

By Senator Campbell

33-347-00

1 A bill to be entitled
2 An act relating to juvenile detention; amending
3 s. 985.211, F.S.; revising the time periods
4 within which a person who takes a juvenile into
5 custody is required to file reports or probable
6 cause affidavits with the juvenile probation
7 officer and the clerk of the court; creating a
8 workgroup to study the effectiveness of the
9 risk-assessment instrument developed by the
10 Department of Juvenile Justice and used to
11 determine the placement of juveniles into
12 detention; providing for a report; requiring
13 that the department commission an independent
14 evaluation of the instrument, subject to a
15 specific appropriation; amending s. 985.213,
16 F.S.; providing for future repeal of provisions
17 relating to creation and use of the
18 risk-assessment instrument; amending s.
19 985.215, F.S.; requiring an arresting law
20 enforcement agency to present certain
21 information to the state attorney's office
22 after a juvenile is placed into secure
23 detention; increasing the period during which a
24 juvenile charged with an offense of certain
25 severity may be held in detention prior to an
26 adjudicatory hearing; amending s. 985.228,
27 F.S., relating to adjudicatory hearings;
28 conforming a cross-reference to changes made by
29 the act; providing an effective date.

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

1 Section 1. Subsections (3) and (6) of section 985.211,
2 Florida Statutes, are amended to read:

3 985.211 Release or delivery from custody.--

4 (3) If the child is released, the person taking the
5 child into custody shall make a written report or probable
6 cause affidavit to the appropriate juvenile probation officer
7 within 24 hours after such release ~~3 days~~, stating the facts
8 and the reason for taking the child into custody. Such
9 written report or probable cause affidavit must ~~shall~~:

10 (a) Identify the child, the parents, guardian, or
11 legal custodian, and the person to whom the child was
12 released.

13 (b) Contain sufficient information to establish the
14 jurisdiction of the court and to make a prima facie showing
15 that the child has committed a violation of law or a
16 delinquent act.

17 (6)(a) A copy of the probable cause affidavit or
18 written report made by the person taking the child into
19 custody must ~~a law enforcement agency shall~~ be filed, by the
20 law enforcement agency that employs the person making such
21 affidavit or written report, with the clerk of the circuit
22 court for the county in which the child is taken into custody
23 or in which the affidavit or report is made within 24 hours
24 ~~after the child is taken into custody and detained, within 1~~
25 ~~week after the child is taken into custody and released, or~~
26 ~~within 1 week~~ after the affidavit or report is made, excluding
27 Saturdays, Sundays, and legal holidays. Such affidavit or
28 report is a case for the purpose of assigning a uniform case
29 number pursuant to this subsection.

30 (b) Upon the filing of a copy of a probable cause
31 affidavit or written report by a law enforcement agency with

1 the clerk of the circuit court, the clerk shall immediately
2 assign a uniform case number to the affidavit or report,
3 forward a copy to the state attorney, and forward a copy to
4 the intake office of the department which serves the county in
5 which the case arose.

6 (c) Each letter of recommendation, written notice,
7 report, or other paper required by law pertaining to the case
8 shall bear the uniform case number of the case, and a copy
9 shall be filed with the clerk of the circuit court by the
10 issuing agency. The issuing agency shall furnish copies to
11 the juvenile probation officer and the state attorney.

12 (d) Upon the filing of a petition based on the
13 allegations of a previously filed probable cause affidavit or
14 written report, the agency filing the petition shall include
15 the appropriate uniform case number on the petition.

16 Section 2. A risk-assessment workgroup is established,
17 to be composed of nine members. Members must have direct
18 experience and a strong interest in juvenile justice issues.
19 Composition of the workgroup shall be as follows: a public
20 defender, a state attorney, and a sheriff appointed by their
21 respective professional associations; a representative of the
22 Department of Juvenile Justice, a chairperson of a local
23 juvenile justice board or county council, and a child advocate
24 appointed by the Secretary of Juvenile Justice; a juvenile
25 judge appointed by the Conference of Circuit Court Judges; a
26 member of the Senate appointed by the President of the Senate;
27 and a member of the House of Representatives appointed by the
28 Speaker of the House of Representatives. The workgroup shall
29 review the effectiveness of the risk-assessment instrument
30 developed under section 985.213(2)(b)1., Florida Statutes, and
31 shall make recommendations to keep, revise, or eliminate the

1 instrument, based upon its findings. The workgroup shall
2 report to the Governor, the President of the Senate, and the
3 Speaker of the House of Representatives regarding these
4 findings by January 15, 2001. Subject to a specific
5 appropriation, the Department of Juvenile Justice shall
6 commission an independent evaluation to validate the
7 risk-assessment instrument developed under section
8 985.213(2)(b)1., Florida Statutes, and shall make an objective
9 report to the workgroup and the Legislature.

10 Section 3. Subsection (2) of section 985.213, Florida
11 Statutes, is amended to read:

12 985.213 Use of detention.--

13 (2)(a) All determinations and court orders regarding
14 placement of a child into detention care shall comply with all
15 requirements and criteria provided in this part and shall be
16 based on a risk assessment of the child, unless the child is
17 placed into detention care as provided in subparagraph (b)3.
18 This paragraph expires October 1, 2001.

19 (b)1. The risk assessment instrument for detention
20 care placement determinations and orders shall be developed by
21 the Department of Juvenile Justice in agreement with
22 representatives appointed by the following associations: the
23 Conference of Circuit Judges of Florida, the Prosecuting
24 Attorneys Association, and the Public Defenders Association.
25 Each association shall appoint two individuals, one
26 representing an urban area and one representing a rural area.
27 The parties involved shall evaluate and revise the risk
28 assessment instrument as is considered necessary using the
29 method for revision as agreed by the parties. The risk
30 assessment instrument shall take into consideration, but need
31 not be limited to, prior history of failure to appear, prior

1 offenses, offenses committed pending adjudication, any
2 unlawful possession of a firearm, theft of a motor vehicle or
3 possession of a stolen motor vehicle, and community control
4 status at the time the child is taken into custody. The risk
5 assessment instrument shall also take into consideration
6 appropriate aggravating and mitigating circumstances, and
7 shall be designed to target a narrower population of children
8 than s. 985.215(2). The risk assessment instrument shall also
9 include any information concerning the child's history of
10 abuse and neglect. The risk assessment shall indicate whether
11 detention care is warranted, and, if detention care is
12 warranted, whether the child should be placed into secure,
13 nonsecure, or home detention care. This subparagraph expires
14 October 1, 2001.

15 2. If, at the detention hearing, the court finds a
16 material error in the scoring of the risk assessment
17 instrument, the court may amend the score to reflect factual
18 accuracy. This subparagraph expires October 1, 2001.

19 3. A child who is charged with committing an offense
20 of domestic violence as defined in s. 741.28(1) and who does
21 not meet detention criteria may be held in secure detention if
22 the court makes specific written findings that:

23 a. The offense of domestic violence which the child is
24 charged with committing caused physical injury to the victim;

25 b. Respite care for the child is not available; and

26 c. It is necessary to place the child in secure
27 detention in order to protect the victim from further injury.

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29 The child may not be held in secure detention under this
30 subparagraph for more than 48 hours unless ordered by the
31 court. After 48 hours, the court shall hold a hearing if the

1 state attorney or victim requests that secure detention be
2 continued. The child may continue to be held in secure
3 detention if the court makes a specific, written finding that
4 secure detention is necessary to protect the victim from
5 further injury. However, the child may not be held in secure
6 detention beyond the time limits set forth in s. 985.215.

7 Section 4. Subsection (5) of section 985.215, Florida
8 Statutes, is amended to read:

9 985.215 Detention.--

10 (5)(a) A child may not be placed into or held in
11 secure, nonsecure, or home detention care for longer than 24
12 hours unless the court orders such detention care, and the
13 order includes specific instructions that direct the release
14 of the child from such detention care, in accordance with
15 subsection (2). The order shall be a final order, reviewable
16 by appeal pursuant to s. 985.234 and the Florida Rules of
17 Appellate Procedure. Appeals of such orders shall take
18 precedence over other appeals and other pending matters.

19 (b) The arresting law enforcement agency shall
20 complete and present its investigation of an offense under
21 this subsection to the appropriate state attorney's office
22 within 14 days after placement of the child in secure
23 detention. The investigation must include, but need not be
24 limited to, police reports and supplemental police reports,
25 witness statements, and evidence-collection documents.

26 (c)(b) Except as provided in paragraph (g),a child
27 may not be held in secure, nonsecure, or home detention care
28 under a special detention order for more than 21 days unless
29 an adjudicatory hearing for the case has been commenced by the
30 court.

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1 ~~(d)(e)~~ A child may not be held in secure, nonsecure,
2 or home detention care for more than 15 days following the
3 entry of an order of adjudication.

4 ~~(e)(d)~~ The time limits in paragraphs~~(b)~~ and (c) and
5 (d)do not include periods of delay resulting from a
6 continuance granted by the court for cause on motion of the
7 child or his or her counsel or of the state. Upon the issuance
8 of an order granting a continuance for cause on a motion by
9 either the child, the child's counsel, or the state, the court
10 shall conduct a hearing at the end of each 72-hour period,
11 excluding Saturdays, Sundays, and legal holidays, to determine
12 the need for continued detention of the child and the need for
13 further continuance of proceedings for the child or the state.

14 (f) The Legislature recognizes the benefits of
15 resolving cases promptly and encourages disposition of cases
16 within detention time limits whenever possible.

17 (g) The court may extend the time limits for detention
18 specified in paragraph (c) for an additional 9 days if the
19 child is charged with a capital felony, a life felony, a
20 felony of the first degree, or a felony of the second degree
21 which involves violence against an individual.

22 Section 5. Subsection (1) of section 985.228, Florida
23 Statutes, is amended to read:

24 985.228 Adjudicatory hearings; withheld adjudications;
25 orders of adjudication.--

26 (1) The adjudicatory hearing must be held as soon as
27 practicable after the petition alleging that a child has
28 committed a delinquent act or violation of law is filed and in
29 accordance with the Florida Rules of Juvenile Procedure; but
30 reasonable delay for the purpose of investigation, discovery,
31 or procuring counsel or witnesses shall be granted. If the

1 child is being detained, the time limitations provided for in
2 s. 985.215(5)(b) and (c) apply.

3 Section 6. This act shall take effect October 1, 2000.
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6 SENATE SUMMARY

7 Requires that a probable cause affidavit or written
8 report be made within 24 hours after taking a juvenile
9 into custody and that a copy of the affidavit or report
10 be filed with the clerk of the circuit court within 24
11 hours after being made. Creates a workgroup to review the
12 effectiveness of the risk-assessment instrument developed
13 by the Department of Juvenile Justice. Requires that the
14 arresting law enforcement agency file its investigation
15 report with the state attorney within 14 days after a
16 juvenile is placed in secure detention. Provides for
17 holding a juvenile in detention for up to 30 days prior
18 to an adjudicatory hearing if the juvenile is charged
19 with a capital felony, a life felony, a first-degree
20 felony, or a second-degree felony that involves violence.
21 (See bill for details.)
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