

By Senator Campbell

33-1000A-99

1 A bill to be entitled
 2 An act relating to juvenile justice; amending
 3 s. 985.213, F.S.; creating a workgroup to study
 4 the effectiveness of the risk assessment
 5 instrument; providing for a report; providing
 6 for future repeal of provisions relating to
 7 creation and use of the instrument; amending s.
 8 985.215, F.S.; setting time limits for filing a
 9 petition for delinquency in certain
 10 circumstances; providing for extension of time
 11 limits in specified circumstances; providing
 12 legislative findings; amending s. 985.219,
 13 F.S.; requiring law enforcement agencies to act
 14 upon subpoenas and serve process within a
 15 certain time; amending ss. 985.201, 985.225,
 16 F.S.; conforming cross-references to changes
 17 made by the act; providing an effective date.

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

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 21 Section 1. Subsection (2) of section 985.213, Florida
 22 Statutes, 1998 Supplement, is amended, and subsection (5) is
 23 added to that section, to read:

24 985.213 Use of detention.--

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

30 (b)1. The risk assessment instrument for detention
 31 care placement determinations and orders shall be developed by

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

25 2. If, at the detention hearing, the court finds a
26 material error in the scoring of the risk assessment
27 instrument, the court may amend the score to reflect factual
28 accuracy.

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

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

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

6 c. It is necessary to place the child in secure
7 detention in order to protect the victim from further injury.

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9 The child may not be held in secure detention under this
10 subparagraph for more than 48 hours unless ordered by the
11 court. After 48 hours, the court shall hold a hearing if the
12 state attorney or victim requests that secure detention be
13 continued. The child may continue to be held in secure
14 detention if the court makes a specific, written finding that
15 secure detention is necessary to protect the victim from
16 further injury. However, the child may not be held in secure
17 detention beyond the time limits set forth in s. 985.215.
18 Unless reenacted by the Legislature, this subsection expires
19 October 1, 2000.

20 (5) A risk assessment workgroup is established, to be
21 composed of nine members. Members must have direct experience
22 and a strong interest in juvenile justice issues. Composition
23 of the workgroup shall be as follows: a public defender, a
24 state attorney, and a sheriff appointed by their respective
25 professional associations; a representative of the Department
26 of Juvenile Justice, a chairman of a local juvenile justice
27 board or county council, and a child advocate appointed by the
28 Secretary of Juvenile Justice; a juvenile judge appointed by
29 the Conference of Circuit Court Judges; a member of the Senate
30 appointed by the President of the Senate; and a member of the
31 House of Representatives appointed by the Speaker of the House

1 of Representatives. The workgroup shall review the
2 effectiveness of the risk assessment instrument as a screening
3 device and shall make recommendations to keep, revise, or
4 eliminate the instrument, based upon its findings. The
5 workgroup shall report to the Governor, the President of the
6 Senate, and the Speaker of the House of Representatives
7 regarding these findings by January 15, 2000. Subject to
8 specific appropriations, an independent evaluation will be
9 commissioned by the department to validate the current risk
10 assessment instrument and make an objective report to the
11 workgroup and the Legislature.

12 Section 2. Subsections (5) and (7) of section 985.215,
13 Florida Statutes, 1998 Supplement, are amended to read:

14 985.215 Detention.--

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

24 (b) A child may not be held in secure detention for
25 more than 5 days unless a petition for delinquency has been
26 filed or the child is detained for a capital felony, life
27 felony, felony of the first degree, or violent second-degree
28 felony. The child shall be arraigned in accordance with
29 subsection (7).

30 (c)(b) A child may not be held in ~~secure, nonsecure,~~
31 or home detention care under a special detention order for

1 more than 21 days unless an adjudicatory hearing for the case
2 has been commenced by the court.

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

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

22 (f) The Legislature recognizes the benefits of early
23 case resolution and encourages disposition of cases within
24 detention time limits whenever possible.

25 (7)(a) If a child is securely detained,and a petition
26 for delinquency shall be ~~is~~ filed,and the child shall be
27 arraigned in accordance with the Florida Rules of Juvenile
28 Procedure within 5 working days after the initial detention
29 hearing, except as provided in paragraph (b)~~48 hours after~~
30 ~~the filing of the petition for delinquency.~~

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1 (b) If a child is detained for a capital felony, life
2 felony, felony of the first degree, or violent second-degree
3 felony, a petition for delinquency will be filed and the child
4 shall be arraigned in accordance with the Florida Rules of
5 Juvenile Procedure within 21 days after the initial detention
6 hearing.

7 Section 3. Present subsections (4) through (11) of
8 section 985.219, Florida Statutes, are renumbered as
9 subsections (5) through (12), respectively, and a new
10 subsection (4) is added to that section, to read:

11 985.219 Process and service.--

12 (4) Law enforcement agencies shall act upon subpoenas
13 received and serve process within 7 days after arraignment.

14 Section 4. Paragraph (b) of subsection (3) of section
15 985.201, Florida Statutes, is amended to read:

16 985.201 Jurisdiction.--

17 (3)

18 (b) The jurisdiction to be exercised by the court when
19 a child is taken into custody before the filing of a petition
20 under s. 985.219(8)~~s. 985.219(7)~~ shall be exercised by the
21 circuit court for the county in which the child is taken into
22 custody, which court shall have personal jurisdiction of the
23 child and the child's parent or legal guardian. Upon the
24 filing of a petition in the appropriate circuit court, the
25 court that is exercising initial jurisdiction of the person of
26 the child shall, if the child has been detained, immediately
27 order the child to be transferred to the detention center or
28 facility or other placement as ordered by the court having
29 subject matter jurisdiction of the case.

30 Section 5. Subsection (1) of section 985.225, Florida
31 Statutes, is amended to read:

1 985.225 Indictment of a juvenile.--
2 (1) A child of any age who is charged with a violation
3 of state law punishable by death or by life imprisonment is
4 subject to the jurisdiction of the court as set forth in s.
5 985.219(8)~~s. 985.219(7)~~unless and until an indictment on the
6 charge is returned by the grand jury. When such indictment is
7 returned, the petition for delinquency, if any, must be
8 dismissed and the child must be tried and handled in every
9 respect as an adult:

10 (a) On the offense punishable by death or by life
11 imprisonment; and

12 (b) On all other felonies or misdemeanors charged in
13 the indictment which are based on the same act or transaction
14 as the offense punishable by death or by life imprisonment or
15 on one or more acts or transactions connected with the offense
16 punishable by death or by life imprisonment.

17 Section 6. This act shall take effect October 1, 1999.

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SENATE SUMMARY

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Creates a workgroup to study the effectiveness of the risk assessment instrument with respect to detention of juveniles and to report its findings to the Governor and the Legislature. Limits the period children may be held in secure detention to 5 days, unless a petition for delinquency has been filed or the child is charged with one of certain offenses. Extension of detention will be automatically granted in specified cases. Requires a petition for delinquency to be filed within 21 days when the child has been charged with a capital felony, life felony, first-degree felony, or violent second-degree felony. Requires law enforcement agencies to act on subpoenas and serve process within 7 days.

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