

By the Committee on Criminal Justice and Senator Webster

307-1945-00

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          amending s. 985.231, F.S.; providing that the  
25          child's length of stay in a residential  
26          commitment program shall be based on objective  
27          performance-based treatment planning; requiring  
28          monthly progress reports to the court;  
29          authorizing extension of the child's length of  
30          stay if the child fails to comply with or  
31          participate in treatment activities;

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

17

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

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20 Section 1. Subsection (47) of section 985.03, Florida  
21 Statutes, is amended to read:

22

23 985.03 Definitions.--When used in this chapter, the  
24 term:

25

26 (47) "Residential commitment ~~Restrictiveness~~ level"  
27 means the level of security custody provided by programs that  
28 service the supervision, custody, and care, and treatment  
29 needs of committed children. Sections 985.3141 and 985.404(13)  
30 apply to children placed in programs at any residential  
31 commitment level. The levels of residential commitment are as  
follows ~~There shall be five restrictiveness levels:~~

31

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

12           (a)(b) Low-risk residential.--Programs or program  
13 models at this commitment level are residential but may allow  
14 youth to have unsupervised access to the community. The  
15 department may elect to require a facility to provide 24-hour  
16 awake supervision of residents. Youth assessed and classified  
17 for placement in programs at this commitment level represent a  
18 low risk to themselves and public safety but ~~and~~ do require  
19 placement and services in residential settings. Children who  
20 have been found to have committed delinquent acts that involve  
21 firearms, delinquent acts that are sexual offenses, or  
22 delinquent acts that would be life felonies or first degree  
23 felonies if committed by an adult shall not be committed to a  
24 program at this level. ~~Programs or program models in this~~  
25 ~~restrictiveness level include: Short Term Offender Programs~~  
26 ~~(STOP), group treatment homes, family group homes, proctor~~  
27 ~~homes, and Short Term Environmental Programs (STEP). Section~~  
28 ~~985.3141 applies to children placed in programs in this~~  
29 ~~restrictiveness level.~~

30           (b)(c) Moderate-risk residential.--Programs or program  
31 models at this commitment level are residential but may allow

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

27 (c)(d) High-risk residential.--Programs or program  
28 models at this commitment level are residential and shall not  
29 allow youth to have access to the community. Facilities are  
30 hardware-secure with perimeter fencing and locking doors.  
31 Facilities shall provide 24-hour awake supervision, custody,

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

20 (d)(e) Maximum-risk residential Juvenile correctional  
21 facilities or juvenile prison.--Programs or program models at  
22 this commitment level include juvenile correctional facilities  
23 and juvenile prisons. The programs are long-term residential  
24 and shall not allow youth to have access to the community.  
25 Facilities are maximum-custody hardware-secure with perimeter  
26 security fencing and locking doors. Facilities shall provide  
27 24-hour awake supervision, custody, care, and treatment of  
28 residents. The staff at a facility at this commitment level  
29 may seclude a child who is a physical threat to himself or  
30 herself or others. Mechanical restraint may also be used when  
31 necessary. The facility shall provide for single cell

1 occupancy, except that youth may be housed together during  
2 prerelease transition. Youth assessed and classified for this  
3 level of placement require close supervision in a maximum  
4 security residential setting ~~that provides 24-hour-per-day~~  
5 ~~secure custody, care, and supervision.~~ Placement in a program  
6 at in this level is prompted by a demonstrated need to protect  
7 the public. ~~Programs or program models in this level are~~  
8 ~~maximum-secure-custody, long-term residential commitment~~  
9 ~~facilities that are intended to provide a moderate overlay of~~  
10 ~~educational, vocational, and behavioral modification services~~  
11 ~~and other maximum-security program models authorized by the~~  
12 ~~Legislature and established by rule. Section 985.3141 applies~~  
13 ~~to children placed in programs in this restrictiveness level.~~

14 Section 2. Paragraph (a) of subsection (1) of section  
15 985.21, Florida Statutes, is amended to read:

16 985.21 Intake and case management.--

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

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

25 2. The presence of medical, psychiatric,  
26 psychological, substance abuse, educational, or vocational  
27 problems, or other conditions that may have caused the child  
28 to come to the attention of law enforcement or the Department  
29 of Juvenile Justice. The child shall also be screened to  
30 determine whether the child poses a danger to himself or  
31 herself or others in the community. The results of this

1 screening shall be made available to the court and to court  
2 officers.In cases where such conditions are identified, and a  
3 nonjudicial handling of the case is chosen, the juvenile  
4 probation officer shall attempt to refer the child to a  
5 program or agency, together with all available and relevant  
6 assessment information concerning the child's precipitating  
7 condition.

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

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

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

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

28           c. Performing the preliminary screening and making  
29 referrals for comprehensive assessment regarding the child's  
30 need for substance abuse treatment services, mental health  
31

1 services, retardation services, literacy services, or other  
2 educational or treatment services.

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

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

25  
26 The Department of Juvenile Justice shall annually advise the  
27 Legislature and the Executive Office of the Governor of the  
28 resources needed in order for the intake and case management  
29 system to maintain a staff-to-client ratio that is consistent  
30 with accepted standards and allows the necessary supervision  
31 and services for each child. The intake process and case



1 management system shall provide a comprehensive approach to  
2 assessing the child's needs, relative risks, and most  
3 appropriate handling, and shall be based on an individualized  
4 treatment plan.

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

9 985.215 Detention.--

10 (5)

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

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

28 985.229 Predisposition report; other evaluations.--

29 (1) Upon a finding that the child has committed a  
30 delinquent act ~~At the disposition hearing~~, the court may ~~shall~~  
31 order a predisposition report regarding the eligibility of the

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

1 the predisposition report, shall be made available to the  
2 child, the child's parents or legal guardian, the child's  
3 legal counsel, and the state attorney upon completion of the  
4 report and at a reasonable time prior to the disposition  
5 hearing.

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

8 985.23 Disposition hearings in delinquency  
9 cases.--When a child has been found to have committed a  
10 delinquent act, the following procedures shall be applicable  
11 to the disposition of the case:

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

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

28 (b) Whether the protection of the community requires  
29 adjudication and commitment to the department.

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

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

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

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

7 1. Previous contacts with the department, the former  
8 Department of Health and Rehabilitative Services, the  
9 Department of Children and Family Services, the Department of  
10 Corrections, other law enforcement agencies, and courts;

11 2. Prior periods of probation or community control;

12 3. Prior adjudications of delinquency; and

13 4. Prior commitments to institutions.

14 (g) The prospects for adequate protection of the  
15 public and the likelihood of reasonable rehabilitation of the  
16 child if committed to a community services program or  
17 facility.

18 Section 6. Paragraph (d) of subsection (1) of section  
19 985.231, Florida Statutes, is amended to read:

20 985.231 Powers of disposition in delinquency cases.--

21 (1)

22 (d) Any commitment of a delinquent child to the  
23 Department of Juvenile Justice must be for an indeterminate  
24 period of time, which may include periods of temporary  
25 release, but the time may not exceed the maximum term of  
26 imprisonment that an adult may serve for the same offense. The  
27 duration of the child's placement in a residential commitment  
28 program of any level shall be based on objective  
29 performance-based treatment planning. The child's treatment  
30 plan progress and adjustment-related issues shall be reported  
31 to the court each month. The child's length of stay in a

1 residential commitment program may be extended if the child  
2 fails to comply with or participate in treatment activities.  
3 The child's length of stay in such program shall not be  
4 extended for purposes of sanction or punishment.Any temporary  
5 release from such program ~~for a period greater than 3 days~~  
6 must be approved by the court. Any child so committed may be  
7 discharged from institutional confinement or a program upon  
8 the direction of the department with the concurrence of the  
9 court. The child's treatment plan progress and  
10 adjustment-related issues must be communicated to the court at  
11 the time the department requests the court to consider  
12 releasing the child from the residential commitment program.  
13 Notwithstanding s. 743.07 and this subsection, and except as  
14 provided in s. 985.31, a child may not be held under a  
15 commitment from a court pursuant to this section after  
16 becoming 21 years of age. The department shall give the court  
17 that committed the child to the department reasonable notice,  
18 in writing, of its desire to discharge the child from a  
19 commitment facility. The court that committed the child may  
20 thereafter accept or reject the request. If the court does not  
21 respond within 10 days after receipt of the notice, the  
22 request of the department shall be deemed granted. This  
23 section does not limit the department's authority to revoke a  
24 child's temporary release status and return the child to a  
25 commitment facility for any violation of the terms and  
26 conditions of the temporary release.

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

30 985.404 Administering the juvenile justice  
31 continuum.--

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

15           (14) A classification and placement workgroup is  
16 established, with minimum membership to be composed of two  
17 juvenile court judges, two state attorneys or their designated  
18 assistants, two public defenders or their designated  
19 assistants, representatives of two law enforcement agencies,  
20 and representatives of two providers of juvenile justice  
21 services. Other interested parties may also participate. The  
22 workgroup shall make recommendations concerning the  
23 development of a system for classifying and placing juvenile  
24 offenders who are committed to residential programs. At a  
25 minimum, the recommended system of classification and  
26 placement shall consider the age and gender of the child, the  
27 seriousness of the delinquent act for which the child is being  
28 committed, whether the child has a history of committing  
29 delinquent acts, the child's physical health, the child's  
30 mental health, whether the child has a history of substance  
31 use or abuse, and the child's academic or vocational needs.

1 The workgroup shall also consider whether other factors are  
2 appropriate for inclusion in the recommended classification  
3 and placement system, including the appropriateness of  
4 graduated sanctions for repeat offenders. The workgroup shall  
5 recommend a process for testing and validating the  
6 effectiveness of the recommended classification and placement  
7 system. The workgroup shall provide a report of these  
8 recommendations to the Governor, the Speaker of the House of  
9 Representatives, and the President of the Senate no later than  
10 September 30, 2001.

11 Section 8. This act shall take effect January 1, 2001.

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13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
14 COMMITTEE SUBSTITUTE FOR  
15 Senate Bill 2336

16

16 Deletes the provision requiring the court to state its reasons  
17 on the record for differing from the department's  
18 recommendations for dispositions.

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