

By the Committee on Crime & Punishment and Representatives  
Murman, Fasano and Harrington

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; reenacting s. 985.226,  
10          F.S., relating to criteria for waiver of  
11          juvenile court jurisdiction; hearing on motion  
12          to transfer for prosecution as an adult; to  
13          incorporate said amendments in reference  
14          thereto; providing an effective date.

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

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

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

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

26           (2) MANDATORY DIRECT FILE.--

27           (a) With respect to any child who was 16 or 17 years  
28 of age at the time the alleged offense was committed, the  
29 state attorney shall file an information if the child has been  
30 previously adjudicated delinquent for murder, sexual battery,  
31 armed or strong-armed robbery, carjacking, home-invasion

1 robbery, aggravated battery, or aggravated assault, and is  
2 currently charged with a second or subsequent violent crime  
3 against a person.

4       (b) With respect to any child 16 or 17 years of age at  
5 the time an offense classified as a forcible felony, as  
6 defined in s. 776.08, was committed, the state attorney shall  
7 file an information if the child has previously been  
8 adjudicated delinquent or had adjudication withheld for three  
9 acts classified as felonies each of which occurred at least 45  
10 days apart from each other. This paragraph does not apply when  
11 the state attorney has good cause to believe that exceptional  
12 circumstances exist which preclude the just prosecution of the  
13 juvenile in adult court.~~Notwithstanding subsection (1),~~  
14 ~~regardless of the child's age at the time the alleged offense~~  
15 ~~was committed, the state attorney must file an information~~  
16 ~~with respect to any child who previously has been adjudicated~~  
17 ~~for offenses which, if committed by an adult, would be~~  
18 ~~felonies and such adjudications occurred at three or more~~  
19 ~~separate delinquency adjudicatory hearings, and three of which~~  
20 ~~resulted in residential commitments as defined in s.~~  
21 ~~985.03(45).~~

22       (c) The state attorney must file an information if a  
23 child, regardless of the child's age at the time the alleged  
24 offense was committed, is alleged to have committed an act  
25 that would be a violation of law if the child were an adult,  
26 that involves stealing a motor vehicle, including, but not  
27 limited to, a violation of s. 812.133, relating to carjacking,  
28 or s. 812.014(2)(c)6., relating to grand theft of a motor  
29 vehicle, and while the child was in possession of the stolen  
30 motor vehicle the child caused serious bodily injury to or the  
31 death of a person who was not involved in the underlying

1 offense. For purposes of this section, the driver and all  
2 willing passengers in the stolen motor vehicle at the time  
3 such serious bodily injury or death is inflicted shall also be  
4 subject to mandatory transfer to adult court. "Stolen motor  
5 vehicle," for the purposes of this section, means a motor  
6 vehicle that has been the subject of any criminal wrongful  
7 taking. For purposes of this section, "willing passengers"  
8 means all willing passengers who have participated in the  
9 underlying offense.

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

12 985.233 Sentencing powers; procedures; alternatives  
13 for juveniles prosecuted as adults.--

14 (4) SENTENCING ALTERNATIVES.--

15 (a) Sentencing to adult sanctions.--

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

- 24 a. As an adult ~~pursuant to this section;~~
- 25 b. Pursuant to chapter 958; or
- 26 c. As a juvenile pursuant to this section.

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

3 a. As an adult ~~pursuant to this section;~~  
4 b. Pursuant to chapter 958; or  
5 c. As a juvenile pursuant to this section.

6 3. Notwithstanding any other provision to the  
7 contrary, if the state attorney is required to file a motion  
8 to transfer and certify the juvenile for prosecution as an  
9 adult pursuant to s. 985.226(2)(b) and that motion is granted,  
10 or if the state attorney is required to file an information  
11 pursuant to s. 985.227(2)(a) or (b), the court must impose  
12 adult sanctions.

13 ~~4.3.~~ Any sentence imposing adult sanctions is presumed  
14 appropriate, and the court is not required to set forth  
15 specific findings or enumerate the criteria in this subsection  
16 as any basis for its decision to impose adult sanctions.

17 ~~5.4.~~ When a child has been transferred for criminal  
18 prosecution as an adult and has been found to have committed a  
19 violation of state law, the disposition of the case may  
20 include the enforcement of any restitution ordered in any  
21 juvenile proceeding.

22 (b) Sentencing to juvenile sanctions.--For juveniles  
23 transferred to adult court but who do not qualify for such  
24 transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or  
25 (b), the court may impose juvenile sanctions under this  
26 paragraph. If juvenile sentences are imposed, the court shall  
27 under this paragraph ~~In order to use this paragraph, the court~~  
28 ~~shall stay adjudication of guilt and instead shall~~ adjudge the  
29 child to have committed a delinquent act. Adjudication of  
30 delinquency shall not be deemed a conviction, nor shall it  
31 operate to impose any of the civil disabilities ordinarily

1 resulting from a conviction. The court shall impose an adult  
2 sanction or a juvenile sanction and may not sentence the child  
3 to a combination of adult and juvenile punishments. An adult  
4 sanction or a juvenile sanction may include enforcement of an  
5 order of restitution or community control previously ordered  
6 in any juvenile proceeding. However, if the court imposes a  
7 juvenile sanction and the department determines that the  
8 sanction is unsuitable for the child, the department shall  
9 return custody of the child to the sentencing court for  
10 further proceedings, including the imposition of adult  
11 sanctions. Upon adjudicating a child delinquent under  
12 subsection (1), the court may:

13           1. Place the child in a community control program  
14 under the supervision of the department for an indeterminate  
15 period of time until the child reaches the age of 19 years or  
16 sooner if discharged by order of the court.

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

25           3. Order disposition pursuant to s. 985.231 as an  
26 alternative to youthful offender or adult sentencing if the  
27 court determines not to impose youthful offender or adult  
28 sanctions.

29           (c) Imposition of adult sanctions upon failure of  
30 juvenile sanctions.--If a child proves not to be suitable to a  
31 community control program or for a treatment program under the

1 provisions of subparagraph (b)2., the court may revoke the  
2 previous adjudication, impose an adjudication of guilt,  
3 classify the child as a youthful offender when appropriate,  
4 and impose any sentence which it may lawfully impose, giving  
5 credit for all time spent by the child in the department.  
6 (d) Recoupment of cost of care in juvenile justice  
7 facilities.--When the court orders commitment of a child to  
8 the Department of Juvenile Justice for treatment in any of the  
9 department's programs for children, the court shall order the  
10 natural or adoptive parents of such child, the natural father  
11 of such child born out of wedlock who has acknowledged his  
12 paternity in writing before the court, or guardian of such  
13 child's estate, if possessed of assets which under law may be  
14 disbursed for the care, support, and maintenance of the child,  
15 to pay fees to the department equal to the actual cost of the  
16 care, support, and maintenance of the child, unless the court  
17 determines that the parent or legal guardian of the child is  
18 indigent. The court may reduce the fees or waive the fees upon  
19 a showing by the parent or guardian of an inability to pay the  
20 full cost of the care, support, and maintenance of the child.  
21 In addition, the court may waive the fees if it finds that the  
22 child's parent or guardian was the victim of the child's  
23 delinquent act or violation of law or if the court finds that  
24 the parent or guardian has made a diligent and good faith  
25 effort to prevent the child from engaging in the delinquent  
26 act or violation of law. When the order affects the  
27 guardianship estate, a certified copy of the order shall be  
28 delivered to the judge having jurisdiction of the guardianship  
29 estate.  
30 (e) Further proceedings heard in adult court.--When a  
31 child is sentenced to juvenile sanctions, further proceedings

1 involving those sanctions shall continue to be heard in the  
2 adult court.

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4 It is the intent of the Legislature that the criteria and  
5 guidelines in this subsection are mandatory and that a  
6 determination of disposition under this subsection is subject  
7 to the right of the child to appellate review under s.  
8 985.234.

9 Section 4. For the purpose of incorporating the  
10 amendment to section 985.233, Florida Statutes, in references  
11 thereto, the following sections or subdivisions of Florida  
12 Statutes, are reenacted to read:

13 985.226 Criteria for waiver of juvenile court  
14 jurisdiction; hearing on motion to transfer for prosecution as  
15 an adult.--

16 (2) INVOLUNTARY WAIVER.--

17 (b) Mandatory waiver.--

18 1. If the child was 14 years of age or older, and if  
19 the child has been previously adjudicated delinquent for an  
20 act classified as a felony, which adjudication was for the  
21 commission of, attempt to commit, or conspiracy to commit  
22 murder, sexual battery, armed or strong-armed robbery,  
23 carjacking, home-invasion robbery, aggravated battery,  
24 aggravated assault, or burglary with an assault or battery,  
25 and the child is currently charged with a second or subsequent  
26 violent crime against a person; or

27 2. If the child was 14 years of age or older at the  
28 time of commission of a fourth or subsequent alleged felony  
29 offense and the child was previously adjudicated delinquent or  
30 had adjudication withheld for or was found to have committed,  
31 or to have attempted or conspired to commit, three offenses

1 that are felony offenses if committed by an adult, and one or  
2 more of such felony offenses involved the use or possession of  
3 a firearm or violence against a person;

4  
5 the state attorney shall request the court to transfer and  
6 certify the child for prosecution as an adult or shall provide  
7 written reasons to the court for not making such request, or  
8 proceed pursuant to s. 985.227(1). Upon the state attorney's  
9 request, the court shall either enter an order transferring  
10 the case and certifying the case for trial as if the child  
11 were an adult or provide written reasons for not issuing such  
12 an order.

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

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