

By the Committees on Criminal Justice Appropriations,
Crime & Punishment and Representatives Kyle, Crist, Bense,
Feeney, Fasano and Byrd

1 A bill to be entitled
2 An act relating to the prosecution of
3 juveniles; amending s. 985.227, F.S.; requiring
4 that the state attorney prosecute a juvenile
5 between certain ages as an adult if the
6 juvenile is charged with a specified violent
7 felony and possessed a firearm or destructive
8 device during the commission of the felony or
9 discharged a firearm or destructive device
10 during the commission of the felony which
11 resulted in death or great bodily harm;
12 providing for a juvenile convicted under the
13 act to be sentenced as an adult; specifying
14 circumstances in which the provisions of this
15 act do not apply; providing an effective date.

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

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19 Section 1. Paragraph (d) is added to subsection (2) of
20 section 985.227, Florida Statutes, to read:

21 985.227 Prosecution of juveniles as adults by the
22 direct filing of an information in the criminal division of
23 the circuit court; discretionary criteria; mandatory
24 criteria.--

25 (2) MANDATORY DIRECT FILE.--

26 (a) With respect to any child who was 16 or 17 years
27 of age at the time the alleged offense was committed, the
28 state attorney shall file an information if the child has been
29 previously adjudicated delinquent for an act classified as a
30 felony, which adjudication was for the commission of, attempt
31 to commit, or conspiracy to commit murder, sexual battery,

1 armed or strong-armed robbery, carjacking, home-invasion
2 robbery, aggravated battery, or aggravated assault, and the
3 child is currently charged with a second or subsequent violent
4 crime against a person.

5 (b) Notwithstanding subsection (1), regardless of the
6 child's age at the time the alleged offense was committed, the
7 state attorney must file an information with respect to any
8 child who previously has been adjudicated for offenses which,
9 if committed by an adult, would be felonies and such
10 adjudications occurred at three or more separate delinquency
11 adjudicatory hearings, and three of which resulted in
12 residential commitments as defined in s. 985.03(47).

13 (c) The state attorney must file an information if a
14 child, regardless of the child's age at the time the alleged
15 offense was committed, is alleged to have committed an act
16 that would be a violation of law if the child were an adult,
17 that involves stealing a motor vehicle, including, but not
18 limited to, a violation of s. 812.133, relating to carjacking,
19 or s. 812.014(2)(c)6., relating to grand theft of a motor
20 vehicle, and while the child was in possession of the stolen
21 motor vehicle the child caused serious bodily injury to or the
22 death of a person who was not involved in the underlying
23 offense. For purposes of this section, the driver and all
24 willing passengers in the stolen motor vehicle at the time
25 such serious bodily injury or death is inflicted shall also be
26 subject to mandatory transfer to adult court. "Stolen motor
27 vehicle," for the purposes of this section, means a motor
28 vehicle that has been the subject of any criminal wrongful
29 taking. For purposes of this section, "willing passengers"
30 means all willing passengers who have participated in the
31 underlying offense.

1 (d)1. With respect to any child who was 16 or 17 years
2 of age at the time the alleged offense was committed, the
3 state attorney shall file an information if the child has been
4 charged with committing or attempting to commit an offense
5 listed in s. 775.087(2)(a)1.a.-q., and, during the commission
6 of or attempt to commit the offense, the child:

7 a. Actually possessed a firearm or destructive device,
8 as those terms are defined in s. 790.001.

9 b. Discharged a firearm or destructive device, as
10 described in s. 775.087(2)(a)2.

11 c. Discharged a firearm or destructive device, as
12 described in s. 775.087(2)(a)3., and, as a result of the
13 discharge, death or great bodily harm was inflicted upon any
14 person.

15 2. This paragraph shall not apply if the state
16 attorney has good cause to believe that exceptional
17 circumstances exist which preclude the just prosecution of the
18 child in adult court.

19 3. Upon transfer, the child shall be subject to
20 prosecution under s. 775.087(2)(a), notwithstanding s.
21 985.233.

22 4. The Department of Corrections shall make every
23 reasonable effort to ensure that any child 16 or 17 years of
24 age who is convicted and sentenced under this section be
25 completely separated such that there is no physical contact
26 with adult offenders in the facility, including in hallways
27 and in sleeping, dining, recreation, educational, vocational,
28 and healthcare areas, until the offender sentenced under this
29 section is an adult.

30 Section 2. The Department of Corrections may spend up
31 to \$300,000 from resources available from the department's

1 appropriation for the 1999-2000 fiscal year and up to \$300,000
2 from resources available from the department's appropriation
3 for the 2000-2001 fiscal year to provide statewide public
4 service announcements to advertise the penalties provided in
5 this section.

6 Section 3. This act shall take effect October 1, 2000.

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