

By the Committees on Criminal Justice Appropriations,
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 an act classified as a
31 felony, which adjudication was for the commission of, attempt

1 to commit, or conspiracy to commit murder, sexual battery,
2 armed or strong-armed robbery, carjacking, home-invasion
3 robbery, aggravated battery, or aggravated assault, and the
4 child is currently charged with a second or subsequent violent
5 crime against a person.

6 (b) With respect to any child 16 or 17 years of age at
7 the time an offense classified as a forcible felony, as
8 defined in s. 776.08, was committed, the state attorney shall
9 file an information if the child has previously been
10 adjudicated delinquent or had adjudication withheld for three
11 acts classified as felonies each of which occurred at least 45
12 days apart from each other. This paragraph does not apply
13 when the state attorney has good cause to believe that
14 exceptional circumstances exist which preclude the just
15 prosecution of the juvenile in adult court.~~Notwithstanding~~
16 ~~subsection (1), regardless of the child's age at the time the~~
17 ~~alleged offense was committed, the state attorney must file an~~
18 ~~information with respect to any child who previously has been~~
19 ~~adjudicated for offenses which, if committed by an adult,~~
20 ~~would be felonies and such adjudications occurred at three or~~
21 ~~more separate delinquency adjudicatory hearings, and three of~~
22 ~~which resulted in residential commitments as defined in s.~~
23 ~~985.03(47).~~

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

1 motor vehicle the child caused serious bodily injury to or the
2 death of a person who was not involved in the underlying
3 offense. For purposes of this section, the driver and all
4 willing passengers in the stolen motor vehicle at the time
5 such serious bodily injury or death is inflicted shall also be
6 subject to mandatory transfer to adult court. "Stolen motor
7 vehicle," for the purposes of this section, means a motor
8 vehicle that has been the subject of any criminal wrongful
9 taking. For purposes of this section, "willing passengers"
10 means all willing passengers who have participated in the
11 underlying offense.

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

14 985.233 Sentencing powers; procedures; alternatives
15 for juveniles prosecuted as adults.--

16 (4) SENTENCING ALTERNATIVES.--

17 (a) Sentencing to adult sanctions.--

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

26 a. As an adult ~~pursuant to this section;~~

27 b. Pursuant to chapter 958; or

28 c. As a juvenile pursuant to this section.

29 2. Other cases.--If a child who has been transferred
30 for criminal prosecution pursuant to information or waiver of
31 juvenile court jurisdiction is found to have committed a

1 violation of state law or a lesser included offense for which
2 he or she was charged as a part of the criminal episode, the
3 court may sentence as follows:

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

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

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

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

23 (b) Sentencing to juvenile sanctions.--For juveniles
24 transferred to adult court but who do not qualify for such
25 transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or
26 (b), the court may impose juvenile sanctions under this
27 paragraph. If juvenile sentences are imposed, the court shall,
28 pursuant to this paragraph, in order to use this paragraph,
29 ~~the court shall stay adjudication of guilt and instead shall~~
30 ~~adjudge the child to have committed a delinquent act.~~
31 Adjudication of delinquency shall not be deemed a conviction,

1 nor shall it operate to impose any of the civil disabilities
2 ordinarily resulting from a conviction. The court shall impose
3 an adult sanction or a juvenile sanction and may not sentence
4 the child to a combination of adult and juvenile punishments.
5 An adult sanction or a juvenile sanction may include
6 enforcement of an order of restitution or community control
7 previously ordered in any juvenile proceeding. However, if the
8 court imposes a juvenile sanction and the department
9 determines that the sanction is unsuitable for the child, the
10 department shall return custody of the child to the sentencing
11 court for further proceedings, including the imposition of
12 adult sanctions. Upon adjudicating a child delinquent under
13 subsection (1), the court may:

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

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

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

30 (c) Imposition of adult sanctions upon failure of
31 juvenile sanctions.--If a child proves not to be suitable to a

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

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6 It is the intent of the Legislature that the criteria and
7 guidelines in this subsection are mandatory and that a
8 determination of disposition under this subsection is subject
9 to the right of the child to appellate review under s.
10 985.234.

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

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

18 (2) INVOLUNTARY WAIVER.--

19 (b) Mandatory waiver.--

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

29 2. If the child was 14 years of age or older at the
30 time of commission of a fourth or subsequent alleged felony
31 offense and the child was previously adjudicated delinquent or

1 had adjudication withheld for or was found to have committed,
2 or to have attempted or conspired to commit, three offenses
3 that are felony offenses if committed by an adult, and one or
4 more of such felony offenses involved the use or possession of
5 a firearm or violence against a person;

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

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

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