

Amendment No. 02 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Merchant offered the following:

Amendment (with title amendment)

On page 5, line 6

insert:

Section 4. Section 984.226, Florida Statutes, is amended to read:

984.226 ~~Pilot program for a~~ Physically secure setting facility; ~~contempt of court.--~~

(1) Subject to specific legislative appropriation, the Department of Juvenile Justice shall establish ~~a pilot program within a single judicial circuit for the purpose of operating one or more~~ physically secure settings facilities designated exclusively for the placement of children in need of services who meet the criteria provided in this section ~~are found in direct contempt or indirect contempt of a valid court order.~~

(2) ~~When if any party files a petition is filed~~ alleging that a child is a child in need of services within such judicial circuit, the child must be represented by counsel at each court appearance unless the record in that

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1 proceeding affirmatively demonstrates by clear and convincing
2 evidence that the child knowingly and intelligently waived the
3 right to counsel after fully being advised by the court of the
4 nature of the proceedings and the dispositional alternatives
5 available to the court under this section. If the court
6 decides to appoint counsel for the child and if the child is
7 indigent, the court shall appoint an attorney to represent the
8 child as provided under s. 985.203. Nothing precludes the
9 court from requesting reimbursement of attorney's fees and
10 costs from the nonindigent parent or legal guardian.

11 ~~(3)(2) When if a child is adjudicated as a child in~~
12 ~~need of services by a court, the court may order the child to~~
13 ~~be placed in a physically secure setting authorized in this~~
14 ~~section if is held in direct contempt or indirect contempt of~~
15 ~~a valid court order, as an alternative to placing the child in~~
16 ~~a staff-secure facility as provided under s. 984.225 or s.~~
17 ~~985.216, the court may order that the child be placed within~~
18 ~~the circuit in a physically secure facility operated under the~~
19 ~~pilot program. A child may be committed to the facility only~~
20 ~~if the department, or an authorized representative of the~~
21 ~~department, verifies to the court that a bed is available for~~
22 ~~the child at the physically secure facility and the child has:~~

23 (a) Failed to appear for placement in a staff-secure
24 shelter under s. 984.225, or failed to comply with any other
25 provision of a valid court order relating to such placement
26 and, as a result of such failure, has been found to be in
27 direct or indirect contempt of court; or

28 ~~(b)(a) Run away from a staff-secure shelter following~~
29 ~~placement under s. 984.225 or s. 984.09 s. 985.216; or~~

30 ~~(b) Committed at least two prior acts of direct or~~
31 ~~indirect contempt.~~

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The department or an authorized representative of the department must verify to the court that a bed is available for the child. If a bed is not available, the court must stay the placement until a bed is available, and the department must place the child's name on a waiting list. The child who has been on the waiting list the longest has first priority for placement in the physically secure setting.

(4)(3) A child may be placed in a physically secure facility for up to 90 5 days for the first commitment and up to 15 days for a second or subsequent commitment. If a child has not been reunited with his or her parent, guardian, or legal custodian at the expiration of the placement in a physically secure setting for an additional 30 days if the court finds that reunification could be achieved within that period.

(5)(a) The court shall review the child's placement once every 45 days as provided in s. 984.20.

(b) At any time during the placement of a child in need of services in a physically secure setting, the department or an authorized representative of the department may submit to the court a report that recommends:

1. That the child has received all of the services available from the physically secure setting and is ready for reunification with a parent or guardian; or

2. That the child is unlikely to benefit from continued placement in the physically secure setting and is more likely to have his or her needs met in a different type of placement.

(c) The court shall determine if the parent, guardian, or custodian has reasonably participated in and has

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1 financially contributed to the child's counseling and
2 treatment program.

3 (d) If the court finds an inadequate level of support
4 or participation by the parent, guardian, or custodian before
5 the end of the placement, the court shall direct that the
6 child be handled as a dependent child, jurisdiction shall be
7 transferred to the Department of Children and Family Services,
8 and the child's care shall be governed by Chapter 39.

9 (e) If the child requires residential mental health
10 treatment or residential care for a developmental disability,
11 the court shall refer the child to the Department of Children
12 and Family Services for the provision of necessary services.

13 (6)(4) Prior to being ordered committed to a
14 physically secure setting facility, the child must be afforded
15 all rights of due process required under s. 985.216. While in
16 the physically secure setting facility, the child shall
17 receive appropriate assessment, treatment, and educational
18 services that are designed to eliminate or reduce the child's
19 truant, ungovernable, or runaway behavior. The child and
20 family shall be provided with family counseling and other
21 support services necessary for reunification.

22 (7)(5) The court shall order the parent, guardian, or
23 legal custodian to cooperate with efforts to reunite the child
24 with the family, participate in counseling, and pay all costs
25 associated with the care and counseling provided to the child
26 and family, in accordance with the family's ability to pay as
27 determined by the court. Placement Commitment of a child under
28 this section is designed to provide residential care on a
29 temporary basis. Such placement commitment does not abrogate
30 the legal responsibilities of the parent, guardian, or legal
31 custodian with respect to the child, except to the extent that

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1 those responsibilities are temporarily altered by court order.

2 ~~(6) The Juvenile Justice Accountability Board shall~~
3 ~~monitor the operation of the pilot program and issue a~~
4 ~~preliminary evaluation report to the Legislature by December~~
5 ~~1, 1998. The Department of Juvenile Justice and the Juvenile~~
6 ~~Justice Accountability Board shall issue a joint final report~~
7 ~~to the Legislature, including any proposed legislation, by~~
8 ~~December 1, 1999.~~

9

10 (Renumber subsequent sections)

11

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13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 On page 1, line 8

16

17 after the word "shelter;" insert:

18 amending s. 984.226, F.S.; providing for
19 physically secure settings for children in need
20 of services; authorizing the Department of
21 Juvenile Justice to establish physically secure
22 settings; providing for a waiver of a child's
23 right to counsel at court appearances;
24 authorizing a court to place a child in a
25 physically secure setting under prescribed
26 circumstances; requiring the department to
27 verify to the court that a bed is available;
28 providing duration of stay in a physically
29 secure setting; providing for court review of a
30 child's placement; providing grounds for
31 transfer of jurisdiction of the child to the

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Department of Children and Family Services;