

By Senator Lee

23-160B-00

See CS/HB 69

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 provisions with respect to
5 mandatory direct filing of information with
6 respect to certain juvenile offenders; amending
7 s. 985.233, F.S.; revising provisions with
8 respect to alternatives for juveniles
9 prosecuted as adults; reenacting s.
10 985.226(2)(b), F.S., relating to criteria for
11 waiver of juvenile court jurisdiction and
12 relating to hearing on motion to transfer for
13 prosecution as an adult, to incorporate the
14 amendments in reference thereto; providing an
15 effective date.

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

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

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

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

27 (2) MANDATORY DIRECT FILE.--

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

1 armed or strong-armed robbery, carjacking, home-invasion
2 robbery, aggravated battery, or aggravated assault, and is
3 currently charged with a second or subsequent violent crime
4 against a person.

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

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

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

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

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

15 (4) SENTENCING ALTERNATIVES.--

16 (a) Sentencing to adult sanctions.--

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

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

26 b. Pursuant to chapter 958; or

27 c. As a juvenile pursuant to this section.

28 2. Other cases.--If a child who has been transferred
29 for criminal prosecution pursuant to information or waiver of
30 juvenile court jurisdiction is found to have committed a
31 violation of state law or a lesser included offense for which

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, paragraph (b) of subsection (2) of section 985.226,
12 Florida Statutes, is 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;
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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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17 SENATE SUMMARY

18 Creates the "Habitual Juvenile Offender Accountability
19 Act." Requires that the state attorney prosecute a
20 juvenile who is 16 or 17 years of age as an adult if the
21 juvenile is charged with a forcible felony and has
22 previously been adjudicated delinquent, or has had
23 adjudication withheld, for three felonies that occurred
24 at least 45 days apart from each other. Provides for an
25 exception if exceptional circumstances exist. Requires
26 that the court impose adult sanctions against a juvenile
27 who is prosecuted as an adult under such provisions.
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