

By Representative Bainter

1                                   A bill to be entitled  
 2           An act relating to children in need of  
 3           services; amending s. 984.225, F.S.; revising  
 4           requirements for placement of a child in a  
 5           staff-secure shelter; correcting cross  
 6           references; amending s. 984.226, F.S.; revising  
 7           location of a pilot program for physically  
 8           secure facilities; providing for waiver of the  
 9           right to counsel for a child in need of  
 10          services, under certain circumstances; revising  
 11          criteria and time limits for placement of a  
 12          child in a physically secure facility;  
 13          providing duties of the court and the  
 14          Department of Children and Family Services with  
 15          respect to review of a child's placement;  
 16          providing for transfer of a child to the  
 17          jurisdiction of the department for certain  
 18          services; revising requirements for reports to  
 19          the Legislature by the Juvenile Justice  
 20          Accountability Board and the Department of  
 21          Juvenile Justice; providing an effective date.

22  
 23 Be It Enacted by the Legislature of the State of Florida:  
 24

25                 Section 1. Subsections (2), (4), (5), and (6) of  
 26 section 984.225, Florida Statutes, 1998 Supplement, are  
 27 amended to read:

28                 984.225 Powers of disposition; placement in a  
 29 staff-secure shelter.--

30                 (2) The court shall order the parent, guardian, or  
 31 legal custodian to cooperate with efforts to reunite the child

1 with the family, participate in counseling, and pay all costs  
2 associated with the care and counseling provided to the child  
3 and family, in accordance with the family's ability to pay as  
4 determined by the court. Placement ~~Commitment~~ of a child in a  
5 staff-secure shelter under this section is designed to provide  
6 residential care on a temporary basis. Such placement  
7 ~~commitment~~ does not abrogate the legal responsibilities of the  
8 parent, guardian, or legal custodian with respect to the  
9 child, except to the extent that those responsibilities are  
10 temporarily altered by court order.

11 (4) If a child has not been reunited with his or her  
12 parent, guardian, or legal custodian at the expiration of the  
13 90-day ~~commitment~~ period of time for placement in a  
14 staff-secure shelter, the court may order that the child  
15 remain in the staff-secure shelter for an additional 30 days  
16 if the court finds that reunification could be achieved within  
17 that period.

18 (5) The department is deemed to have exhausted the  
19 reasonable remedies offered under this chapter if, at the end  
20 of the placement in a staff-secure shelter ~~commitment period~~,  
21 the parent, guardian, or legal custodian continues to refuse  
22 to allow the child to remain at home or creates unreasonable  
23 conditions for the child's return. If, at the end of the  
24 ~~commitment~~ period of time for placement in a staff-secure  
25 shelter, the child is not reunited with his or her parent,  
26 guardian, or custodian due solely to the continued refusal of  
27 the parent, guardian, or custodian to provide food, clothing,  
28 shelter, and parental support, the child is considered to be  
29 threatened with harm as a result of such acts or omissions,  
30 and the court shall direct that the child be handled in every  
31 respect as a dependent child. Jurisdiction shall be

1 transferred to the Department of Children and Family Services  
2 and the child's care shall be governed under ~~parts II and III~~  
3 ~~of~~ chapter 39.

4 (6) The court shall review the child's placement in a  
5 staff-secure shelter commitment once every 45 days as provided  
6 in s. 984.20. The court shall determine if the parent,  
7 guardian, or custodian has reasonably participated in and  
8 financially contributed to the child's counseling and  
9 treatment program. The court shall also determine whether the  
10 department's efforts to reunite the family have been  
11 reasonable. If the court finds an inadequate level of support  
12 or participation by the parent, guardian, or custodian prior  
13 to the end of the placement commitment period, the court shall  
14 direct that the child be handled in every respect as a  
15 dependent child. Jurisdiction shall be transferred to the  
16 Department of Children and Family Services and the child's  
17 care shall be governed under ~~parts II and III of~~ chapter 39.

18 Section 2. Section 984.226, Florida Statutes, 1998  
19 Supplement, is amended to read:

20 984.226 Pilot program for a physically secure  
21 facilities facility; ~~contempt of court.~~--

22 (1) Subject to specific legislative appropriation, the  
23 Department of Juvenile Justice shall establish a pilot program  
24 within the Third, Fourth, Fifth, Seventh, and Eighth Judicial  
25 Circuits ~~a single judicial circuit~~ for the purpose of  
26 operating one or more physically secure facilities designated  
27 exclusively for the placement of children in need of services  
28 who meet the criteria provided in this section ~~are found in~~  
29 ~~direct contempt or indirect contempt of a valid court order.~~

30 (2) When ~~if any party files~~ a petition is filed in the  
31 Third, Fourth, Fifth, Seventh, or Eighth Judicial Circuit

1 alleging that a child is a child in need of services ~~within~~  
2 ~~such judicial circuit~~, the child must be represented by  
3 counsel at each court appearance, unless the record of each  
4 such proceeding affirmatively demonstrates by clear and  
5 convincing evidence that the child knowingly and intelligently  
6 waived the right to counsel after being fully advised by the  
7 court of the nature of the proceedings and the dispositional  
8 alternatives available to the court under the provisions of  
9 this section. If the court decides to appoint counsel for the  
10 child and. ~~If~~ the child is indigent, the court shall appoint  
11 an attorney to represent the child as provided under s.  
12 985.203. Nothing precludes the court from requesting  
13 reimbursement of attorney's fees and costs from the  
14 nonindigent parent or legal guardian.

15 (3)(2) ~~When~~ if a child is adjudicated as a child in  
16 need of services by a court within any of the judicial  
17 circuits specified in this section, the court may order the  
18 child placed in a physically secure facility authorized in  
19 this section if is held in direct contempt or indirect  
20 contempt of a valid court order, as an alternative to placing  
21 the child in a staff-secure facility as provided under s.  
22 984.225 or s. 985.216, the court may order that the child be  
23 placed within the circuit in a physically secure facility  
24 operated under the pilot program. A child may be committed to  
25 the facility only if the department, or an authorized  
26 representative of the department, verifies to the court that a  
27 bed is available for the child at the physically secure  
28 facility and the child has:

29 (a) Failed to appear for placement in a staff-secure  
30 shelter under the provisions of s. 984.225 or failed to comply  
31 with any other provision of a valid court order relating to

1 such placement, and as a result of such failure has been found  
2 to be in direct or indirect contempt of court; or

3 (b)(a) Run away from a staff-secure shelter following  
4 placement under s. 984.225. ~~or s. 985.216; or~~

5 ~~(b) Committed at least two prior acts of direct or~~  
6 ~~indirect contempt.~~

7  
8 The department, or an authorized representative of the  
9 department, must verify to the court that a bed is available  
10 for the child. If a bed is not available, the court shall stay  
11 the placement until a bed is available and the department  
12 shall place the child's name on a waiting list. The child who  
13 has been on the waiting list the longest shall have priority  
14 for placement in the physically secure shelter.

15 (4)(3) A child may be placed in a physically secure  
16 facility for up to 90 5 days. If a child has not been reunited  
17 with his or her parent, guardian, or legal custodian at the  
18 expiration of the placement in a physically secure shelter,  
19 the court may order that the child remain in the physically  
20 secure shelter for an additional 30 days if the court finds  
21 that reunification could be achieved within that period. ~~for~~  
22 ~~the first commitment and up to 15 days for a second or~~  
23 ~~subsequent commitment.~~

24 (5)(a) The court shall review the child's placement  
25 once every 45 days as provided in s. 984.20.

26 (b) At any time during the placement of a child in  
27 need of services in a physically secure shelter, the  
28 department or an authorized representative of the department  
29 may submit a report to the court recommending that the child:

30  
31

1           1. Has received all of the services available from the  
2 program and is ready for reunification with a parent or  
3 guardian; or

4           2. Is unlikely to benefit from continued placement in  
5 the physically secure shelter and is more likely to have his  
6 or her needs met in a different type of placement.

7           (c) The court shall determine if the parent, guardian,  
8 or custodian has reasonably participated in and financially  
9 contributed to the child's counseling and treatment program.

10 The court shall also determine whether the department's  
11 efforts to reunite the family have been reasonable. If the  
12 court finds an inadequate level of support or participation by  
13 the parent, guardian, or custodian prior to the end of the  
14 placement, the court shall direct that the child be handled in  
15 every respect as a dependent child. Jurisdiction shall then be  
16 transferred to the Department of Children and Family Services  
17 and the child's care shall be governed under chapter 39.

18           (d) If the child requires residential mental health  
19 treatment or residential care for a developmental disability,  
20 the court shall refer the child to the Department of Children  
21 and Family Services for the provision of necessary services.

22           (6)(4) Prior to being ordered committed to a  
23 physically secure facility, the child must be afforded all  
24 rights of due process required under s. 985.216. While in the  
25 physically secure facility, the child shall receive  
26 appropriate assessment, treatment, and educational services  
27 that are designed to eliminate or reduce the child's truant,  
28 ungovernable, or runaway behavior. The child and family shall  
29 be provided with family counseling and other support services  
30 necessary for reunification.

31

1           ~~(7)(5)~~ The court shall order the parent, guardian, or  
2 legal custodian to cooperate with efforts to reunite the child  
3 with the family, participate in counseling, and pay all costs  
4 associated with the care and counseling provided to the child  
5 and family, in accordance with the family's ability to pay as  
6 determined by the court. Placement ~~Commitment~~ of a child under  
7 this section is designed to provide residential care on a  
8 temporary basis. Such placement ~~commitment~~ does not abrogate  
9 the legal responsibilities of the parent, guardian, or legal  
10 custodian with respect to the child, except to the extent that  
11 those responsibilities are temporarily altered by court order.

12           ~~(8)(6)~~ The Juvenile Justice Accountability Advisory  
13 Board shall monitor the implementation and operation of the  
14 pilot program and issue a preliminary report to the President  
15 of the Senate and the Speaker of the House of Representatives  
16 by August 1, 1999, and a report evaluating the effectiveness  
17 of the pilot program in reuniting the children served with  
18 their parent or guardian and avoiding subsequent out-of-home  
19 placements shall be submitted to the Legislature by January  
20 15, 2000. The Department of Juvenile Justice shall recommend  
21 to the Legislature any proposed legislation concerning the  
22 pilot program by January 15, 2000.~~evaluation report to the~~  
23 ~~Legislature by December 1, 1998. The Department of Juvenile~~  
24 ~~Justice and the Juvenile Justice Advisory Board shall issue a~~  
25 ~~joint final report to the Legislature, including any proposed~~  
26 ~~legislation, by December 1, 1999.~~

27           Section 3. The Department of Juvenile Justice shall  
28 submit a report to the President of the Senate, the Speaker of  
29 the House of Representatives, and the Juvenile Justice  
30 Accountability Board that describes its efforts to implement  
31 the pilot program authorized in s. 984.226, Florida Statutes.

1 The report shall include the following data for each judicial  
2 circuit included in the pilot program:

3 (1) The number of youth who have been adjudicated  
4 children in need of services since July 1, 1998.

5 (2) The number of available staff-secure shelter beds.

6 (3) The number of youth who have been placed in  
7 staff-secure shelter beds since July 1, 1998, and the average  
8 length of stay.

9 (4) The number of physically secure facility beds  
10 available.

11 (5) The number of youth who have been placed in  
12 physically secure facility beds since July 1, 1998, and the  
13 average length of stay.

14 (6) The efforts that have been made by the department  
15 with the chief judge, the court administrator, the local bar  
16 associations, and other individuals or groups, within each  
17 judicial circuit, to ensure the appointment of counsel in  
18 child-in-need-of-services cases as appropriate under the  
19 provisions of s. 984.226, Florida Statutes.

20 (7) The efforts by the department to educate the  
21 public concerning the availability of and access to services  
22 to meet the needs of families with children who are runaways,  
23 truants, or ungovernable.

24  
25 The report shall be submitted by June 15, 1999.

26 Section 4. This act shall take effect upon becoming a  
27 law.

28  
29  
30  
31



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

\*\*\*\*\*

HOUSE SUMMARY

Revises requirements relating to placement of children in need of services in a staff-secure shelter. Provides for operation in the Third, Fourth, Fifth, Seventh, and Eighth Judicial Circuits of a pilot program for placement of such children in physically secure facilities. Specifies circumstances allowing waiver of counsel in such circuits for court appearances of a child in need of services. Revises criteria and time limits for placement in a physically secure facility. Provides duties of the court and the Department of Children and Family Services with respect to review of a child's placement. Provides for transfer to the department of jurisdiction of a dependent child or a child requiring residential mental health or residential developmental disability services. Revises requirements and timeframes for reports and recommendations to the Legislature by the Juvenile Justice Accountability Board and the Department of Juvenile Justice.