

By Senator Webster

12-1715-00

See HB

1 A bill to be entitled
2 An act relating to classification and placement
3 of juveniles; amending s. 985.03, F.S.;
4 revising definitions relating to
5 restrictiveness levels; amending s. 985.21,
6 F.S.; providing additional intake screening
7 requirements; amending s. 985.215, F.S.;
8 providing for a special detention order to
9 allow comprehensive evaluation upon a finding
10 of delinquency; amending s. 985.229, F.S.;
11 authorizing a predispositional report upon a
12 finding of delinquency; requiring a
13 predispositional report for a child for whom
14 residential commitment disposition is
15 anticipated or recommended; requiring the
16 predispositional report to include a
17 comprehensive evaluation; providing a time
18 certain for the submission of the
19 predispositional report; specifying parties who
20 may receive copies of the predispositional
21 report; amending s. 985.23, F.S.; requiring the
22 court to consider recommendations of the
23 Department of Juvenile Justice at disposition;
24 requiring the court to state for the record
25 reasons for deviating from the recommendations
26 of the department; allowing the court to make
27 treatment recommendations to the department;
28 amending s. 985.231, F.S.; providing that the
29 child's length of stay in a residential
30 commitment program shall be based on objective
31 performance-based treatment planning; requiring

1 monthly progress reports to the court;
2 authorizing extension of the child's length of
3 stay if the child fails to comply with or
4 participate in treatment activities;
5 prohibiting extension of the child's length of
6 stay for purposes of sanction or punishment;
7 requiring any temporary release to be approved
8 by the court; requiring communication to the
9 court of the child's treatment plan progress
10 and adjustment-related issues upon request to
11 release the child; amending s. 985.404, F.S.;
12 requiring notice of intent to transfer a child
13 from a commitment facility or program; creating
14 a workgroup to make recommendations for a
15 system of classification and placement;
16 providing minimum considerations; providing
17 minimum membership; providing for testing and
18 validation of the system; providing for a
19 report to the Governor and Legislature;
20 providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:
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24 Section 1. Subsection (47) of section 985.03, Florida
25 Statutes, is amended to read:

26 985.03 Definitions.--When used in this chapter, the
27 term:

28 (47) "Residential commitment ~~Restrictiveness~~ level"
29 means the level of security custody provided by programs that
30 service the supervision, custody, and care, and treatment
31 needs of committed children. Sections 985.3141 and 985.404(13)

1 apply to children placed in programs at any residential
2 commitment level. The levels of residential commitment are as
3 follows ~~There shall be five restrictiveness levels:~~

4 ~~(a) Minimum-risk nonresidential.--Youth assessed and~~
5 ~~classified for placement in programs at this restrictiveness~~
6 ~~level represent a minimum risk to themselves and public safety~~
7 ~~and do not require placement and services in residential~~
8 ~~settings. Programs or program models in this restrictiveness~~
9 ~~level include: community counselor supervision programs,~~
10 ~~special intensive group programs, nonresidential marine~~
11 ~~programs, nonresidential training and rehabilitation centers,~~
12 ~~and other local community nonresidential programs, including~~
13 ~~any nonresidential program or supervision program that is used~~
14 ~~for aftercare placement.~~

15 (a)(b) Low-risk residential.--Programs or program
16 models at this commitment level are residential but may allow
17 youth to have unsupervised access to the community. The
18 department may elect to require a facility to provide 24-hour
19 awake supervision of residents. Youth assessed and classified
20 for placement in programs at this commitment level represent a
21 low risk to themselves and public safety but ~~and~~ do require
22 placement and services in residential settings. Children who
23 have been found to have committed delinquent acts that involve
24 firearms, delinquent acts that are sexual offenses, or
25 delinquent acts that would be life felonies or first degree
26 felonies if committed by an adult shall not be committed to a
27 program at this level. ~~Programs or program models in this~~
28 ~~restrictiveness level include: Short Term Offender Programs~~
29 ~~(STOP), group treatment homes, family group homes, proctor~~
30 ~~homes, and Short Term Environmental Programs (STEP). Section~~

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1 ~~985.3141 applies to children placed in programs in this~~
2 ~~restrictiveness level.~~

3 (b)(c) Moderate-risk residential.--Programs or program
4 models at this commitment level are residential but may allow
5 youth to have supervised access to the community. Facilities
6 are either environmentally secure or are hardware-secure with
7 walls, fencing, or locking doors. Facilities shall provide
8 24-hour awake supervision, custody, care, and treatment of
9 residents. Youth assessed and classified for placement in
10 programs at ~~in~~ this commitment ~~restrictiveness~~ level represent
11 a moderate risk to public safety and. ~~Programs are designed~~
12 ~~for children who require close supervision but do not need~~
13 ~~placement in facilities that are physically secure. Programs~~
14 ~~in the moderate-risk residential restrictiveness level provide~~
15 ~~24-hour awake supervision, custody, care, and treatment. Upon~~
16 ~~specific appropriation, a facility at this restrictiveness~~
17 ~~level may have a security fence around the perimeter of the~~
18 ~~grounds of the facility and may be hardware-secure or~~
19 ~~staff-secure. The staff at a facility at this commitment~~
20 ~~restrictiveness~~ level may seclude a child who is a physical
21 threat to himself or herself or others. Mechanical restraint
22 may also be used when necessary. ~~Programs or program models in~~
23 ~~this restrictiveness level include: halfway houses, START~~
24 ~~Centers, the Dade Intensive Control Program, licensed~~
25 ~~substance abuse residential programs, and moderate-term~~
26 ~~wilderness programs designed for committed delinquent youth~~
27 ~~that are operated or contracted by the Department of Juvenile~~
28 ~~Justice. Section 985.3141 applies to children placed in~~
29 ~~programs in this restrictiveness level.~~

30 (c)(d) High-risk residential.--Programs or program
31 models at this commitment level are residential and shall not

1 allow youth to have access to the community. Facilities are
2 hardware-secure with perimeter fencing and locking doors.
3 Facilities shall provide 24-hour awake supervision, custody,
4 care, and treatment of residents. Youth assessed and
5 classified for this level of placement require close
6 supervision in a structured residential setting ~~that provides~~
7 ~~24-hour-per-day secure custody, care, and supervision.~~
8 Placement in programs at ~~in~~ this level is prompted by a
9 concern for public safety that outweighs placement in programs
10 at lower restrictiveness levels. The staff at a facility at
11 this commitment level may seclude a child who is a physical
12 threat to himself or herself or others. Mechanical restraint
13 may also be used when necessary. The facility may provide for
14 single cell occupancy.~~Programs or program models in this~~
15 ~~level are staff-secure or physically secure residential~~
16 ~~commitment facilities and include: training schools, intensive~~
17 ~~halfway houses, residential sex offender programs, long-term~~
18 ~~wilderness programs designed exclusively for committed~~
19 ~~delinquent youth, boot camps, secure halfway house programs,~~
20 ~~and the Broward Control Treatment Center. Section 985.3141~~
21 ~~applies to children placed in programs in this restrictiveness~~
22 ~~level.~~

23 (d)(e) Maximum-risk residential juvenile correctional
24 facilities or juvenile prison.--Programs or program models at
25 this commitment level include juvenile correctional facilities
26 and juvenile prisons. The programs are long-term residential
27 and shall not allow youth to have access to the community.
28 Facilities are maximum-custody hardware-secure with perimeter
29 security fencing and locking doors. Facilities shall provide
30 24-hour awake supervision, custody, care, and treatment of
31 residents. The staff at a facility at this commitment level

1 may seclude a child who is a physical threat to himself or
2 herself or others. Mechanical restraint may also be used when
3 necessary. The facility shall provide for single cell
4 occupancy, except that youth may be housed together during
5 prerelease transition. Youth assessed and classified for this
6 level of placement require close supervision in a maximum
7 security residential setting ~~that provides 24-hour-per-day~~
8 ~~secure custody, care, and supervision.~~ Placement in a program
9 at in this level is prompted by a demonstrated need to protect
10 the public. ~~Programs or program models in this level are~~
11 ~~maximum-secure-custody, long-term residential commitment~~
12 ~~facilities that are intended to provide a moderate overlay of~~
13 ~~educational, vocational, and behavioral modification services~~
14 ~~and other maximum-security program models authorized by the~~
15 ~~legislature and established by rule. Section 985.3141 applies~~
16 ~~to children placed in programs in this restrictiveness level.~~

17 Section 2. Paragraph (a) of subsection (1) of section
18 985.21, Florida Statutes, is amended to read:

19 985.21 Intake and case management.--

20 (1)(a) During the intake process, the juvenile
21 probation officer shall screen each child or shall cause each
22 child to be screened in order to determine:

23 1. Appropriateness for release, referral to a
24 diversionary program including, but not limited to, a
25 teen-court program, referral for community arbitration, or
26 referral to some other program or agency for the purpose of
27 nonofficial or nonjudicial handling.

28 2. The presence of medical, psychiatric,
29 psychological, substance abuse, educational, or vocational
30 problems, or other conditions that may have caused the child
31 to come to the attention of law enforcement or the Department

1 of Juvenile Justice. The child shall also be screened to
2 determine whether the child poses a danger to himself or
3 herself or others in the community. The results of this
4 screening shall be made available to the court and to court
5 officers.In cases where such conditions are identified, and a
6 nonjudicial handling of the case is chosen, the juvenile
7 probation officer shall attempt to refer the child to a
8 program or agency, together with all available and relevant
9 assessment information concerning the child's precipitating
10 condition.

11 3. The Department of Juvenile Justice shall develop an
12 intake and a case management system whereby a child brought
13 into intake is assigned a juvenile probation officer if the
14 child was not released, referred to a diversionary program,
15 referred for community arbitration, or referred to some other
16 program or agency for the purpose of nonofficial or
17 nonjudicial handling, and shall make every reasonable effort
18 to provide case management services for the child; provided,
19 however, that case management for children committed to
20 residential programs may be transferred as provided in s.
21 985.316.

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

25 a. Ensuring that a risk assessment instrument
26 establishing the child's eligibility for detention has been
27 accurately completed and that the appropriate recommendation
28 was made to the court.

29 b. Inquiring as to whether the child understands his
30 or her rights to counsel and against self-incrimination.

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1 c. Performing the preliminary screening and making
2 referrals for comprehensive assessment regarding the child's
3 need for substance abuse treatment services, mental health
4 services, retardation services, literacy services, or other
5 educational or treatment services.

6 d. Coordinating the multidisciplinary assessment when
7 required, which includes the classification and placement
8 process that determines the child's priority needs, risk
9 classification, and treatment plan. When sufficient evidence
10 exists to warrant a comprehensive assessment and the child
11 fails to voluntarily participate in the assessment efforts, it
12 is the responsibility of the juvenile probation officer to
13 inform the court of the need for the assessment and the
14 refusal of the child to participate in such assessment. This
15 assessment, classification, and placement process shall
16 develop into the predisposition report.

17 e. Making recommendations for services and
18 facilitating the delivery of those services to the child,
19 including any mental health services, educational services,
20 family counseling services, family assistance services, and
21 substance abuse services. The juvenile probation officer shall
22 serve as the primary case manager for the purpose of managing,
23 coordinating, and monitoring the services provided to the
24 child. Each program administrator within the Department of
25 Children and Family Services shall cooperate with the primary
26 case manager in carrying out the duties and responsibilities
27 described in this section.

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29 The Department of Juvenile Justice shall annually advise the
30 Legislature and the Executive Office of the Governor of the
31 resources needed in order for the intake and case management

1 system to maintain a staff-to-client ratio that is consistent
2 with accepted standards and allows the necessary supervision
3 and services for each child. The intake process and case
4 management system shall provide a comprehensive approach to
5 assessing the child's needs, relative risks, and most
6 appropriate handling, and shall be based on an individualized
7 treatment plan.

8 Section 3. Present paragraph (d) of subsection (5) of
9 section 985.215, Florida Statutes, is redesignated as
10 paragraph (e), and a new paragraph (d) is added to that
11 subsection to read:

12 985.215 Detention.--
13 (5)

14 (d) A child who was not in secure detention at the
15 time of the adjudicatory hearing, but for whom residential
16 commitment is anticipated or recommended, may be placed under
17 a special detention order for a period not to exceed 72 hours,
18 excluding weekends and legal holidays, for the purpose of
19 conducting a comprehensive evaluation as provided in s.
20 985.229(1). Motions for the issuance of such special
21 detention order may be made subsequent to a finding of
22 delinquency. Upon said motion, the court shall conduct a
23 hearing to determine the appropriateness of such special
24 detention order and shall order the least restrictive level of
25 detention necessary to complete the comprehensive evaluation
26 process that is consistent with public safety. Such special
27 detention order may be extended for an additional 72 hours
28 upon further order of the court.

29 Section 4. Subsections (1) and (3) of section 985.229,
30 Florida Statutes, are amended to read:

31 985.229 Predisposition report; other evaluations.--

1 (1) Upon a finding that the child has committed a
2 delinquent act ~~At the disposition hearing,~~ the court ~~may shall~~
3 order a predisposition report regarding the eligibility of the
4 child for disposition other than by adjudication and
5 commitment to the department or for disposition of
6 adjudication, commitment to the department, and, if
7 appropriate, assignment of a residential commitment level.
8 The predisposition report shall be the result of the
9 multidisciplinary assessment when such assessment is needed,
10 and of the classification and placement process, and it shall
11 indicate and report the child's priority needs,
12 recommendations as to a classification of risk for the child
13 in the context of his or her program and supervision needs,
14 and a plan for treatment that recommends the most appropriate
15 placement setting to meet the child's needs with the minimum
16 program security that reasonably ensures public safety. A
17 predisposition report shall be ordered for any child for whom
18 a residential commitment disposition is anticipated or
19 recommended by an officer of the court or by the department. A
20 comprehensive evaluation for physical health, mental health,
21 substance abuse, academic, educational, or vocational problems
22 shall be ordered for any child for whom a residential
23 commitment disposition is anticipated or recommended by an
24 officer of the court or by the department. If a comprehensive
25 evaluation is ordered, the predisposition report shall include
26 a summary of the comprehensive evaluation. The predisposition
27 report shall be submitted to the court upon completion of the
28 report but no later than 48 hours prior to the disposition
29 hearing. The predisposition report, ~~but~~ shall not be reviewed
30 by the court without the consent of the child and his or her
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1 legal counsel until the child has been found to have committed
2 a delinquent act.

3 (3) The predisposition report, together with all other
4 reports and evaluations used by the department in preparing
5 the predisposition report, shall be made available to the
6 child, the child's parents or legal guardian, the child's
7 legal counsel, and the state attorney upon completion of the
8 report and at a reasonable time prior to the disposition
9 hearing.

10 Section 5. Subsection (2) of section 985.23, Florida
11 Statutes, is amended to read:

12 985.23 Disposition hearings in delinquency
13 cases.--When a child has been found to have committed a
14 delinquent act, the following procedures shall be applicable
15 to the disposition of the case:

16 (2) The first determination to be made by the court is
17 a determination of the suitability or nonsuitability for
18 adjudication and commitment of the child to the department.
19 This determination shall include consideration of the
20 recommendations of the department, which may include a
21 predisposition report. ~~be based upon~~ The predisposition report
22 ~~which~~ shall include, whether as part of the child's
23 multidisciplinary assessment, classification, and placement
24 process components or separately, evaluation of the following
25 criteria:

26 (a) The seriousness of the offense to the community.
27 If the court determines that the child was a member of a
28 criminal street gang at the time of the commission of the
29 offense, which determination shall be made pursuant to chapter
30 874, the seriousness of the offense to the community shall be
31 given great weight.

1 (b) Whether the protection of the community requires
2 adjudication and commitment to the department.

3 (c) Whether the offense was committed in an
4 aggressive, violent, premeditated, or willful manner.

5 (d) Whether the offense was against persons or against
6 property, greater weight being given to offenses against
7 persons, especially if personal injury resulted.

8 (e) The sophistication and maturity of the child.

9 (f) The record and previous criminal history of the
10 child, including without limitations:

11 1. Previous contacts with the department, the former
12 Department of Health and Rehabilitative Services, the
13 Department of Children and Family Services, the Department of
14 Corrections, other law enforcement agencies, and courts;

15 2. Prior periods of probation or community control;

16 3. Prior adjudications of delinquency; and

17 4. Prior commitments to institutions.

18 (g) The prospects for adequate protection of the
19 public and the likelihood of reasonable rehabilitation of the
20 child if committed to a community services program or
21 facility.

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23 If the court elects to dispose of the case in a manner
24 differing from the recommendation of the department, the court
25 shall state the reasons for doing so on the record. At the
26 time of disposition, the court may make recommendations to the
27 department as to specific treatment approaches to be employed.

28 Section 6. Paragraph (d) of subsection (1) of section
29 985.231, Florida Statutes, is amended to read:

30 985.231 Powers of disposition in delinquency cases.--

31 (1)

1 (d) Any commitment of a delinquent child to the
2 Department of Juvenile Justice must be for an indeterminate
3 period of time, which may include periods of temporary
4 release, but the time may not exceed the maximum term of
5 imprisonment that an adult may serve for the same offense. The
6 duration of the child's placement in a residential commitment
7 program of any level shall be based on objective
8 performance-based treatment planning. The child's treatment
9 plan progress and adjustment-related issues shall be reported
10 to the court each month. The child's length of stay in a
11 residential commitment program may be extended if the child
12 fails to comply with or participate in treatment activities.
13 The child's length of stay in such program shall not be
14 extended for purposes of sanction or punishment.Any temporary
15 release from such program ~~for a period greater than 3 days~~
16 must be approved by the court. Any child so committed may be
17 discharged from institutional confinement or a program upon
18 the direction of the department with the concurrence of the
19 court. The child's treatment plan progress and
20 adjustment-related issues must be communicated to the court at
21 the time the department requests the court to consider
22 releasing the child from the residential commitment program.
23 Notwithstanding s. 743.07 and this subsection, and except as
24 provided in s. 985.31, a child may not be held under a
25 commitment from a court pursuant to this section after
26 becoming 21 years of age. The department shall give the court
27 that committed the child to the department reasonable notice,
28 in writing, of its desire to discharge the child from a
29 commitment facility. The court that committed the child may
30 thereafter accept or reject the request. If the court does not
31 respond within 10 days after receipt of the notice, the

1 request of the department shall be deemed granted. This
2 section does not limit the department's authority to revoke a
3 child's temporary release status and return the child to a
4 commitment facility for any violation of the terms and
5 conditions of the temporary release.

6 Section 7. Subsection (4) of section 985.404, Florida
7 Statutes, is amended, and subsection (14) is added to that
8 section, to read:

9 985.404 Administering the juvenile justice
10 continuum.--

11 (4) The department may transfer a child, when
12 necessary to appropriately administer the child's commitment,
13 from one facility or program to another facility or program
14 operated, contracted, subcontracted, or designated by the
15 department, including a postcommitment minimum-risk
16 nonresidential aftercare program. The department shall notify
17 the court that committed the child to the department and any
18 attorney of record, in writing, of its intent to transfer of
19 the child from a commitment facility or program to another
20 facility or program of a higher or lower restrictiveness
21 level. The court that committed the child may agree to the
22 transfer or may set a hearing to review the transfer. If the
23 court does not respond within 10 days after receipt of the
24 notice, the transfer of the child shall be deemed granted.

25 (14) A classification and placement workgroup is
26 established, with minimum membership to be composed of two
27 juvenile court judges, two state attorneys or their designated
28 assistants, two public defenders or their designated
29 assistants, representatives of two law enforcement agencies,
30 and representatives of two providers of juvenile justice
31 services. Other interested parties may also participate. The

1 workgroup shall make recommendations concerning the
2 development of a system for classifying and placing juvenile
3 offenders who are committed to residential programs. At a
4 minimum, the recommended system of classification and
5 placement shall consider the age and gender of the child, the
6 seriousness of the delinquent act for which the child is being
7 committed, whether the child has a history of committing
8 delinquent acts, the child's physical health, the child's
9 mental health, whether the child has a history of substance
10 use or abuse, and the child's academic or vocational needs.
11 The workgroup shall also consider whether other factors are
12 appropriate for inclusion in the recommended classification
13 and placement system, including the appropriateness of
14 graduated sanctions for repeat offenders. The workgroup shall
15 recommend a process for testing and validating the
16 effectiveness of the recommended classification and placement
17 system. The workgroup shall provide a report of these
18 recommendations to the Governor, the Speaker of the House of
19 Representatives, and the President of the Senate no later than
20 September 30, 2001.

21 Section 8. This act shall take effect January 1, 2001.
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LEGISLATIVE SUMMARY

Revises provisions relating to classification and placement of juveniles. Revises definitions relating to restrictiveness levels for commitment of juveniles. Provides additional intake screening requirements. Provides for a special detention order to allow comprehensive evaluation upon a finding of delinquency. Authorizes a predispositional report upon a finding of delinquency. Requires a predispositional report for a child for whom residential commitment disposition is anticipated or recommended and requires the predispositional report to include a comprehensive evaluation. Provides a time certain for the submission of the predispositional report. Specifies parties who may receive copies of the predispositional report. Requires the court to consider recommendations of the Department of Juvenile Justice at disposition and to state for the record reasons for deviating from the recommendations of the department. Allows the court to make treatment recommendations to the department. Provides that the child's length of stay in a residential commitment program shall be based on objective performance-based treatment planning. Requires monthly progress reports to the court. Authorizes extension of the child's length of stay if the child fails to comply with or participate in treatment activities. Prohibits extension of the child's length of stay for purposes of sanction or punishment. Requires any temporary release to be approved by the court. Requires communication to the court of the child's treatment plan progress and adjustment-related issues upon request to release the child. Requires notice of intent to transfer a child from a commitment facility or program. Creates a workgroup to make recommendations for a system of classification and placement and provides minimum considerations and membership. Provides for testing and validation of the system.