

By Senator Mitchell

4-1465A-99

1 A bill to be entitled
2 An act relating to proceedings involving
3 children; amending s. 985.215, F.S.;
4 prescribing additional grounds for detention of
5 children charged with certain offenses;
6 amending s. 985.216, F.S.; prescribing
7 punishment for contempt of court by a
8 delinquent child or child in need of services;
9 providing an effective date.

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

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13 Section 1. Paragraph (f) of subsection (2) of section
14 985.215, Florida Statutes, 1998 Supplement, is amended to
15 read:

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985.215 Detention.--

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

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

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

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

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

1 4. Has a record of violent conduct resulting in
2 physical injury to others; ~~or~~

3 5. Is found to have been in possession of a firearm;
4 ~~or~~

5 6. Has been found by a judge, in a written order with
6 findings of fact, to pose a clear and present danger to the
7 community.

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

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

6 Section 2. Subsection (2) of section 985.216, Florida
7 Statutes, 1998 Supplement, is amended to read:

8 985.216 Punishment for contempt of court; alternative
9 sanctions.--

10 (2) PLACEMENT IN A SECURE FACILITY.--A child may be
11 placed in a secure facility for purposes of punishment for
12 contempt of court if alternative sanctions are unavailable or
13 inappropriate, or if the child has already been ordered to
14 serve an alternative sanction but failed to comply with the
15 sanction.

16 (a) A delinquent child who has been held in direct or
17 indirect contempt may be placed in a secure detention facility
18 not to exceed for 5 days for a first offense and not to exceed
19 ~~or~~ 15 days for a second or subsequent offense.

20 (b) A child in need of services who has been held in
21 direct contempt or indirect contempt may be placed, not to
22 exceed for 5 days for a first offense and not to exceed ~~or~~ 15
23 days for a second or subsequent offense, in a staff-secure
24 shelter or a staff-secure residential facility solely for
25 children in need of services if such placement is available,
26 or, if such placement is not available, the child may be
27 placed in an appropriate mental health facility or substance
28 abuse facility for assessment. In addition to disposition
29 under this paragraph, a child in need of services who is held
30 in direct contempt or indirect contempt may be placed in a
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1 physically secure facility as provided under s. 984.226 if
2 conditions of eligibility are met.

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

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6 SENATE SUMMARY

7 Provides for continued detention of a child charged with
8 second-degree or third-degree felony violations of
9 chapter 893, Florida Statutes, or any third-degree felony
10 not a crime of violence when a judge determines, in a
11 written order based upon findings of fact, that the child
12 is a risk to another person or to property. Provides the
13 court with discretion in the time it may sentence a
14 delinquent child or a child in need of services to
15 custody for contempt of court.

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