

By Representative Murman

1                                   A bill to be entitled  
2           An act relating to habitual juvenile offenders;  
3           providing a short title; amending s. 985.227,  
4           F.S.; revising language with respect to  
5           mandatory direct filing of information with  
6           respect to certain juvenile offenders; amending  
7           s. 985.233, F.S.; revising language with  
8           respect to alternatives for juveniles  
9           prosecuted as adults; providing an effective  
10          date.

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

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14           Section 1. Short title.--This act may be cited as the  
15 "Habitual Juvenile Offender Accountability Act."

16           Section 2. Subsection (2) of section 985.227, Florida  
17 Statutes, is amended to read:

18           985.227 Prosecution of juveniles as adults by the  
19 direct filing of an information in the criminal division of  
20 the circuit court; discretionary criteria; mandatory  
21 criteria.--

22           (2) MANDATORY DIRECT FILE.--

23           (a) With respect to any child who was 16 or 17 years  
24 of age at the time the alleged offense was committed, the  
25 state attorney shall file an information if the child has been  
26 previously adjudicated delinquent for an act classified as a  
27 felony, which adjudication was for the commission of, or  
28 attempt to commit, murder, sexual battery, armed or  
29 strong-armed robbery, carjacking, home-invasion robbery,  
30 aggravated battery, or aggravated assault, and the child is  
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1 currently charged with a second or subsequent violent crime  
2 against a person.

3           (b) With respect to any child 16 or 17 years of age at  
4 the time an offense was committed, the state attorney shall  
5 file an information if the child has previously been  
6 adjudicated delinquent or had adjudication withheld for three  
7 acts classified as felonies each of which occurred at least 45  
8 days apart from each other.~~Notwithstanding subsection (1),~~  
9 ~~regardless of the child's age at the time the alleged offense~~  
10 ~~was committed, the state attorney must file an information~~  
11 ~~with respect to any child who previously has been adjudicated~~  
12 ~~for offenses which, if committed by an adult, would be~~  
13 ~~felonies and such adjudications occurred at three or more~~  
14 ~~separate delinquency adjudicatory hearings, and three of which~~  
15 ~~resulted in residential commitments as defined in s.~~  
16 ~~985.03(45).~~

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

1 vehicle that has been the subject of any criminal wrongful  
2 taking. For purposes of this section, "willing passengers"  
3 means all willing passengers who have participated in the  
4 underlying offense.

5 Section 3. Subsection (4) of section 985.233, Florida  
6 Statutes, is amended to read:

7 985.233 Sentencing powers; procedures; alternatives  
8 for juveniles prosecuted as adults.--

9 (4) SENTENCING ALTERNATIVES.--

10 (a) Sentencing to adult sanctions.--

11 1. Cases prosecuted on indictment.--If the child is  
12 found to have committed the offense punishable by death or  
13 life imprisonment, the child shall be sentenced as an adult.  
14 If the juvenile is not found to have committed the indictable  
15 offense but is found to have committed a lesser included  
16 offense or any other offense for which he or she was indicted  
17 as a part of the criminal episode, the court may sentence as  
18 follows:

19 a. As an adult ~~pursuant to this section;~~  
20 b. Pursuant to chapter 958; or  
21 c. As a juvenile pursuant to this section.

22 2. Other cases.--If a child who has been transferred  
23 for criminal prosecution pursuant to information or waiver of  
24 juvenile court jurisdiction is found to have committed a  
25 violation of state law or a lesser included offense for which  
26 he or she was charged as a part of the criminal episode, the  
27 court may sentence as follows:

28 a. As an adult ~~pursuant to this section;~~  
29 b. Pursuant to chapter 958; or  
30 c. As a juvenile pursuant to this section.  
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1           3. Notwithstanding any other provision to the  
2 contrary, if the state attorney is required to file a motion  
3 to transfer and certify the juvenile for prosecution as an  
4 adult pursuant to s. 985.226(2)(b) and that motion is granted,  
5 or if the state attorney is required to file an information  
6 pursuant to s. 985.227(2)(a) or (b), the court must impose  
7 adult sanctions.

8           ~~4.3.~~ Any sentence imposing adult sanctions is presumed  
9 appropriate, and the court is not required to set forth  
10 specific findings or enumerate the criteria in this subsection  
11 as any basis for its decision to impose adult sanctions.

12           ~~5.4.~~ When a child has been transferred for criminal  
13 prosecution as an adult and has been found to have committed a  
14 violation of state law, the disposition of the case may  
15 include the enforcement of any restitution ordered in any  
16 juvenile proceeding.

17           (b) Sentencing to juvenile sanctions.--For juveniles  
18 transferred to adult court but who do not qualify for such  
19 transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or  
20 (b), the court may impose juvenile sanctions under this  
21 paragraph. If juvenile sentences are imposed, the court shall  
22 under this paragraph ~~In order to use this paragraph, the court~~  
23 ~~shall stay adjudication of guilt and instead shall~~ adjudge the  
24 child to have committed a delinquent act. Adjudication of  
25 delinquency shall not be deemed a conviction, nor shall it  
26 operate to impose any of the civil disabilities ordinarily  
27 resulting from a conviction. The court shall impose an adult  
28 sanction or a juvenile sanction and may not sentence the child  
29 to a combination of adult and juvenile punishments. An adult  
30 sanction or a juvenile sanction may include enforcement of an  
31 order of restitution or community control previously ordered

1 in any juvenile proceeding. However, if the court imposes a  
2 juvenile sanction and the department determines that the  
3 sanction is unsuitable for the child, the department shall  
4 return custody of the child to the sentencing court for  
5 further proceedings, including the imposition of adult  
6 sanctions. Upon adjudicating a child delinquent under  
7 subsection (1), the court may:

8           1. Place the child in a community control program  
9 under the supervision of the department for an indeterminate  
10 period of time until the child reaches the age of 19 years or  
11 sooner if discharged by order of the court.

12           2. Commit the child to the department for treatment in  
13 an appropriate program for children for an indeterminate  
14 period of time until the child is 21 or sooner if discharged  
15 by the department. The department shall notify the court of  
16 its intent to discharge no later than 14 days prior to  
17 discharge. Failure of the court to timely respond to the  
18 department's notice shall be considered approval for  
19 discharge.

20           3. Order disposition pursuant to s. 985.231 as an  
21 alternative to youthful offender or adult sentencing if the  
22 court determines not to impose youthful offender or adult  
23 sanctions.

24           ~~(c) Imposition of adult sanctions upon failure of~~  
25 ~~juvenile sanctions. If a child proves not to be suitable to a~~  
26 ~~community control program or for a treatment program under the~~  
27 ~~provisions of subparagraph (b)2., the court may revoke the~~  
28 ~~previous adjudication, impose an adjudication of guilt,~~  
29 ~~classify the child as a youthful offender when appropriate,~~  
30 ~~and impose any sentence which it may lawfully impose, giving~~  
31 ~~credit for all time spent by the child in the department.~~

1           ~~(d) Recoupment of cost of care in juvenile justice~~  
2 ~~facilities.--When the court orders commitment of a child to~~  
3 ~~the Department of Juvenile Justice for treatment in any of the~~  
4 ~~department's programs for children, the court shall order the~~  
5 ~~natural or adoptive parents of such child, the natural father~~  
6 ~~of such child born out of wedlock who has acknowledged his~~  
7 ~~paternity in writing before the court, or guardian of such~~  
8 ~~child's estate, if possessed of assets which under law may be~~  
9 ~~disbursed for the care, support, and maintenance of the child,~~  
10 ~~to pay fees to the department equal to the actual cost of the~~  
11 ~~care, support, and maintenance of the child, unless the court~~  
12 ~~determines that the parent or legal guardian of the child is~~  
13 ~~indigent. The court may reduce the fees or waive the fees upon~~  
14 ~~a showing by the parent or guardian of an inability to pay the~~  
15 ~~full cost of the care, support, and maintenance of the child.~~  
16 ~~In addition, the court may waive the fees if it finds that the~~  
17 ~~child's parent or guardian was the victim of the child's~~  
18 ~~delinquent act or violation of law or if the court finds that~~  
19 ~~the parent or guardian has made a diligent and good faith~~  
20 ~~effort to prevent the child from engaging in the delinquent~~  
21 ~~act or violation of law. When the order affects the~~  
22 ~~guardianship estate, a certified copy of the order shall be~~  
23 ~~delivered to the judge having jurisdiction of the guardianship~~  
24 ~~estate.~~

25           ~~(e) Further proceedings heard in adult court.--When a~~  
26 ~~child is sentenced to juvenile sanctions, further proceedings~~  
27 ~~involving those sanctions shall continue to be heard in the~~  
28 ~~adult court.~~

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30 ~~It is the intent of the Legislature that the criteria and~~  
31 ~~guidelines in this subsection are mandatory and that a~~

1 ~~determination of disposition under this subsection is subject~~  
2 ~~to the right of the child to appellate review under s.~~  
3 ~~985.234.~~

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

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8 HOUSE SUMMARY

9  
10 Creates the "Habitual Juvenile Offender Accountability  
11 Act." Provides that the state attorney file an  
12 information under certain conditions. Provides for  
13 outline of a court's power as it relates to sentencing a  
14 juvenile transferred to adult court with juvenile  
15 sanctions or adult sanctions. See bill for details.

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