1)

30 (j) If the offense committed by the child was grand
31 theft of a motor vehicle, the court:

1 1. Upon a first adjudication for a grand theft of a
2 motor vehicle, may place the youth in a boot camp, unless the
3 child is ineligible pursuant to s. 985.309, and shall order
4 the youth to complete a minimum of 50 hours of community
5 service.

6 2. Upon a second adjudication for grand theft of a
7 motor vehicle which is separate and unrelated to the previous
8 adjudication, may place the youth in a boot camp, unless the
9 child is ineligible pursuant to s. 985.309, and shall order
10 the youth to complete a minimum of 100 hours of community
11 service.

12 3. Upon a third adjudication for grand theft of a
13 motor vehicle which is separate and unrelated to the previous
14 adjudications, shall place the youth in a boot camp or other
15 treatment program, unless the child is ineligible pursuant to
16 s. 985.309, and shall order the youth to complete a minimum of
17 250 hours of community service.

18 985.31 Serious or habitual juvenile offender.--

19 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
20 TREATMENT.--

21 (i) The treatment and placement recommendations shall
22 be submitted to the court for further action pursuant to this
23 paragraph:

24 1. If it is recommended that placement in a serious or
25 habitual juvenile offender program or facility is
26 inappropriate, the court shall make an alternative disposition
27 pursuant to s. 985.309 or other alternative sentencing as
28 applicable, utilizing the recommendation as a guide.

29 2. If it is recommended that placement in a serious or
30 habitual juvenile offender program or facility is appropriate,
31 the court may commit the child to the department for placement

1 in the restrictiveness level designated for serious or
2 habitual delinquent children programs.

3 985.311 Intensive residential treatment program for
4 offenders less than 13 years of age.--

5 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
6 TREATMENT.--

7 (i) The treatment and placement recommendations shall
8 be submitted to the court for further action pursuant to this
9 paragraph:

10 1. If it is recommended that placement in an intensive
11 residential treatment program for offenders less than 13 years
12 of age is inappropriate, the court shall make an alternative
13 disposition pursuant to s. 985.309 or other alternative
14 sentencing as applicable, utilizing the recommendation as a
15 guide.

16 2. If it is recommended that placement in an intensive
17 residential treatment program for offenders less than 13 years
18 of age is appropriate, the court may commit the child to the
19 department for placement in the restrictiveness level
20 designated for intensive residential treatment program for
21 offenders less than 13 years of age.

22 985.314 Commitment programs for juvenile felony
23 offenders.--

24 (1) Notwithstanding any other law and regardless of
25 the child's age, a child who is adjudicated delinquent, or for
26 whom adjudication is withheld, for an act that would be a
27 felony if committed by an adult, shall be committed to:

28 (a) A boot camp program under s. 985.309 if the child
29 has participated in an early delinquency intervention program
30 as provided in s. 985.305.

31

1 Section 22. Paragraph (b) of subsection (11) of
2 section 985.404, Florida Statutes, 1998 Supplement, is amended
3 to read:

4 985.404 Administering the juvenile justice
5 continuum.--

6 (11)

7 (b) The department shall rank commitment programs
8 based on the cost-effectiveness model and shall submit a
9 report to the appropriate substantive and fiscal committees of
10 each house of the Legislature by December 31 of each year.

11 The report must consider at least the following factors:

12 1. The recidivism rate, measured by whether a juvenile
13 has been arrested within 18 months after leaving a commitment
14 program, regardless of whether the commitment program was
15 successfully completed. The recidivism rate for community
16 control, furlough, and aftercare shall be measured by whether
17 the juvenile has been arrested within 1 year after leaving
18 community control, furlough, or aftercare, regardless of
19 whether the supervision was successfully completed.

20 2. The seriousness of the criminal history of the
21 juveniles in the program.

22 3. The program's cost per client.

23 4. The average age of the juveniles in the program.

24 Section 23. Subsection (12) is added to section
25 985.219, Florida Statutes, to read:

26 985.219 Process and service.--

27 (12) Any parent, legal guardian, or adult relative who
28 receives a notice to appear, accepts custody of a child from a
29 law enforcement officer or an authorized agent of the
30 department, and fails to produce the child for the specified
31 court proceeding, or any parent or legal guardian who fails to

1 produce the child for a court appearance in response to a
2 summons, in addition to any other penalty provided by law, may
3 be assessed a civil penalty of up to \$100, payable to the
4 clerk of the circuit court.

5 Section 24. This act shall take effect July 1, 1999.

6
7 *****

8 HOUSE SUMMARY

9
10 Provides that certain adjudications of delinquency are
11 admissible into evidence for impeachment purposes.
12 Revises or enacts various provisions in parts I, II, III,
13 and IV of chapter 985, F.S., relating to general
14 provisions, delinquency case proceedings, juvenile
15 justice continuum, and juvenile justice system
16 administration, respectively. Revises provisions in
17 chapter 921, F.S., relating to sentencing of persons with
18 juvenile records and juveniles prosecuted as adults.
19 Revises provisions in chapter 943, F.S., relating to
20 criminal history records of minors. See bill for details.
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