

By Senator Webster

12-982-00

1 A bill to be entitled
2 An act relating to juvenile justice; amending
3 s. 784.075, F.S., relating to third degree
4 felony penalty for battery on a juvenile
5 probation officer; conforming cross-references;
6 amending s. 921.0021, F.S.; extending the time
7 period for which a juvenile offender's prior
8 record may be included; amending s. 984.225,
9 F.S.; revising requirements for placement of a
10 child in a staff-secure shelter; amending s.
11 985.201, F.S.; extending court jurisdiction
12 over juveniles released from a commitment
13 program prior to age 21; amending s. 985.207,
14 F.S.; authorizing agents of the Department of
15 Juvenile Justice to take a child into custody
16 under certain circumstances; amending s.
17 985.213, F.S.; revising provisions relating to
18 the risk assessment instrument for purposes of
19 detention care placement; amending s. 985.215,
20 F.S.; authorizing detention of a child for
21 failure to appear at certain court hearings;
22 deleting references to assignment centers;
23 amending s. 985.216, F.S.; prescribing
24 punishment for contempt of court by a
25 delinquent child or a child in need of
26 services; amending s. 985.231, F.S., to
27 conform; amending s. 985.233, F.S.; providing
28 conditions under which adult sanctions may be
29 imposed; providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 784.075, Florida Statutes, is
2 amended to read:

3 784.075 Battery on detention or commitment facility
4 staff or a juvenile probation officer.--A person who commits a
5 battery on a juvenile probation officer, as defined in s.
6 984.03 or s. 985.03, on other staff of a detention center or
7 facility as defined in s. 984.03(19)or s. 985.03(20), or on a
8 staff member of a commitment facility as defined in s.
9 985.03(47), commits a felony of the third degree, punishable
10 as provided in s. 775.082, s. 775.083, or s. 775.084. For
11 purposes of this section, a staff member of the facilities
12 listed includes persons employed by the Department of Juvenile
13 Justice, persons employed at facilities licensed by the
14 Department of Juvenile Justice, and persons employed at
15 facilities operated under a contract with the Department of
16 Juvenile Justice.

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

19 921.0021 Definitions.--As used in this chapter, for
20 any felony offense, except any capital felony, committed on or
21 after October 1, 1998, the term:

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

1 period of 10 consecutive years from the most recent date of
2 release from confinement, supervision, or sanction, whichever
3 is later, to the date of the primary offense. Juvenile
4 dispositions of offenses committed by the offender within 5 ~~3~~
5 years before the primary offense are included in the
6 offender's prior record when the offense would have been a
7 crime had the offender been an adult rather than a juvenile.
8 Juvenile dispositions of sexual offenses committed by the
9 offender which were committed 5 ~~3~~ years or more before the
10 primary offense are included in the offender's prior record if
11 the offender has not maintained a conviction-free record,
12 either as an adult or a juvenile, for a period of 5 ~~3~~
13 consecutive years from the most recent date of release from
14 confinement, supervision, or sanction, whichever is later, to
15 the date of the primary offense.

16 Section 3. Present subsections (2) through (7) of
17 section 984.225, Florida Statutes, are renumbered as
18 subsections (3) through (8), respectively, and subsection (1)
19 of that section is amended to read:

20 984.225 Powers of disposition; placement in a
21 staff-secure shelter.--

22 (1) Subject to specific legislative appropriation, the
23 court may order that a child adjudicated as a child in need of
24 services be placed for up to 90 days in a staff-secure shelter
25 if:

26 (a) The child's parent, guardian, or legal custodian
27 refuses to provide food, clothing, shelter, and necessary
28 parental support for the child and the refusal is a direct
29 result of an established pattern of significant disruptive
30 behavior of the child in the home of the parent, guardian, or
31 legal custodian; ~~or~~

1 (b) The child refuses to remain under the reasonable
2 care and custody of his or her parent, guardian, or legal
3 custodian, as evidenced by repeatedly running away;~~from home.~~
4 ~~The court may not order that a child be placed in a~~
5 ~~staff-secure facility unless:~~

6 (c)1. The child has failed to successfully complete an
7 alternative treatment program or to comply with a
8 court-ordered sanction; or ~~and~~

9 (d)2. The child has been placed in a residential
10 program on at least one prior occasion pursuant to a court
11 order under this chapter.

12 (2) This section ~~subsection~~ applies after other
13 alternative, less-restrictive remedies have been exhausted.
14 The court may order that a child be placed in a staff-secure
15 shelter. The department, or an authorized representative of
16 the department, must verify to the court that a bed is
17 available for the child. If the department or an authorized
18 representative of the department verifies that a bed is not
19 available, ~~the court shall stay the placement until a bed is~~
20 ~~available.~~ The department will place the child's name on a
21 waiting list. The child who has been on the waiting list the
22 longest will get the next available bed.

23 Section 4. Paragraph (b) of subsection (4) of section
24 985.201, Florida Statutes, is amended to read:

25 985.201 Jurisdiction.--

26 (4)(b)1. The court may retain jurisdiction over a
27 child committed to the department for placement in an
28 intensive residential treatment program for 10-year-old to
29 13-year-old offenders, the residential commitment program in a
30 juvenile prison, a residential sex offender program, or in a
31 program for serious or habitual juvenile offenders as provided

1 in s. 985.311 or s. 985.31 until the child reaches the age of
2 21. If the court exercises this jurisdiction retention, it
3 shall do so solely for the purpose of the child completing the
4 intensive residential treatment program for 10-year-old to
5 13-year-old offenders, the residential commitment program in a
6 juvenile prison, a residential sex offender program, or the
7 program for serious or habitual juvenile offenders. Such
8 jurisdiction retention does not apply for other programs,
9 other purposes, or new offenses.

10 2. The court may retain jurisdiction over a child who
11 is committed to the department under this paragraph and
12 released from a commitment program at age 21 for at least 1
13 year following release to allow participation in a juvenile
14 conditional release program pursuant to s. 985.316. If the
15 child is not successful in the conditional release program,
16 the department may use the transfer procedure under s.
17 985.404.

18 Section 5. Paragraphs (c) and (d) of subsection (1) of
19 section 985.207, Florida Statutes, are amended to read:

20 985.207 Taking a child into custody.--

21 (1) A child may be taken into custody under the
22 following circumstances:

23 (c) By a law enforcement officer or an authorized
24 agent of the department for failing to appear at a court
25 hearing after being properly noticed.

26 (d) By a law enforcement officer or an authorized
27 agent of the department who has probable cause to believe that
28 the child is in violation of the conditions of the child's
29 community control, home detention, postcommitment community
30 control, or aftercare supervision or has absconded from
31 commitment.

1
2 Nothing in this subsection shall be construed to allow the
3 detention of a child who does not meet the detention criteria
4 in s. 985.215.

5 Section 6. Paragraph (b) of subsection (2) of section
6 985.213, Florida Statutes, is amended to read:

7 985.213 Use of detention.--

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

1 warranted, whether the child should be placed into secure,
2 nonsecure, or home detention care.

3 2. If, at the detention hearing, the court finds a
4 material error in the scoring of the risk assessment
5 instrument, the court may amend the score to reflect factual
6 accuracy.

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

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

13 ~~a.b.~~ Respite care for the child is not available; and

14 ~~b.c.~~ It is necessary to place the child in secure
15 detention in order to protect the victim from further injury.

16
17 The child may not be held in secure detention under this
18 subparagraph for more than 48 hours unless ordered by the
19 court. After 48 hours, the court shall hold a hearing if the
20 state attorney or victim requests that secure detention be
21 continued. The child may continue to be held in ~~secure~~
22 detention care if the court makes a specific, written finding
23 that ~~secure~~ detention care is necessary to protect the victim
24 from ~~further~~ injury. However, the child may not be held in
25 ~~secure~~ detention care beyond the time limits set forth in s.
26 985.215.

27 4. For a child who is currently under the supervision
28 of the department through community control, home detention,
29 nonsecure detention, aftercare, postcommitment community
30 control, or commitment and who is charged with committing a
31 new offense, the risk assessment instrument may be completed

1 and scored based on the underlying charge for which the child
2 was placed under the supervision of the department and the new
3 offense.

4 Section 7. Paragraph (i) is added to subsection (2) of
5 section 985.215, Florida Statutes, and paragraphs (a) and (d)
6 of subsection (10) of that section are amended, to read:

7 985.215 Detention.--

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

12 (i) The child is detained on a judicial order for
13 failure to appear and has failed to appear at two or more
14 court hearings on the same case after having received proper
15 notice, regardless of the results of the risk assessment
16 instrument. A child may be held in secure detention for up to
17 72 hours in advance of the next scheduled court hearing
18 pursuant to this paragraph. The failure by the child to keep
19 the clerk of court and defense counsel informed of a current
20 and valid mailing address where the child will receive notice
21 to appear at court proceedings does not provide an adequate
22 ground for excusal of the child's nonappearance at the
23 hearings.

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

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

23 (10)(a)1. When a child is committed to the Department
24 of Juvenile Justice awaiting dispositional placement, removal
25 of the child from detention care shall occur within 5 days,
26 excluding Saturdays, Sundays, and legal holidays. Any child
27 held in secure detention during the 5 days must meet detention
28 admission criteria pursuant to this section. If the child is
29 committed to a moderate-risk residential program, the
30 department may seek an order from the court authorizing
31 continued detention for a specific period of time necessary

1 for the appropriate residential placement of the child.
2 However, such continued detention in secure detention care may
3 not exceed 15 days after commitment, excluding Saturdays,
4 Sundays, and legal holidays, and except as otherwise provided
5 in this subsection.

6 2. The court must place all children who are
7 adjudicated and awaiting placement in a residential commitment
8 program in detention care. Children who are in home detention
9 care or nonsecure detention care may be placed on electronic
10 monitoring. ~~A child committed to a moderate-risk residential~~
11 ~~program may be held in a juvenile assignment center pursuant~~
12 ~~to s. 985.307 until placement or commitment is accomplished.~~

13 (d) If the child is committed to a maximum-risk
14 residential program, the child must be held in detention care
15 ~~or in an assignment center pursuant to s. 985.307~~ until
16 placement or commitment is accomplished.

17 Section 8. Subsection (2) of section 985.216, Florida
18 Statutes, is amended to read:

19 985.216 Punishment for contempt of court; alternative
20 sanctions.--

21 (2) PLACEMENT IN A SECURE FACILITY.--A child may be
22 placed in a secure facility for purposes of punishment for
23 contempt of court if alternative sanctions are unavailable or
24 inappropriate, or if the child has already been ordered to
25 serve an alternative sanction but failed to comply with the
26 sanction.

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

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1 (b) A child in need of services who has been held in
2 direct contempt or indirect contempt may be placed, not to
3 exceed for 5 days for a first offense and not to exceed or 15
4 days for a second or subsequent offense, in a staff-secure
5 shelter or a staff-secure residential facility solely for
6 children in need of services if such placement is available,
7 or, if such placement is not available, the child may be
8 placed in an appropriate mental health facility or substance
9 abuse facility for assessment. In addition to disposition
10 under this paragraph, a child in need of services who is held
11 in direct contempt or indirect contempt may be placed in a
12 physically secure facility as provided under s. 984.226 if
13 conditions of eligibility are met.

14 Section 9. Paragraph (d) of subsection (1) of section
15 985.231, Florida Statutes, is amended to read:

16 985.231 Powers of disposition in delinquency cases.--

17 (1)

18 (d) Any commitment of a delinquent child to the
19 Department of Juvenile Justice must be for an indeterminate
20 period of time, which may include periods of temporary
21 release, but the time may not exceed the maximum term of
22 imprisonment that an adult may serve for the same offense. Any
23 temporary release for a period greater than 3 days must be
24 approved by the court. Any child so committed may be
25 discharged from institutional confinement or a program upon
26 the direction of the department with the concurrence of the
27 court. Notwithstanding s. 743.07 and this subsection, and
28 except as provided in ~~ss.~~s. 985.31 and 985.201, a child may
29 not be held under a commitment from a court pursuant to this
30 section after becoming 21 years of age. The department shall
31 give the court that committed the child to the department

1 reasonable notice, in writing, of its desire to discharge the
2 child from a commitment facility. The court that committed the
3 child may thereafter accept or reject the request. If the
4 court does not respond within 10 days after receipt of the
5 notice, the request of the department shall be deemed granted.
6 This section does not limit the department's authority to
7 revoke a child's temporary release status and return the child
8 to a commitment facility for any violation of the terms and
9 conditions of the temporary release.

10 Section 10. Paragraph (c) of subsection (4) of section
11 985.233, Florida Statutes, is amended to read:

12 985.233 Sentencing powers; procedures; alternatives
13 for juveniles prosecuted as adults.--

14 (4) SENTENCING ALTERNATIVES.--

15 (c) Imposition of adult sanctions upon failure of
16 juvenile sanctions.--If a child proves not to be suitable to a
17 commitment program, community control program, or for a
18 treatment program under the provisions of subparagraph (b)2.,
19 the court may revoke the previous adjudication, impose an
20 adjudication of guilt, ~~classify the child as a youthful~~
21 ~~offender when appropriate,~~ and impose any sentence which it
22 may lawfully impose, giving credit for all time spent by the
23 child in the department. The court may also classify the child
24 as a youthful offender pursuant to s. 958.04, if appropriate.
25 For purposes of this paragraph, a child may be found not
26 suitable to a commitment program, community control program,
27 or treatment program under the provisions of paragraph (b) if
28 the child commits a new violation of law while under juvenile
29 sanctions, if a child commits any other violation of the
30 conditions of juvenile sanctions, or if the child's actions

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1 are otherwise determined by the court to demonstrate a failure
2 of juvenile sanctions.

3
4 It is the intent of the Legislature that the criteria and
5 guidelines in this subsection are mandatory and that a
6 determination of disposition under this subsection is subject
7 to the right of the child to appellate review under s.
8 985.234.

9 Section 11. This act shall take effect upon becoming a
10 law.

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13 LEGISLATIVE SUMMARY

14 Extends the time period for which a juvenile offender's
15 prior record may be included. Revises requirements for
16 placement of a child in a staff-secure shelter. Extends
17 court jurisdiction over juveniles released from a
18 commitment program prior to age 21. Authorizes agents of
19 the Department of Juvenile Justice to take a child into
20 custody under certain circumstances. Revises provisions
21 relating to the risk assessment instrument for purposes
22 of detention care placement. Authorizes detention of a
23 child for failure to appear at certain court hearings.
24 Prescribes punishment for contempt of court by a
25 delinquent child or a child in need of services. Provides
26 conditions under which adult sanctions may be imposed.
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