

By Representative Kyle

1 A bill to be entitled
2 An act relating to juvenile offenders; creating
3 s. 985.2101, F.S.; providing for juvenile
4 pretrial detention and release; providing
5 legislative intent; providing for rules of
6 procedure; providing for juvenile first
7 appearance hearings; providing for release on
8 nonmonetary conditions; providing for pretrial
9 secure detention under certain circumstances;
10 providing for release from custody; providing
11 criteria and requirements; creating s.
12 985.2103, F.S.; providing for processing of
13 juvenile offenders; providing criteria and
14 requirements; providing procedures; providing
15 limitations; creating s. 985.2105, F.S.;
16 providing for postdispositional detention;
17 providing requirements; amending ss. 790.115,
18 790.22, 985.03, 985.207, 985.208, 985.209,
19 985.21, 985.219, 985.228, and 985.231, F.S., to
20 conform; providing a legislative finding;
21 requesting the Florida Supreme Court to adopt
22 rules amending the Rules of Juvenile Procedure
23 for certain purposes; repealing s. 985.211,
24 F.S., relating to release or delivery from
25 custody of children; repealing ss. 985.213,
26 985.214, and 985.215, F.S., relating to
27 detention; providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (4) of section 790.115, Florida
2 Statutes, is amended to read:

3 790.115 Possessing or discharging weapons or firearms
4 at a school-sponsored event or on school property prohibited;
5 penalties; exceptions.--

6 (4) Notwithstanding s. 985.2101 ~~985.213~~, s. 985.2103
7 ~~985.214~~, or s. 985.2105 ~~985.215(1)~~, any minor under 18 years
8 of age who is charged under this section with possessing or
9 discharging a firearm on school property shall be detained in
10 secure detention, unless the state attorney authorizes the
11 release of the minor, and shall be given a probable cause
12 hearing within 24 hours after being taken into custody. At
13 the hearing, the court may order that the minor continue to be
14 held in secure detention for a period of 21 days, during which
15 time the minor shall receive medical, psychiatric,
16 psychological, or substance abuse examinations pursuant to s.
17 985.224, and a written report shall be completed.

18 Section 2. Subsections (8) and (9) of section 790.22,
19 Florida Statutes, are amended to read:

20 790.22 Use of BB guns, air or gas-operated guns, or
21 electric weapons or devices by minor under 16; limitation;
22 possession of firearms by minor under 18 prohibited;
23 penalties.--

24 (8) Notwithstanding s. 985.2101 ~~985.213~~ or s. 985.2103
25 ~~985.215(1)~~, if a minor under 18 years of age is charged with
26 an offense that involves the use or possession of a firearm,
27 as defined in s. 790.001, including a violation of subsection
28 (3), or is charged for any offense during the commission of
29 which the minor possessed a firearm, the minor shall be
30 detained in secure detention, unless the state attorney
31 authorizes the release of the minor, and shall be given a

1 hearing within 24 hours after being taken into custody. At the
2 hearing, the court may order that the minor continue to be
3 held in secure detention in accordance with the applicable
4 time periods specified in ss. 985.2101 and 985.2103 ~~§-~~
5 ~~985.215(5)~~, if the court finds that the minor meets the
6 criteria specified in s. 985.2101 or s. 985.2103 ~~985.215(2)~~,
7 or if the court finds by clear and convincing evidence that
8 the minor is a clear and present danger to himself or herself
9 or the community. The Department of Juvenile Justice shall
10 prepare a form for all minors charged under this subsection
11 that states the period of detention and the relevant
12 demographic information, including, but not limited to, the
13 sex, age, and race of the minor; whether or not the minor was
14 represented by private counsel or a public defender; the
15 current offense; and the minor's complete prior record,
16 including any pending cases. The form shall be provided to the
17 judge to be considered when determining whether the minor
18 should be continued in secure detention under this subsection.
19 An order placing a minor in secure detention because the minor
20 is a clear and present danger to himself or herself or the
21 community must be in writing, must specify the need for
22 detention and the benefits derived by the minor or the
23 community by placing the minor in secure detention, and must
24 include a copy of the form provided by the department. The
25 Department of Juvenile Justice must send the form, including a
26 copy of any order, without client-identifying information, to
27 the Office of Economic and Demographic Research.

28 (9) ~~Notwithstanding s. 985.214~~, If the minor is found
29 to have committed an offense that involves the use or
30 possession of a firearm, as defined in s. 790.001, other than
31 a violation of subsection (3), or an offense during the

1 commission of which the minor possessed a firearm, and the
2 minor is not committed to a residential commitment program of
3 the Department of Juvenile Justice, in addition to any other
4 punishment provided by law, the court shall order:

5 (a) For a first offense, that the minor shall serve a
6 minimum period of detention of 15 days in a secure detention
7 facility; and

8 1. Perform 100 hours of community service; and may

9 2. Be placed on community control or in a

10 nonresidential commitment program.

11 (b) For a second or subsequent offense, that the minor
12 shall serve a mandatory period of detention of at least 21
13 days in a secure detention facility; and

14 1. Perform not less than 100 nor more than 250 hours
15 of community service; and may

16 2. Be placed on community control or in a

17 nonresidential commitment program.

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19 The minor shall not receive credit for time served before
20 adjudication. For the purposes of this subsection, community
21 service shall be performed, if possible, in a manner involving
22 a hospital emergency room or other medical environment that
23 deals on a regular basis with trauma patients and gunshot
24 wounds.

25 (10) If a minor is found to have committed an offense
26 under subsection (9), the court shall impose the following
27 penalties in addition to any penalty imposed under paragraph
28 (9)(a) or paragraph (9)(b):

29 (a) For a first offense:

30 1. If the minor is eligible by reason of age for a
31 driver license or driving privilege, the court shall direct

1 the Department of Highway Safety and Motor Vehicles to revoke
2 or to withhold issuance of the minor's driver license or
3 driving privilege for up to 1 year.

4 2. If the minor's driver license or driving privilege
5 is under suspension or revocation for any reason, the court
6 shall direct the Department of Highway Safety and Motor
7 Vehicles to extend the period of suspension or revocation by
8 an additional period for up to 1 year.

9 3. If the minor is ineligible by reason of age for a
10 driver license or driving privilege, the court shall direct
11 the Department of Highway Safety and Motor Vehicles to
12 withhold issuance of the minor's driver license or driving
13 privilege for up to 1 year after the date on which the minor
14 would otherwise have become eligible.

15 (b) For a second or subsequent offense:

16 1. If the minor is eligible by reason of age for a
17 driver license or driving privilege, the court shall direct
18 the Department of Highway Safety and Motor Vehicles to revoke
19 or to withhold issuance of the minor's driver license or
20 driving privilege for up to 2 years.

21 2. If the minor's driver license or driving privilege
22 is under suspension or revocation for any reason, the court
23 shall direct the Department of Highway Safety and Motor
24 Vehicles to extend the period of suspension or revocation by
25 an additional period for up to 2 years.

26 3. If the minor is ineligible by reason of age for a
27 driver license or driving privilege, the court shall direct
28 the Department of Highway Safety and Motor Vehicles to
29 withhold issuance of the minor's driver license or driving
30 privilege for up to 2 years after the date on which the minor
31 would otherwise have become eligible.

1 Section 3. Subsection (21) of section 985.03, Florida
2 Statutes, is amended to read:

3 985.03 Definitions.--When used in this chapter, the
4 term:

5 (21) "Detention hearing" means a hearing for the court
6 to determine if a child should be placed in temporary custody,
7 as provided for under s. 985.2101, s. 985.2103, or s. 985.2105
8 ~~ss. 985.213 and 985.215~~ in delinquency cases.

9 Section 4. Section 985.207, Florida Statutes, is
10 amended to read:

11 985.207 Taking a child into custody.--

12 (1) A child may be taken into custody under the
13 following circumstances:

14 (a) Pursuant to an order of the circuit court issued
15 under this part, based upon sworn testimony, either before or
16 after a petition is filed.

17 (b) For a delinquent act or violation of law, pursuant
18 to Florida law pertaining to a lawful arrest. If such
19 delinquent act or violation of law would be a felony if
20 committed by an adult or involves a crime of violence, the
21 arresting authority shall immediately notify the district
22 school superintendent, or the superintendent's designee, of
23 the school district with educational jurisdiction of the
24 child. Such notification shall include other education
25 providers such as the Florida School for the Deaf and the
26 Blind, university developmental research schools, and private
27 elementary and secondary schools. The information obtained by
28 the superintendent of schools pursuant to this section must be
29 released within 48 hours after receipt to appropriate school
30 personnel, including the principal of the child's school, or
31 as otherwise provided by law. The principal must immediately

1 notify the child's immediate classroom teachers. Information
2 provided by an arresting authority pursuant to this paragraph
3 may not be placed in the student's permanent record and shall
4 be removed from all school records no later than 9 months
5 after the date of the arrest.

6 (c) For failing to appear at a court hearing after
7 being properly noticed.

8 (d) By a law enforcement officer who has probable
9 cause to believe that the child is in violation of the
10 conditions of the child's community control, home detention,
11 or aftercare supervision or has absconded from commitment.

12

13 ~~Nothing in this subsection shall be construed to allow the~~
14 ~~detention of a child who does not meet the detention criteria~~
15 ~~in s. 985.215.~~

16 (2) When a child is taken into custody as provided in
17 this section, the person taking the child into custody shall
18 attempt to notify the parent, guardian, or legal custodian of
19 the child. The person taking the child into custody shall
20 continue such attempt until the parent, guardian, or legal
21 custodian of the child is notified or the child is delivered
22 to a secure detention facility, other designated secure
23 facility, or juvenile probation officer pursuant to s. 985.21,
24 whichever occurs first. If the child is delivered to a secure
25 detention facility, other designated secure facility, or
26 juvenile probation officer before the parent, guardian, or
27 legal custodian is notified, the detention staff or juvenile
28 probation officer shall continue the attempt to notify until
29 the parent, guardian, or legal custodian of the child is
30 notified.

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1 ~~(3) Taking a child into custody is not an arrest~~
2 ~~except for the purpose of determining whether the taking into~~
3 ~~custody or the obtaining of any evidence in conjunction~~
4 ~~therewith is lawful.~~

5 Section 5. Subsection (1) of section 985.208, Florida
6 Statutes, is amended to read:

7 985.208 Detention of escapee on authority of the
8 department.--

9 (1) If an authorized agent of the department has
10 reasonable grounds to believe that any delinquent child
11 committed to the department has escaped from a facility of the
12 department or from being lawfully transported thereto or
13 therefrom, the agent may take the child into active custody
14 and may deliver the child to the facility or, if it is closer,
15 to a detention center for return to the facility. However, a
16 child may not be held in detention longer than 24 hours,
17 excluding Saturdays, Sundays, and legal holidays, unless a
18 special order so directing is made by the judge after a
19 detention hearing resulting in a finding that detention is
20 required based on the criteria in ss. 985.2101 and 985.2103 ~~s.~~
21 ~~985.215(2)~~. The order shall state the reasons for such
22 finding. The reasons shall be reviewable by appeal or in
23 habeas corpus proceedings in the district court of appeal.

24 Section 6. Subsection (4) of section 985.209, Florida
25 Statutes, is amended to read:

26 985.209 Juvenile assessment centers.--

27 (4) Each center shall provide collocated central
28 intake and screening services for youth referred to the
29 department. The center shall provide sufficient services
30 needed to facilitate the initial screening of and case
31 processing for youth, including, at a minimum, delinquency

1 intake; positive identification of the youth; ~~detention~~
2 ~~admission screening~~; needs assessment; substance abuse
3 screening and assessments; physical and mental health
4 screening; and diagnostic testing as appropriate. The
5 department shall provide sufficient staff and resources at a
6 center to provide ~~detention screening~~ and intake services.

7 Section 7. Subsection (1) of section 985.21, Florida
8 Statutes, is amended to read:

9 985.21 Intake and case management.--

10 (1)(a) During the intake process, the juvenile
11 probation officer shall screen each child to determine:

12 1. Appropriateness for ~~release~~, referral to a
13 diversionary program including, but not limited to, a
14 teen-court program, referral for community arbitration, or
15 referral to some other program or agency for the purpose of
16 nonofficial or nonjudicial handling.

17 2. The presence of medical, psychiatric,
18 psychological, substance abuse, educational problems, or other
19 conditions that may have caused the child to come to the
20 attention of law enforcement or the Department of Juvenile
21 Justice. In cases where such conditions are identified, and a
22 nonjudicial handling of the case is chosen, the juvenile
23 probation officer shall attempt to refer the child to a
24 program or agency, together with all available and relevant
25 assessment information concerning the child's precipitating
26 condition.

27 3. The Department of Juvenile Justice shall develop an
28 intake and a case management system whereby a child brought
29 into intake is assigned a juvenile probation officer if the
30 child was not released, referred to a diversionary program,
31 referred for community arbitration, or referred to some other

1 program or agency for the purpose of nonofficial or
2 nonjudicial handling, and shall make every reasonable effort
3 to provide case management services for the child; provided,
4 however, that case management for children committed to
5 residential programs may be transferred as provided in s.
6 985.316.

7 4. In addition to duties specified in other sections
8 and through departmental rules, the assigned juvenile
9 probation officer shall be responsible for the following:

10 ~~a. Ensuring that a risk assessment instrument~~
11 ~~establishing the child's eligibility for detention has been~~
12 ~~accurately completed and that the appropriate recommendation~~
13 ~~was made to the court.~~

14 ~~b. Inquiring as to whether the child understands his~~
15 ~~or her rights to counsel and against self-incrimination.~~

16 a.e. Performing the preliminary screening and making
17 referrals for comprehensive assessment regarding the child's
18 need for substance abuse treatment services, mental health
19 services, retardation services, literacy services, or other
20 educational or treatment services.

21 b.d. Coordinating the multidisciplinary assessment
22 when required, which includes the classification and placement
23 process that determines the child's priority needs, risk
24 classification, and treatment plan. When sufficient evidence
25 exists to warrant a comprehensive assessment and the child
26 fails to voluntarily participate in the assessment efforts, it
27 is the responsibility of the juvenile probation officer to
28 inform the court of the need for the assessment and the
29 refusal of the child to participate in such assessment. This
30 assessment, classification, and placement process shall
31 develop into the predisposition report.

1 ~~c.e.~~ Making recommendations for services and
2 facilitating the delivery of those services to the child,
3 including any mental health services, educational services,
4 family counseling services, family assistance services, and
5 substance abuse services. The juvenile probation officer shall
6 serve as the primary case manager for the purpose of managing,
7 coordinating, and monitoring the services provided to the
8 child. Each program administrator within the Department of
9 Children and Family Services shall cooperate with the primary
10 case manager in carrying out the duties and responsibilities
11 described in this section.

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13 The Department of Juvenile Justice shall annually advise the
14 Legislature and the Executive Office of the Governor of the
15 resources needed in order for the intake and case management
16 system to maintain a staff-to-client ratio that is consistent
17 with accepted standards and allows the necessary supervision
18 and services for each child. The intake process and case
19 management system shall provide a comprehensive approach to
20 assessing the child's needs, relative risks, and most
21 appropriate handling, and shall be based on an individualized
22 treatment plan.

23 (b) The intake and case management system shall
24 facilitate consistency in the recommended placement of each
25 child, and in the assessment, classification, and placement
26 process, with the following purposes:

27 1. An individualized, multidisciplinary assessment
28 process that identifies the priority needs of each individual
29 child for rehabilitation and treatment and identifies any
30 needs of the child's parents or guardians for services that
31 would enhance their ability to provide adequate support,

1 guidance, and supervision for the child. This process shall
2 ~~begin with the detention risk assessment instrument and~~
3 ~~decision, shall~~ include the intake preliminary screening and
4 comprehensive assessment for substance abuse treatment
5 services, mental health services, retardation services,
6 literacy services, and other educational and treatment
7 services as components, additional assessment of the child's
8 treatment needs, and classification regarding the child's
9 risks to the community and, for a serious or habitual
10 delinquent child, shall include the assessment for placement
11 in a serious or habitual delinquent children program pursuant
12 to s. 985.31. The completed multidisciplinary assessment
13 process shall result in the predisposition report.

14 2. A classification system that assigns a relative
15 risk to the child and the community ~~based upon assessments~~
16 ~~including the detention risk assessment results when available~~
17 to classify the child's risk as it relates to placement and
18 supervision alternatives.

19 3. An admissions process that facilitates for each
20 child the utilization of the treatment plan and setting most
21 appropriate to meet the child's programmatic needs and provide
22 the minimum program security needed to ensure public safety.

23 Section 8. Sections 985.2101, 985.2103, and 985.2105,
24 Florida Statutes, are created to read:

25 985.2101 Juvenile pretrial detention and release.--

26 (1) LEGISLATIVE INTENT.--It is the policy of this
27 state that juveniles committing serious criminal offenses,
28 posing a threat to the safety of the community or the
29 integrity of the judicial process, or failing to appear at
30 trial be detained upon arrest. For juveniles who do not meet
31 the criteria for pretrial secure detention, the court shall

1 determine pretrial release pursuant to the provisions of
2 chapters 903 and 985 and the Florida Rules of Juvenile
3 Procedure. It is the intent of the Legislature that the
4 primary consideration be the protection of the community from
5 risk of physical harm to persons.

6 (2) RULES OF PROCEDURE.--Procedures for pretrial
7 release determinations of juvenile offenders shall be governed
8 by rules adopted by the Supreme Court.

9 (3) JUVENILE FIRST APPEARANCE HEARINGS.--Except when
10 previously released in a lawful manner, within 24 hours after
11 being arrested, a juvenile taken into custody for a criminal
12 offense shall be brought before a judicial officer, either in
13 person or by electronic audiovisual device at the discretion
14 of the court, and given a hearing. The purpose of the hearing
15 is to determine the existence of probable cause that the child
16 has committed the delinquent act or violation of law with
17 which he or she is charged, to determine pretrial release, or,
18 if appropriate, to schedule a pretrial secure detention
19 hearing.

20 (4) RELEASE ON NONMONETARY CONDITIONS.--It is the
21 intent of the Legislature to create a presumption in favor of
22 release on nonmonetary conditions for any juvenile who is
23 granted pretrial release. Such juvenile shall be released on
24 monetary conditions only if it is determined that such
25 monetary conditions are necessary to ensure the presence of
26 the juvenile at trial or at other proceedings, to protect the
27 community from risk of physical harm to persons, to ensure the
28 presence of the accused at trial, or to ensure the integrity
29 of the judicial process. Juveniles granted pretrial release
30 shall be subject to the provisions of chapter 903 in the same
31 manner as persons sui juris.

1 (5) PRETRIAL SECURE DETENTION.--
2 (a) As used in this subsection, "dangerous crime"
3 means any of the following:
4 1. Arson;
5 2. Aggravated assault;
6 3. Aggravated battery;
7 4. Illegal use of explosives;
8 5. Child abuse or aggravated child abuse;
9 6. Abuse of an elderly person or disabled adult, or
10 aggravated abuse of an elderly person or disabled adult;
11 7. Hijacking;
12 8. Kidnapping;
13 9. Homicide;
14 10. Manslaughter;
15 11. Sexual battery;
16 12. Robbery;
17 13. Carjacking;
18 14. Lewd, lascivious, or indecent assault or act upon
19 or in presence of a child under the age of 16 years;
20 15. Sexual activity with a child, who is 12 years of
21 age or older but less than 18 years of age, by or at
22 solicitation of person in familial or custodial authority;
23 16. Burglary of a dwelling;
24 17. Stalking and aggravated stalking;
25 18. Act of domestic violence as defined in s. 741.28;
26 19. Attempting or conspiring to commit any such crime;
27 and
28 20. Home-invasion robbery.
29 (b) The court may order pretrial secure detention if
30 it finds a substantial probability, based on a juvenile's past
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1 and present patterns of behavior, the criteria in s. 903.046,
2 and any other relevant facts, that:
3 1. The juvenile has previously violated conditions of
4 release and that no further conditions of release are
5 reasonably likely to ensure the juvenile's appearance at
6 subsequent proceedings;
7 2. The juvenile, with the intent to obstruct the
8 judicial process, has threatened, intimidated, or injured any
9 victim, potential witness, juror, or judicial officer, or has
10 attempted or conspired to do so, and that no condition of
11 release will reasonably prevent the obstruction of the
12 judicial process;
13 3. The juvenile is charged with trafficking in
14 controlled substances as defined by s. 893.135, that there is
15 a substantial probability that the juvenile has committed the
16 offense, and that no conditions of release will reasonably
17 ensure the juvenile's appearance at subsequent criminal
18 proceedings; or
19 4. The juvenile poses the threat of harm to the
20 community. The court may so conclude if it finds that the
21 juvenile is presently charged with a dangerous crime, that
22 there is a substantial probability that the juvenile committed
23 such crime, that the factual circumstances of the crime
24 indicate a disregard for the safety of the community, and that
25 there are no conditions of release reasonably sufficient to
26 protect the community from the risk of physical harm to
27 persons.
28 (c) When a juvenile charged with a crime for which
29 pretrial secure detention could be ordered is arrested, the
30 arresting agency shall promptly notify the state attorney of
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1 the arrest and shall provide the state attorney with such
2 information as the arresting agency has obtained relative to:
3 1. The nature and circumstances of the offense
4 charged;
5 2. The nature of any physical evidence seized and the
6 contents of any statements obtained from the juvenile or any
7 witness;
8 3. The juvenile's family ties, residence, employment,
9 financial condition, and mental condition; and
10 4. The juvenile's past conduct and present conduct,
11 including any record of convictions, previous flight to avoid
12 prosecution, or failure to appear at court proceedings.
13 (d) When a juvenile is arrested for a crime for which
14 pretrial secure detention could be ordered, the arresting
15 agency may commit the juvenile to a secure detention facility
16 or other secure facility designated by the Secretary of
17 Juvenile Justice. The juvenile may be securely detained by
18 the Department of Juvenile Justice at such facility for a
19 period not to exceed 24 hours, unless the state attorney files
20 a motion seeking pretrial secure detention. If the state
21 attorney files a motion seeking pretrial secure detention, the
22 juvenile may be securely detained pending the pretrial secure
23 detention hearing.
24 (e) The court shall order secure detention only after
25 a pretrial secure detention hearing. The hearing shall be
26 held within 5 days after the filing by the state attorney of a
27 complaint to seek pretrial secure detention. The juvenile may
28 request a continuance. No continuance shall be for longer
29 than 5 days unless there are extenuating circumstances. The
30 state attorney shall be entitled to one continuance for good
31 cause.

1 (f) The state attorney has the burden of showing the
2 need for pretrial secure detention.

3 (g) The juvenile is entitled to be represented by
4 counsel, to present witnesses and evidence, and to
5 cross-examine witnesses. The court may admit relevant
6 evidence without complying with the rules of evidence, but
7 evidence secured in violation of the United States
8 Constitution or the Constitution of the State of Florida shall
9 not be admissible. No testimony by the juvenile shall be
10 admissible to prove guilt at any other judicial proceeding,
11 but such testimony may be admitted in an action for perjury,
12 based upon the juvenile's statements made at the pretrial
13 secure detention hearing, or for impeachment.

14 (h) The pretrial secure detention order of the court
15 shall be based solely upon evidence produced at the hearing
16 and shall contain findings of fact and conclusions of law to
17 support it. The order shall be made either in writing or
18 orally on the record. The court shall render its findings
19 within 24 hours after the pretrial secure detention hearing.

20 (i) If ordered securely detained pending trial
21 pursuant to subparagraph (b)4., the juvenile may not be held
22 for more than 90 days. Failure of the state to bring the
23 juvenile to trial within that time shall result in the
24 juvenile's release from detention, subject to any conditions
25 of release, unless the trial delay was requested or caused by
26 the juvenile or his or her counsel.

27 (j) The juvenile shall be entitled to dissolution of
28 the pretrial secure detention order whenever the court finds
29 that a subsequent event has eliminated the basis for secure
30 detention.

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1 (k) An order for secure detention shall be a final
2 order, reviewable by appeal pursuant to s. 985.234 and the
3 Florida Rules of Appellate Procedure. Appeals of such orders
4 shall take precedence over other appeals and other pending
5 matters.

6 (6) RELEASE FROM CUSTODY.--A court ordering a juvenile
7 to be placed on pretrial release may order the juvenile
8 released from custody as follows:

9 (a) To the juvenile's parent, guardian, or legal
10 custodian or, if the juvenile's parent, guardian, or legal
11 custodian is unavailable, unwilling, or unable to provide
12 supervision for the juvenile, to any responsible adult. Prior
13 to releasing the juvenile to a responsible adult, other than
14 the parent, guardian, or legal custodian, the person taking
15 the juvenile into custody may conduct a criminal history
16 background check of the person to whom the juvenile is to be
17 released. If the person has a prior felony conviction, or a
18 conviction for child abuse, drug trafficking, or prostitution,
19 that person is not a responsible adult for the purposes of
20 this section. The person to whom the juvenile is released
21 shall agree to inform the department or the person releasing
22 the juvenile of the juvenile's subsequent change of address
23 and to produce the juvenile in court at such time as the court
24 may direct, and the juvenile shall join in the agreement.

25 (b) Contingent upon specific appropriation, to a
26 shelter approved by the department or to an authorized agent
27 pursuant to s. 39.401(2)(b).

28 (c) If the juvenile is believed to be suffering from a
29 serious physical condition which requires either prompt
30 diagnosis or prompt treatment, to a juvenile probation officer
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1 who shall deliver the juvenile to a hospital for necessary
2 evaluation and treatment.

3 (d) If the juvenile is believed to be mentally ill as
4 defined in s. 394.463(1), to a juvenile probation officer who
5 shall take the juvenile to a designated public receiving
6 facility as defined in s. 394.455 for examination pursuant to
7 the provisions of s. 394.463.

8 (e) If the juvenile appears to be intoxicated and has
9 threatened, attempted, or inflicted physical harm on himself
10 or herself or another, or is incapacitated by substance abuse,
11 to a juvenile probation officer who shall deliver the juvenile
12 to a hospital, addictions receiving facility, or treatment
13 resource.

14 (f) If available, to a juvenile assessment center
15 equipped and staffed to assume custody of the juvenile for the
16 purpose of assessing the needs of the juvenile in custody. The
17 center may then release or deliver the juvenile pursuant to
18 this section with a copy of the assessment.

19
20 Nothing in this subsection shall be construed to limit the
21 authority of the court to order a juvenile on pretrial release
22 to be released from custody in any other lawful manner or with
23 any conditions the court deems appropriate.

24 985.2103 Processing of juvenile offenders.--

25 (1) When a juvenile is arrested and taken into custody
26 by a law enforcement officer for a criminal offense, the
27 arresting agency may commit the juvenile to a secure detention
28 facility or other secure facility designated by the Secretary
29 of Juvenile Justice.

30 (2) Upon delivery of the juvenile to a secure
31 detention facility or other secure facility, the person taking

1 the juvenile into custody shall make a written report or
2 probable cause affidavit to the appropriate juvenile probation
3 officer. Such written report or probable cause affidavit must:
4 (a) Identify the juvenile and, if known, the parents,
5 guardian, or legal custodian.
6 (b) Establish that the juvenile was legally taken into
7 custody, with sufficient information to establish the
8 jurisdiction of the court and to make a prima facie showing
9 that the juvenile has committed a violation of law.
10 (3) Upon taking a juvenile into custody, a law
11 enforcement officer may deliver the juvenile, for temporary
12 custody not to exceed 6 hours, to a secure booking area of a
13 jail or other facility intended or used for the detention of
14 adults, for the purpose of fingerprinting or photographing the
15 juvenile or awaiting appropriate transport to the department
16 or as provided in subsection (1), provided no regular sight
17 and sound contact between the juvenile and adult inmates or
18 trustees is permitted and the receiving facility has adequate
19 staff to supervise and monitor the juvenile's activities at
20 all times.
21 (4) The juvenile may be securely detained by the
22 Department of Juvenile Justice at a secure detention facility,
23 or other designated secure facility for a period not to exceed
24 24 hours, unless the state attorney files a notice of intent
25 to seek pretrial secure detention. If the state attorney
26 files a notice of intent to seek pretrial secure detention,
27 the juvenile may be securely detained pending the pretrial
28 secure detention hearing.
29 (5)(a) When a juvenile sexual offender is placed in
30 detention, detention staff shall provide appropriate
31

1 monitoring and supervision to ensure the safety of other
2 juveniles in the facility.

3 (b) When a juvenile sexual offender, pursuant to this
4 subsection, is released from detention or transferred to home
5 detention or nonsecure detention, detention staff shall
6 immediately notify the appropriate law enforcement agency and
7 school personnel.

8 (6) A law enforcement officer who releases a juvenile
9 from custody for a criminal offense shall make a written
10 report or probable cause affidavit to the appropriate juvenile
11 probation officer within 3 days, stating the facts and the
12 reason for taking the juvenile into custody. Such written
13 report or probable cause affidavit shall:

14 (a) Identify the juvenile, the parents, guardian, or
15 legal custodian, and the person to whom the juvenile was
16 released.

17 (b) Contain sufficient information to establish the
18 jurisdiction of the court and to make a prima facie showing
19 that the juvenile has committed a criminal offense.

20 (7)(a) A copy of the probable cause affidavit or
21 written report by a law enforcement agency shall be filed, by
22 the law enforcement agency making such affidavit or written
23 report, with the clerk of the circuit court for the county in
24 which the juvenile is taken into custody or in which the
25 affidavit or report is made within 24 hours after the juvenile
26 is taken into custody and detained, within 1 week after the
27 juvenile is taken into custody and released, or within 1 week
28 after the affidavit or report is made, excluding Saturdays,
29 Sundays, and legal holidays. Such affidavit or report is a
30 case for the purpose of assigning a uniform case number
31 pursuant to this subsection.

1 (b) Upon the filing of a copy of a probable cause
2 affidavit or written report by a law enforcement agency with
3 the clerk of the circuit court, the clerk shall immediately
4 assign a uniform case number to the affidavit or report,
5 forward a copy to the state attorney, and forward a copy to
6 the intake office of the department which serves the county in
7 which the case arose.

8 (c) Each letter of recommendation, written notice,
9 report, or other paper required by law pertaining to the case
10 shall bear the uniform case number of the case, and a copy
11 shall be filed with the clerk of the circuit court by the
12 issuing agency. The issuing agency shall furnish copies to
13 the juvenile probation officer and the state attorney.

14 (d) Upon the filing of a petition based on the
15 allegations of a previously filed probable cause affidavit or
16 written report, the agency filing the petition shall include
17 the appropriate uniform case number on the petition.

18 (8) Nothing in this section shall prohibit the proper
19 use of law enforcement diversion programs. Law enforcement
20 agencies may initiate and conduct diversion programs designed
21 to divert a juvenile from the need for department custody or
22 judicial handling. Such programs may be cooperative projects
23 with local community service agencies.

24 (9) Under no circumstances shall the juvenile
25 probation officer or the state attorney or law enforcement
26 officer authorize the detention of any juvenile in a jail or
27 other facility intended or used for the detention of adults,
28 without an order of the court.

29 (10) Except in emergency situations, a juvenile may
30 not be placed into or transported in any police car or similar
31 vehicle that at the same time contains an adult under arrest,

1 unless the adult is alleged or believed to be involved in the
2 same offense or transaction as the juvenile.

3 (11) The court shall order the delivery of a juvenile
4 to a jail or other facility intended or used for the detention
5 of adults:

6 (a) When the juvenile has been transferred or indicted
7 for criminal prosecution as an adult pursuant to this part,
8 except that the court may not order or allow a juvenile
9 alleged to have committed a misdemeanor who is being
10 transferred for criminal prosecution pursuant to either s.
11 985.226 or s. 985.227 to be detained or held in a jail or
12 other facility intended or used for the detention of adults;
13 however, such juvenile may be held temporarily in a detention
14 facility; or

15 (b) When a juvenile taken into custody in this state
16 is wanted by another jurisdiction for prosecution as an adult.

17
18 The juvenile shall be housed separately from adult inmates to
19 prohibit a juvenile from having regular contact with
20 incarcerated adults, including trustees. "Regular contact"
21 means sight and sound contact. Separation of juveniles from
22 adults shall permit no more than haphazard or accidental
23 contact. The receiving jail or other facility shall contain a
24 separate section for juveniles and shall have an adequate
25 staff to supervise and monitor the juvenile's activities at
26 all times. Supervision and monitoring of juveniles includes
27 physical observation and documented checks by jail or
28 receiving facility supervisory personnel at intervals not to
29 exceed 15 minutes. This paragraph does not prohibit placing
30 two or more juveniles in the same cell. Under no circumstances
31 shall a juvenile be placed in the same cell with an adult.

1 985.2105 Postdispositional detention.--
2 (1) When a juvenile is committed to the Department of
3 Juvenile Justice awaiting dispositional placement, removal of
4 the juvenile from detention care shall occur within 5 days,
5 excluding Saturdays, Sundays, and legal holidays. If the
6 juvenile is committed to a moderate-risk residential program,
7 the department may seek an order from the court authorizing
8 continued detention for a specific period of time necessary
9 for the appropriate residential placement of the juvenile.
10 However, such continued detention in secure detention care may
11 not exceed 15 days after commitment, excluding Saturdays,
12 Sundays, and legal holidays, and except as otherwise provided
13 in this subsection.

14 (2) If the juvenile is committed to a high-risk
15 residential program, the juvenile must be held in detention
16 care or in a juvenile assignment center pursuant to s. 985.307
17 until placement or commitment is accomplished.

18 (3) If the juvenile is committed to a maximum-risk
19 residential program, the juvenile must be held in detention
20 care or in an assignment center pursuant to s. 985.307 until
21 placement or commitment is accomplished.

22 Section 9. Subsection (5) of section 985.219, Florida
23 Statutes, is amended to read:

24 985.219 Process and service.--

25 (5) If the petition alleges that the child has
26 committed a delinquent act or violation of law and the judge
27 deems it advisable to do so, pursuant to the criteria of ss.
28 985.2101 and 985.2103 ~~s. 985.215~~, the judge may, by
29 endorsement upon the summons and after the entry of an order
30 in which valid reasons are specified, order the child to be
31 taken into custody immediately, and in such case the person

1 serving the summons shall immediately take the child into
2 custody.

3 Section 10. Subsection (1) of section 985.228, Florida
4 Statutes, is amended to read:

5 985.228 Adjudicatory hearings; withheld adjudications;
6 orders of adjudication.--

7 (1) The adjudicatory hearing must be held as soon as
8 practicable after the petition alleging that a child has
9 committed a delinquent act or violation of law is filed and in
10 accordance with the Florida Rules of Juvenile Procedure; but
11 reasonable delay for the purpose of investigation, discovery,
12 or procuring counsel or witnesses shall be granted. If the
13 child is being detained, the time limitations provided for in
14 s. 985.2101 or s. 985.2103 ~~985.215(5)(b) and (c)~~ apply.

15 Section 11. Paragraph (a) of subsection (1) of section
16 985.231, Florida Statutes, is amended to read:

17 985.231 Powers of disposition in delinquency cases.--

18 (1)

19 (a) The court that has jurisdiction of an adjudicated
20 delinquent child may, by an order stating the facts upon which
21 a determination of a sanction and rehabilitative program was
22 made at the disposition hearing:

23 1. Place the child in a community control program or a
24 postcommitment community control program under the supervision
25 of an authorized agent of the Department of Juvenile Justice
26 or of any other person or agency specifically authorized and
27 appointed by the court, whether in the child's own home, in
28 the home of a relative of the child, or in some other suitable
29 place under such reasonable conditions as the court may
30 direct. A community control program for an adjudicated
31 delinquent child must include a penalty component such as

1 restitution in money or in kind, community service, a curfew,
2 revocation or suspension of the driver's license of the child,
3 or other nonresidential punishment appropriate to the offense
4 and must also include a rehabilitative program component such
5 as a requirement of participation in substance abuse treatment
6 or in school or other educational program. Upon the
7 recommendation of the department at the time of disposition,
8 or subsequent to disposition pursuant to the filing of a
9 petition alleging a violation of the child's conditions of
10 community control or aftercare supervision, the court may
11 order the child to submit to random testing for the purpose of
12 detecting and monitoring the use of alcohol or controlled
13 substances.

14 a. A restrictiveness level classification scale for
15 levels of supervision shall be provided by the department,
16 taking into account the child's needs and risks relative to
17 community control supervision requirements to reasonably
18 ensure the public safety. Community control programs for
19 children shall be supervised by the department or by any other
20 person or agency specifically authorized by the court. These
21 programs must include, but are not limited to, structured or
22 restricted activities as described in this subparagraph, and
23 shall be designed to encourage the child toward acceptable and
24 functional social behavior. If supervision or a program of
25 community service is ordered by the court, the duration of
26 such supervision or program must be consistent with any
27 treatment and rehabilitation needs identified for the child
28 and may not exceed the term for which sentence could be
29 imposed if the child were committed for the offense, except
30 that the duration of such supervision or program for an
31 offense that is a misdemeanor of the second degree, or is

1 equivalent to a misdemeanor of the second degree, may be for a
2 period not to exceed 6 months. When restitution is ordered by
3 the court, the amount of restitution may not exceed an amount
4 the child and the parent or guardian could reasonably be
5 expected to pay or make. A child who participates in any work
6 program under this part is considered an employee of the state
7 for purposes of liability, unless otherwise provided by law.

8 b. The court may conduct judicial review hearings for
9 a child placed on community control for the purpose of
10 fostering accountability to the judge and compliance with
11 other requirements, such as restitution and community service.
12 The court may allow early termination of community control for
13 a child who has substantially complied with the terms and
14 conditions of community control.

15 c. If the conditions of the community control program
16 or the postcommitment community control program are violated,
17 the department or the state attorney may bring the child
18 before the court on a petition alleging a violation of the
19 program. Any child who violates the conditions of community
20 control or postcommitment community control must be brought
21 before the court if sanctions are sought. A child taken into
22 custody under s. 985.207 for violating the conditions of
23 community control or postcommitment community control shall be
24 held in a consequence unit if such a unit is available. The
25 child shall be afforded a hearing within 24 hours after being
26 taken into custody to determine the existence of probable
27 cause that the child violated the conditions of community
28 control or postcommitment community control. A consequence
29 unit is a secure facility specifically designated by the
30 department for children who are taken into custody under s.
31 985.207 for violating community control or postcommitment

1 community control, or who have been found by the court to have
2 violated the conditions of community control or postcommitment
3 community control. If the violation involves a new charge of
4 delinquency, the child may be detained under s. 985.2101
5 ~~985.215~~ in a facility other than a consequence unit. If the
6 child is not eligible for detention for the new charge of
7 delinquency, the child may be held in the consequence unit
8 pending a hearing and is subject to the time limitations
9 specified in ss. 985.2101 and 985.2103 ~~s. 985.215~~. If the
10 child denies violating the conditions of community control or
11 postcommitment community control, the court shall appoint
12 counsel to represent the child at the child's request. Upon
13 the child's admission, or if the court finds after a hearing
14 that the child has violated the conditions of community
15 control or postcommitment community control, the court shall
16 enter an order revoking, modifying, or continuing community
17 control or postcommitment community control. In each such
18 case, the court shall enter a new disposition order and, in
19 addition to the sanctions set forth in this paragraph, may
20 impose any sanction the court could have imposed at the
21 original disposition hearing. If the child is found to have
22 violated the conditions of community control or postcommitment
23 community control, the court may:

24 (I) Place the child in a consequence unit in that
25 judicial circuit, if available, for up to 5 days for a first
26 violation, and up to 15 days for a second or subsequent
27 violation.

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

31

1 (III) Modify or continue the child's community control
2 program or postcommitment community control program.

3 (IV) Revoke community control or postcommitment
4 community control and commit the child to the department.

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

11 2. Commit the child to a licensed child-caring agency
12 willing to receive the child, but the court may not commit the
13 child to a jail or to a facility used primarily as a detention
14 center or facility or shelter.

15 3. Commit the child to the Department of Juvenile
16 Justice at a restrictiveness level defined in s. 985.03. Such
17 commitment must be for the purpose of exercising active
18 control over the child, including, but not limited to,
19 custody, care, training, urine monitoring, and treatment of
20 the child and release of the child into the community in a
21 postcommitment nonresidential aftercare program. If the child
22 is not successful in the aftercare program, the department may
23 use the transfer procedure under s. 985.404. Notwithstanding
24 s. 743.07 and paragraph (d), and except as provided in s.
25 985.31, the term of the commitment must be until the child is
26 discharged by the department or until he or she reaches the
27 age of 21.

28 4. Revoke or suspend the driver's license of the
29 child.

30 5. Require the child and, if the court finds it
31 appropriate, the child's parent or guardian together with the

1 child, to render community service in a public service
2 program.

3 6. As part of the community control program to be
4 implemented by the Department of Juvenile Justice, or, in the
5 case of a committed child, as part of the community-based
6 sanctions ordered by the court at the disposition hearing or
7 before the child's release from commitment, order the child to
8 make restitution in money, through a promissory note cosigned
9 by the child's parent or guardian, or in kind for any damage
10 or loss caused by the child's offense in a reasonable amount
11 or manner to be determined by the court. The clerk of the
12 circuit court shall be the receiving and dispensing agent. In
13 such case, the court shall order the child or the child's
14 parent or guardian to pay to the office of the clerk of the
15 circuit court an amount not to exceed the actual cost incurred
16 by the clerk as a result of receiving and dispensing
17 restitution payments. The clerk shall notify the court if
18 restitution is not made, and the court shall take any further
19 action that is necessary against the child or the child's
20 parent or guardian. A finding by the court, after a hearing,
21 that the parent or guardian has made diligent and good faith
22 efforts to prevent the child from engaging in delinquent acts
23 absolves the parent or guardian of liability for restitution
24 under this subparagraph.

25 7. Order the child and, if the court finds it
26 appropriate, the child's parent or guardian together with the
27 child, to participate in a community work project, either as
28 an alternative to monetary restitution or as part of the
29 rehabilitative or community control program.

30 8. Commit the child to the Department of Juvenile
31 Justice for placement in a program or facility for serious or

1 habitual juvenile offenders in accordance with s. 985.31. Any
2 commitment of a child to a program or facility for serious or
3 habitual juvenile offenders must be for an indeterminate
4 period of time, but the time may not exceed the maximum term
5 of imprisonment that an adult may serve for the same offense.
6 The court may retain jurisdiction over such child until the
7 child reaches the age of 21, specifically for the purpose of
8 the child completing the program.

9 9. In addition to the sanctions imposed on the child,
10 order the parent or guardian of the child to perform community
11 service if the court finds that the parent or guardian did not
12 make a diligent and good faith effort to prevent the child
13 from engaging in delinquent acts. The court may also order the
14 parent or guardian to make restitution in money or in kind for
15 any damage or loss caused by the child's offense. The court
16 shall determine a reasonable amount or manner of restitution,
17 and payment shall be made to the clerk of the circuit court as
18 provided in subparagraph 6.

19 10. Subject to specific appropriation, commit the
20 juvenile sexual offender to the Department of Juvenile Justice
21 for placement in a program or facility for juvenile sexual
22 offenders in accordance with s. 985.308. Any commitment of a
23 juvenile sexual offender to a program or facility for juvenile
24 sexual offenders must be for an indeterminate period of time,
25 but the time may not exceed the maximum term of imprisonment
26 that an adult may serve for the same offense. The court may
27 retain jurisdiction over a juvenile sexual offender until the
28 juvenile sexual offender reaches the age of 21, specifically
29 for the purpose of completing the program.

30 Section 12. The Legislature finds that under the
31 provisions of this act Rules 8.010, 8.013, and 8.015, Rules of

1 Juvenile Procedure, as such rules pertain to juvenile
2 detention and release, no longer apply. Accordingly, the
3 Legislature requests the Supreme Court, pursuant to the
4 authority vested in the court by s. 2(a), Art. V of the State
5 Constitution, to adopt rules amending the Rules of Juvenile
6 Procedure as necessary to comply or be consistent with the
7 provisions of this act.

8 Section 13. Sections 985.211, 985.213, 985.214, and
9 985.215, Florida Statutes, are repealed.

10 Section 14. This act shall take effect October 1,
11 2000.

12 *****

13 HOUSE SUMMARY

14 Replaces current law provisions for juveniles relating to
15 release or delivery from custody, uses of detention,
16 prohibited uses of detention, and detention with
17 provisions for juvenile pretrial detention and release
18 similar to adult pretrial detention and release, secure
19 detention, processing juvenile offenders, and
20 postdispositional detention. See bill for details.

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