

By Senator Burt

16-1404A-00

1                                   A bill to be entitled  
 2           An act relating to children in need of  
 3           services; amending s. 984.225, F.S., relating  
 4           to powers of disposition; amending the  
 5           requirements for placing a child in a  
 6           staff-secure shelter; amending s. 984.226,  
 7           F.S.; amending the judicial circuits included  
 8           in a physically-secure-shelter pilot project;  
 9           providing for waiver of the right to counsel in  
 10          prescribed circumstances; amending the criteria  
 11          for placement of a child in a physically secure  
 12          shelter; providing time limits for placement in  
 13          a physically secure shelter; providing for  
 14          judicial review of the status of a child who is  
 15          placed in a physically secure shelter;  
 16          providing for referral of a child to the  
 17          Department of Children and Family Services for  
 18          dependency or mental health services; directing  
 19          the Juvenile Justice Accountability Board to  
 20          submit an implementation report and an  
 21          evaluation report to the Legislature; requiring  
 22          the Department of Juvenile Justice to submit  
 23          proposed legislation and an implementation  
 24          report; providing an effective date.

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

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 28           Section 1. Subsections (2), (5), and (6) of section  
 29 984.225, Florida Statutes, are amended to read:  
 30           984.225 Powers of disposition; placement in a  
 31 staff-secure shelter.--

1           (2) 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 in a  
7 staff-secure shelter under this section is designed to provide  
8 residential care on a temporary basis. Such placement  
9 ~~commitment~~ does not abrogate the legal responsibilities of the  
10 parent, guardian, or legal custodian with respect to the  
11 child, except to the extent that those responsibilities are  
12 temporarily altered by court order.

13           (5) The department is deemed to have exhausted the  
14 reasonable remedies offered under this chapter if, at the end  
15 of the placement in a staff-secure shelter ~~commitment period~~,  
16 the parent, guardian, or legal custodian continues to refuse  
17 to allow the child to remain at home or creates unreasonable  
18 conditions for the child's return. If, at the end of the  
19 placement in a staff-secure shelter ~~commitment period~~, the  
20 child is not reunited with his or her parent, guardian, or  
21 custodian due solely to the continued refusal of the parent,  
22 guardian, or custodian to provide food, clothing, shelter, and  
23 parental support, the child is considered to be threatened  
24 with harm as a result of such acts or omissions, and the court  
25 shall direct that the child be handled in every respect as a  
26 dependent child. Jurisdiction shall be transferred to the  
27 Department of Children and Family Services and the child's  
28 care shall be governed under ~~parts II and III~~ of chapter 39.

29           (6) The court shall review the child's placement in a  
30 staff-secure shelter ~~commitment~~ once every 45 days as provided  
31 in s. 984.20. The court shall determine if the parent,

1 guardian, or custodian has reasonably participated in and  
2 financially contributed to the child's counseling and  
3 treatment program. The court shall also determine whether the  
4 department's efforts to reunite the family have been  
5 reasonable. If the court finds an inadequate level of support  
6 or participation by the parent, guardian, or custodian prior  
7 to the end of the placement ~~commitment period~~, the court shall  
8 direct that the child be handled in every respect as a  
9 dependent child. Jurisdiction shall be transferred to the  
10 Department of Children and Family Services and the child's  
11 care shall be governed under ~~parts II and III~~ of chapter 39.

12 Section 2. Section 984.226, Florida Statutes, is  
13 amended to read:

14 984.226 Pilot program for a physically secure  
15 facility; contempt of court.--

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

25 (2) When if any party files a petition is filed in the  
26 Fourth, Fifth, Seventh, Eighth, Ninth, or Eighteenth Judicial  
27 Circuit alleging that a child is a child in need of services  
28 within such judicial circuit, the child must be represented by  
29 counsel at each court appearance unless the record in that  
30 proceeding affirmatively demonstrates by clear and convincing  
31 evidence that the child knowingly and intelligently waived the

1 right to counsel after being fully advised by the court of the  
2 nature of the proceedings and the dispositional alternatives  
3 available to the court under this section. If the court  
4 decides to appoint counsel for the child and if the child is  
5 indigent, the court shall appoint an attorney to represent the  
6 child as provided under s. 985.203. Nothing precludes the  
7 court from requesting reimbursement of attorney's fees and  
8 costs from the nonindigent parent or legal guardian.

9 ~~(3)(2)~~ When ~~if~~ a child is adjudicated as a child in  
10 need of services by a court in any of the judicial circuits  
11 specified in this section, the court may order the child to be  
12 placed in a pilot physically secure facility authorized in  
13 this section if ~~is held in direct contempt or indirect~~  
14 ~~contempt of a valid court order, as an alternative to placing~~  
15 ~~the child in a staff-secure facility as provided under s.~~  
16 ~~984.225 or s. 985.216, the court may order that the child be~~  
17 ~~placed within the circuit in a physically secure facility~~  
18 ~~operated under the pilot program. A child may be committed to~~  
19 ~~the facility only if the department, or an authorized~~  
20 ~~representative of the department, verifies to the court that a~~  
21 ~~bed is available for the child at the physically secure~~  
22 ~~facility and the child has:~~

23 (a) Failed to appear for placement in a staff-secure  
24 shelter under s. 984.225, or failed to comply with any other  
25 provision of a valid court order relating to such placement  
26 and, as a result of such failure, has been found to be in  
27 direct or indirect contempt of court; or

28 ~~(b)(a)~~ Run away from a staff-secure shelter following  
29 placement under s. 984.225 or s. 984.09.~~s. 985.216; or~~

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

1  
2 The department or an authorized representative of the  
3 department must verify to the court that a bed is available  
4 for the child. If a bed is not available, the court shall stay  
5 the placement until a bed is available, and the department  
6 must place the child's name on a waiting list. The child who  
7 has been on the waiting list the longest has first priority  
8 for placement in the physically secure shelter.

9 (4)(3) A child may be placed in a physically secure  
10 facility for up to 90 5 days for the first commitment and up  
11 to 15 days for a second or subsequent commitment. If a child  
12 has not been reunited with his or her parent, guardian, or  
13 legal custodian at the expiration of the placement in a  
14 physically secure shelter, the court may order that the child  
15 remain in the physically secure shelter for an additional 30  
16 days if the court finds that reunification could be achieved  
17 within that period.

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

20 (b) At any time during the placement of a child in  
21 need of services in a physically secure shelter, the  
22 department or an authorized representative of the department  
23 may submit to the court a report that recommends:

24 1. That the child has received all of the services  
25 available from the program and is ready for reunification with  
26 a parent or guardian; or

27 2. That the child is unlikely to benefit from  
28 continued placement in the physically secure shelter and is  
29 more likely to have his or her needs met in a different type  
30 of placement.

31

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

5           (d) The court shall also determine whether the  
6 department's efforts to reunite the family have been  
7 reasonable. If the court finds an inadequate level of support  
8 or participation by the parent, guardian, or custodian before  
9 the end of the placement, the court shall direct that the  
10 child be handled as a dependent child, jurisdiction shall be  
11 transferred to the Department of Children and Family Services,  
12 and the child's care shall be governed by chapter 39.

13           (e) If the child requires residential mental health  
14 treatment or residential care for a developmental disability,  
15 the court shall refer the child to the Department of Children  
16 and Family Services for the provision of necessary services.

17           (6)(4) Prior to being ordered ~~committed~~ to a  
18 physically secure facility, the child must be afforded all  
19 rights of due process required under s. 985.216. While in the  
20 physically secure facility, the child shall receive  
21 appropriate assessment, treatment, and educational services  
22 that are designed to eliminate or reduce the child's truant,  
23 ungovernable, or runaway behavior. The child and family shall  
24 be provided with family counseling and other support services  
25 necessary for reunification.

26           (7)(5) The court shall order the parent, guardian, or  
27 legal custodian to cooperate with efforts to reunite the child  
28 with the family, participate in counseling, and pay all costs  
29 associated with the care and counseling provided to the child  
30 and family, in accordance with the family's ability to pay as  
31 determined by the court. Placement ~~Commitment~~ of a child under

1 this section is designed to provide residential care on a  
2 temporary basis. Such placement ~~commitment~~ does not abrogate  
3 the legal responsibilities of the parent, guardian, or legal  
4 custodian with respect to the child, except to the extent that  
5 those responsibilities are temporarily altered by court order.

6 (8)~~(6)~~ The Juvenile Justice Accountability Board shall  
7 monitor the operation of the pilot program and issue a  
8 preliminary ~~evaluation~~ report to the President of the Senate  
9 and the Speaker of the House of Representatives by July 1,  
10 2000, and a report that evaluates the effectiveness of the  
11 pilot physically secure shelter in reuniting the children  
12 served with their parent or guardian and avoiding subsequent  
13 out-of-home placements shall be submitted to the Legislature  
14 by January 15, 2001 ~~Legislature by December 1, 1998~~. The  
15 Department of Juvenile Justice and the Juvenile Justice  
16 Accountability Board shall recommend ~~issue a joint final~~  
17 ~~report~~ to the Legislature, ~~including~~ any proposed legislation  
18 concerning the pilot project by January 15, 2001, ~~by December~~  
19 ~~1, 1999~~.

20 Section 3. The Department of Juvenile Justice shall  
21 submit to the President of the Senate, the Speaker of the  
22 House of Representatives, and the Juvenile Justice  
23 Accountability Board, within 45 days after this act becomes a  
24 law or by August 1, 2000, whichever is earlier, a report that  
25 describes departmental efforts to implement the pilot project  
26 authorized in this act. The report must include the following  
27 data for each judicial circuit included in the pilot project:

28 (1) The number of youths who have been adjudicated as  
29 children in need of services since July 1, 1999;

30 (2) The number of available staff-secure shelter beds;

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1           (3) The number of youths who have been placed in  
2 staff-secure shelter beds since July 1, 1999, and the average  
3 length of stay;

4           (4) The number of physically secure shelter beds  
5 available;

6           (5) The number of youths who have been placed in  
7 physically secure shelter beds since July 1, 1999, and the  
8 average length of stay;

9           (6) The efforts that the department has made, in  
10 cooperation with the chief judge, the court administrator, the  
11 local bar associations, and other individuals or groups within  
12 each judicial circuit, to ensure the appointment of counsel in  
13 child-in-need-of-services cases as appropriate under this act;  
14 and

15           (7) The efforts that the department has made to  
16 educate the public concerning the availability of and access  
17 to services to meet the needs of families who have children  
18 who are runaways, truants, or ungovernable.

19           Section 4. This act shall take effect upon becoming a  
20 law.

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23           SENATE SUMMARY

24           Specifies additional judicial circuits that are included  
25 in a pilot project to provide physically secure shelters  
26 for children in need of services. Provides that the child  
27 may waive his or her right to counsel in specified  
28 circumstances. Amends the criteria for placing a child in  
29 a physically secure shelter. Provides time limits for  
30 placement in a physically secure shelter. Provides for  
31 judicial review of the status of a child who is placed in  
a physically secure shelter. Provides for referring a  
child to the Department of Children and Family Services  
for dependency or mental health services. Directs the  
Juvenile Justice Accountability Board to submit a report  
to the Legislature. Requires the Department of Juvenile  
Justice to submit proposed legislation and a report.