

By the Fiscal Responsibility Council and Representative  
Ball

1                                   A bill to be entitled  
2           An act relating to juvenile justice; amending  
3           s. 984.03, F.S., and repealing subsection (51),  
4           relating to the definition of the term  
5           "staff-secure shelter"; revising definitions  
6           relating to detention; amending s. 985.03,  
7           F.S., and repealing subsection (52), relating  
8           to the definition of the term "staff-secure  
9           shelter"; revising definitions relating to  
10          detention; repealing s. 984.225, F.S., relating  
11          to powers of disposition and placement of a  
12          child in need of services in a staff-secure  
13          shelter; repealing s. 984.226, F.S., relating  
14          to placement of a child in need of services in  
15          a physically secure shelter; amending ss.  
16          984.09 and 985.216, F.S., relating to placement  
17          in a secure facility for contempt of court, to  
18          conform; amending ss. 316.635 and 318.143,  
19          F.S., relating to certain infractions by minors  
20          constituting contempt of court, to conform;  
21          amending s. 216.136, F.S., relating to duties  
22          of the Juvenile Justice Estimating Conference,  
23          to conform; amending s. 984.14, F.S.; deleting  
24          a cross reference, to conform; creating s.  
25          985.2035, F.S.; providing powers of disposition  
26          in cases involving certain misdemeanor  
27          offenses; amending ss. 985.207, 985.213,  
28          985.214, 985.215, and 985.404, F.S., relating  
29          to detention, to conform; amending s. 985.231,  
30          F.S., relating to powers of disposition in  
31          delinquency cases; providing for applicability

1 of s. 985.2035, F.S., prior to applicability of  
2 this section in certain cases; eliminating  
3 reference to consequence units, to conform to  
4 changes in detention care and supervision;  
5 providing effective dates.

6  
7 Be It Enacted by the Legislature of the State of Florida:

8  
9 Section 1. Subsections (18), (19), (47), and (49) of  
10 section 984.03, Florida Statutes, are amended, subsection (51)  
11 is repealed, and subsections (52) through (56) are renumbered  
12 as subsections (51) through (55), respectively, to read:

13 984.03 Definitions.--When used in this chapter, the  
14 term:

15 (18) "Detention care" means the temporary care or  
16 supervision of a child ~~in secure, nonsecure, or home~~  
17 ~~detention~~, pending a court adjudication or disposition or  
18 execution of a court order, either in secure detention or  
19 through electronic monitoring in conjunction with a  
20 court-ordered condition of confinement to a designated  
21 residence during designated hours. ~~There are three types of~~  
22 ~~detention care, as follows:~~

23 ~~(a) "Secure detention" means temporary custody of the~~  
24 ~~child while the child is under the physical restriction of a~~  
25 ~~detention center or facility pending adjudication,~~  
26 ~~disposition, or placement.~~

27 ~~(b) "Nonsecure detention" means temporary custody of~~  
28 ~~the child while the child is in a residential home in the~~  
29 ~~community in a physically nonrestrictive environment under the~~  
30 ~~supervision of the Department of Juvenile Justice pending~~  
31 ~~adjudication, disposition, or placement.~~

1           ~~(c) "Home detention" means temporary custody of the~~  
2 ~~child while the child is released to the custody of the~~  
3 ~~parent, guardian, or custodian in a physically nonrestrictive~~  
4 ~~environment under the supervision of the Department of~~  
5 ~~Juvenile Justice staff pending adjudication, disposition, or~~  
6 ~~placement.~~

7           (19) "Detention center or facility" means a facility  
8 used, pending court adjudication or disposition or execution  
9 of court order, for the temporary care of a child alleged or  
10 found to have committed a violation of law. A detention  
11 center or facility must ~~may~~ provide secure ~~or nonsecure~~  
12 custody. A facility used for the commitment of adjudicated  
13 delinquents shall not be considered a detention center or  
14 facility.

15           (47) "Secure detention ~~center or facility~~" means  
16 temporary custody of a child while the child is under the  
17 physical restriction of a detention center or facility ~~a~~  
18 ~~physically restricting facility for the temporary care of~~  
19 ~~children, pending adjudication, disposition, or placement.~~

20           (49) "Shelter" means a place for the temporary care of  
21 a child who is alleged to be or who has been found to be  
22 dependent, a child from a family in need of services, or a  
23 child in need of services, pending court disposition before or  
24 after adjudication or after execution of a court order.  
25 ~~"Shelter" may include a facility which provides 24-hour~~  
26 ~~continual supervision for the temporary care of a child who is~~  
27 ~~placed pursuant to s. 984.14.~~

28           Section 2. Subsections (18), (19), and (47) of section  
29 985.03, Florida Statutes, are amended, subsection (52) is  
30 repealed, and subsections (53) through (59) are renumbered as  
31 subsections (52) through (58), respectively, to read:

1           985.03 Definitions.--When used in this chapter, the  
2 term:

3           (18) "Detention care" means the temporary care or  
4 supervision of a child ~~in secure, nonsecure, or home~~  
5 ~~detention~~, pending a court adjudication or disposition or  
6 execution of a court order, either in secure detention or  
7 through electronic monitoring in conjunction with a  
8 court-ordered condition of confinement to a designated  
9 residence during designated hours. ~~There are three types of~~  
10 ~~detention care, as follows:~~

11           ~~(a) "Secure detention" means temporary custody of the~~  
12 ~~child while the child is under the physical restriction of a~~  
13 ~~detention center or facility pending adjudication,~~  
14 ~~disposition, or placement.~~

15           ~~(b) "Nonsecure detention" means temporary custody of~~  
16 ~~the child while the child is in a residential home in the~~  
17 ~~community in a physically nonrestrictive environment under the~~  
18 ~~supervision of the Department of Juvenile Justice pending~~  
19 ~~adjudication, disposition, or placement.~~

20           ~~(c) "Home detention" means temporary custody of the~~  
21 ~~child while the child is released to the custody of the~~  
22 ~~parent, guardian, or custodian in a physically nonrestrictive~~  
23 ~~environment under the supervision of the Department of~~  
24 ~~Juvenile Justice staff pending adjudication, disposition, or~~  
25 ~~placement.~~

26           (19) "Detention center or facility" means a facility  
27 used, pending court adjudication or disposition or execution  
28 of court order, for the temporary care of a child alleged or  
29 found to have committed a violation of law. A detention  
30 center or facility must ~~may~~ provide secure ~~or nonsecure~~  
31 custody. A facility used for the commitment of adjudicated

1 delinquents shall not be considered a detention center or  
2 facility.

3 (47) "Secure detention ~~center or facility~~" means  
4 temporary custody of a child while the child is under the  
5 physical restriction of a detention center or facility a  
6 physically restricting facility for the temporary care of  
7 children, pending adjudication, disposition, or placement.

8 Section 3. Sections 984.225 and 984.226, Florida  
9 Statutes, are repealed.

10 Section 4. Subsections (2) and (5) of section 984.09,  
11 Florida Statutes, are amended to read:

12 984.09 Punishment for contempt of court; alternative  
13 sanctions.--

14 (2) PLACEMENT IN A SECURE FACILITY.--A child in need  
15 of services who has been held in direct or indirect contempt  
16 of court may be placed in a secure facility solely for  
17 children in need of services for purposes of punishment for  
18 contempt of court if alternative sanctions are unavailable or  
19 inappropriate, or if the child has already been ordered to  
20 serve an alternative sanction but failed to comply with the  
21 sanction. Such placement may be up to 5 days for a first  
22 offense or 15 days for a second or subsequent offense. If  
23 such placement is not available, the child may be placed in an  
24 appropriate mental health facility or substance abuse facility  
25 for assessment upon a finding by the court that assessment is  
26 warranted.

27 ~~(a) A delinquent child who has been held in direct or~~  
28 ~~indirect contempt may be placed in a secure detention facility~~  
29 ~~for 5 days for a first offense or 15 days for a second or~~  
30 ~~subsequent offense, or in a secure residential commitment~~  
31 ~~facility.~~

1           ~~(b) A child in need of services who has been held in~~  
2 ~~direct contempt or indirect contempt may be placed, for 5 days~~  
3 ~~for a first offense or 15 days for a second or subsequent~~  
4 ~~offense, in a staff-secure shelter or a staff-secure~~  
5 ~~residential facility solely for children in need of services~~  
6 ~~if such placement is available, or, if such placement is not~~  
7 ~~available, the child may be placed in an appropriate mental~~  
8 ~~health facility or substance abuse facility for assessment. In~~  
9 ~~addition to disposition under this paragraph, a child in need~~  
10 ~~of services who is held in direct contempt or indirect~~  
11 ~~contempt may be placed in a physically secure setting as~~  
12 ~~provided under s. 984.226 if conditions of eligibility are~~  
13 ~~met.~~

14           (5) ALTERNATIVE SANCTIONS COORDINATOR.--There is  
15 created the position of alternative sanctions coordinator  
16 within each judicial circuit, pursuant to subsection (3). Each  
17 alternative sanctions coordinator shall serve under the  
18 direction of the chief administrative judge of the juvenile  
19 division as directed by the chief judge of the circuit. The  
20 alternative sanctions coordinator shall act as the liaison  
21 between the judiciary, local department officials, district  
22 school board employees, and local law enforcement agencies.  
23 The alternative sanctions coordinator shall coordinate within  
24 the circuit community-based alternative sanctions, including  
25 ~~nonsecure detention programs~~, community service projects, and  
26 other juvenile sanctions, in conjunction with the circuit plan  
27 implemented in accordance with s. 790.22(4)(c).

28           Section 5. Subsections (2) and (5) of section 985.216,  
29 Florida Statutes, are amended to read:

30           985.216 Punishment for contempt of court; alternative  
31 sanctions.--

1           (2) PLACEMENT IN A SECURE FACILITY.--A delinquent  
2 child who has been held in direct or indirect contempt of  
3 court may be placed in a secure facility for purposes of  
4 punishment for contempt of court if alternative sanctions are  
5 unavailable or inappropriate, or if the child has already been  
6 ordered to serve an alternative sanction but failed to comply  
7 with the sanction. Such placement may be up to 5 days for a  
8 first offense or 15 days for a second or subsequent offense.

9           ~~(a) A delinquent child who has been held in direct or~~  
10 ~~indirect contempt may be placed in a secure detention facility~~  
11 ~~not to exceed 5 days for a first offense and not to exceed 15~~  
12 ~~days for a second or subsequent offense.~~

13           ~~(b) A child in need of services who has been held in~~  
14 ~~direct contempt or indirect contempt may be placed, not to~~  
15 ~~exceed 5 days for a first offense and not to exceed 15 days~~  
16 ~~for a second or subsequent offense, in a staff-secure shelter~~  
17 ~~or a staff-secure residential facility solely for children in~~  
18 ~~need of services if such placement is available, or, if such~~  
19 ~~placement is not available, the child may be placed in an~~  
20 ~~appropriate mental health facility or substance abuse facility~~  
21 ~~for assessment. In addition to disposition under this~~  
22 ~~paragraph, a child in need of services who is held in direct~~  
23 ~~contempt or indirect contempt may be placed in a physically~~  
24 ~~secure facility as provided under s. 984.226 if conditions of~~  
25 ~~eligibility are met.~~

26           (5) ALTERNATIVE SANCTIONS COORDINATOR.--There is  
27 created the position of alternative sanctions coordinator  
28 within each judicial circuit, pursuant to subsection (3). Each  
29 alternative sanctions coordinator shall serve under the  
30 direction of the chief administrative judge of the juvenile  
31 division as directed by the chief judge of the circuit. The

1 alternative sanctions coordinator shall act as the liaison  
2 between the judiciary, local department officials, district  
3 school board employees, and local law enforcement agencies.  
4 The alternative sanctions coordinator shall coordinate within  
5 the circuit community-based alternative sanctions, ~~including~~  
6 ~~nonsecure detention programs~~, community service projects, and  
7 other juvenile sanctions, in conjunction with the circuit plan  
8 implemented in accordance with s. 790.22(4)(c).

9 Section 6. Subsection (4) of section 316.635, Florida  
10 Statutes, is amended to read:

11 316.635 Courts having jurisdiction over traffic  
12 violations; powers relating to custody and detention of  
13 minors.--

14 (4) A minor who willfully fails to appear before any  
15 court or judicial officer as required by written notice to  
16 appear is guilty of contempt of court. Upon a finding by a  
17 court, after notice and a hearing, that a minor is in contempt  
18 of court for willful failure to appear pursuant to a valid  
19 notice to appear, the court may, at its discretion, proceed in  
20 accordance with the provisions of s. 984.09(2) or s.  
21 985.216(2).+

22 ~~(a) For a first offense, order the minor to serve up~~  
23 ~~to 5 days in a staff-secure shelter as defined in chapter 984~~  
24 ~~or chapter 985 or, if space in a staff-secure shelter is~~  
25 ~~unavailable, in a secure juvenile detention center.~~

26 ~~(b) For a second or subsequent offense, the court may~~  
27 ~~order a minor to serve up to 15 days in a staff-secure shelter~~  
28 ~~or, if space in a staff-secure shelter is unavailable, in a~~  
29 ~~secure juvenile detention center.~~

30 Section 7. Subsection (2) of section 318.143, Florida  
31 Statutes, is amended to read:



1           318.143 Sanctions for infractions by minors.--  
2           (2) Failure to comply with one or more of the  
3 sanctions imposed by the court constitutes contempt of court.  
4 Upon a finding by the court, after notice and a hearing, that  
5 a minor is in contempt of court for failure to comply with  
6 court-ordered sanctions, the court may, at its discretion,  
7 proceed in accordance with the provisions of s. 984.09(2) or  
8 s. 985.216(2).+

9           ~~(a) For a first offense, order the minor to serve up~~  
10 ~~to 5 days in a staff-secure shelter as defined in chapter 984~~  
11 ~~or chapter 985 or, if space in a staff-secure shelter is~~  
12 ~~unavailable, in a secure juvenile detention center.~~

13           ~~(b) For a second or subsequent offense, the court may~~  
14 ~~order a minor to serve up to 15 days in a staff-secure shelter~~  
15 ~~or, if space in a staff-secure shelter is unavailable, in a~~  
16 ~~secure juvenile detention center.~~

17           Section 8. Paragraph (a) of subsection (8) of section  
18 216.136, Florida Statutes, is amended to read:

19           216.136 Consensus estimating conferences; duties and  
20 principals.--

21           (8) JUVENILE JUSTICE ESTIMATING CONFERENCE.--

22           (a) Duties.--The Juvenile Justice Estimating  
23 Conference shall develop such official information relating to  
24 the juvenile justice system of the state as is determined by  
25 the conference principals to be needed for the state planning  
26 and budgeting system. This information shall include, but is  
27 not limited to: estimates of juvenile delinquency caseloads  
28 and workloads; estimates for secure, ~~nonsecure, and home~~  
29 juvenile detention placements and for the use of detention  
30 supervision through the use of electronic monitoring;  
31 estimates of workloads in the juvenile sections in the offices

1 of the state attorneys and public defenders; estimates of  
2 mental health and substance abuse treatment relating to  
3 juveniles; and such other information as is determined by the  
4 conference principals to be needed for the state planning and  
5 budgeting system.

6 Section 9. Subsection (5) of section 984.14, Florida  
7 Statutes, is amended to read:

8 984.14 Shelter placement; hearing.--

9 (5) ~~Except as provided under s. 984.225,~~A child in  
10 need of services or a child from a family in need of services  
11 may not be placed in a shelter for longer than 35 days.

12 Section 10. Effective upon this act becoming a law,  
13 section 985.2035, Florida Statutes, is created to read:

14 985.2035 Powers of disposition in cases involving  
15 certain misdemeanor offenses.--

16 (1) The court that has jurisdiction of an adjudicated  
17 delinquent child may not commit for residential placement any  
18 child who is before the court for disposition of an offense  
19 that would be a misdemeanor if committed by an adult unless  
20 such child has been adjudicated delinquent within the past  
21 year for an offense that would be a felony if committed by an  
22 adult. In such cases, the court may place the child in a  
23 structured day-treatment probation supervision program that  
24 provides onsite school instruction. The court may impose  
25 additional conditions of such probation supervision as  
26 described in s. 985.228(4).

27 (2) If the conditions of the day-treatment probation  
28 supervision program are violated, the department or the state  
29 attorney may bring the child before the court on a petition  
30 alleging a violation of the program. Any child who violates  
31 the conditions of probation must be brought before the court

1 if sanctions are sought. If the child denies violating the  
2 conditions of probation, the court shall appoint counsel to  
3 represent the child at the child's request.

4 (3) Upon the child's admission, or if the court finds  
5 after a hearing that the child has violated the conditions of  
6 probation imposed pursuant to the provisions of subsection  
7 (1), the court shall enter an order modifying or continuing  
8 probation. The court shall enter a new disposition order and,  
9 in addition to the sanctions set forth in this subsection, may  
10 impose any sanction the court could have imposed at the  
11 original disposition hearing. The court may place the child  
12 in a low-risk or moderate-risk residential program for up to  
13 28 days as a consequence of such violation. Consequence  
14 placement shall be considered an additional sanction as a  
15 condition of continued day-treatment probation and shall not  
16 be considered a residential commitment.

17 (4) A probation order entered pursuant to the  
18 provisions of this section may only be revoked after the court  
19 has exercised its authority to order a consequence placement  
20 and pursuant to a finding by the court that the child has  
21 subsequently violated the conditions of the day-treatment  
22 probation supervision program.

23 Section 11. Effective upon this act becoming a law,  
24 subsection (4) is added to section 985.231, Florida Statutes,  
25 to read:

26 985.231 Powers of disposition in delinquency cases.--

27 (4) The court that has jurisdiction of an adjudicated  
28 delinquent child may not exercise any authority pursuant to  
29 this section in any case involving a child who has not been  
30 adjudicated delinquent within the past year for an offense  
31 that would be a felony if committed by an adult and who is

1 presently before the court for disposition for an offense that  
2 would be a misdemeanor if committed by an adult until all of  
3 the provisions of s. 985.2035 have been exhausted.

4 Section 12. Subsection (1) of section 985.207, Florida  
5 Statutes, is amended to read:

6 985.207 Taking a child into custody.--

7 (1) A child may be taken into custody under the  
8 following circumstances:

9 (a) Pursuant to an order of the circuit court issued  
10 under this part, based upon sworn testimony, either before or  
11 after a petition is filed.

12 (b) For a delinquent act or violation of law, pursuant  
13 to Florida law pertaining to a lawful arrest. If such  
14 delinquent act or violation of law would be a felony if  
15 committed by an adult or involves a crime of violence, the  
16 arresting authority shall immediately notify the district  
17 school superintendent, or the superintendent's designee, of  
18 the school district with educational jurisdiction of the  
19 child. Such notification shall include other education  
20 providers such as the Florida School for the Deaf and the  
21 Blind, university developmental research schools, and private  
22 elementary and secondary schools. The information obtained by  
23 the superintendent of schools pursuant to this section must be  
24 released within 48 hours after receipt to appropriate school  
25 personnel, including the principal of the child's school, or  
26 as otherwise provided by law. The principal must immediately  
27 notify the child's immediate classroom teachers. Information  
28 provided by an arresting authority pursuant to this paragraph  
29 may not be placed in the student's permanent record and shall  
30 be removed from all school records no later than 9 months  
31 after the date of the arrest.

1 (c) By a law enforcement officer for failing to appear  
2 at a court hearing after being properly noticed.

3 (d) By a law enforcement officer who has probable  
4 cause to believe that the child is in violation of the  
5 conditions of the child's court-ordered detention supervision,  
6 probation, ~~home detention,~~ postcommitment probation, or  
7 conditional release supervision or that the child has escaped  
8 from commitment.

9  
10 Nothing in this subsection shall be construed to allow the  
11 detention of a child who does not meet the detention criteria  
12 in s. 985.215.

13 Section 13. Subsection (1), paragraph (b) of  
14 subsection (2), and paragraph (a) of subsection (3) of section  
15 985.213, Florida Statutes, are amended to read:

16 985.213 Use of detention.--

17 (1) All determinations and court orders regarding the  
18 use of secure, ~~nonsecure, or home~~ detention care or the use of  
19 detention supervision through electronic monitoring in  
20 conjunction with a court-ordered condition of confinement to a  
21 designated residence during designated hours shall be based  
22 primarily upon findings that the child:

23 (a) Presents a substantial risk of not appearing at a  
24 subsequent hearing;

25 (b) Presents a substantial risk of inflicting bodily  
26 harm on others as evidenced by recent behavior;

27 (c) Presents a history of committing a property  
28 offense prior to adjudication, disposition, or placement;

29 (d) Has committed contempt of court by:

30 1. Intentionally disrupting the administration of the  
31 court;

1           2. Intentionally disobeying a court order; or  
2           3. Engaging in a punishable act or speech in the  
3 court's presence which shows disrespect for the authority and  
4 dignity of the court; or  
5           (e) Requests protection from imminent bodily harm.  
6           (2)  
7           (b)1. The risk assessment instrument for detention  
8 care placement determinations and orders shall be developed by  
9 the Department of Juvenile Justice in agreement with  
10 representatives appointed by the following associations: the  
11 Conference of Circuit Judges of Florida, the Prosecuting  
12 Attorneys Association, the Public Defenders Association, the  
13 Florida Sheriffs Association, and the Florida Association of  
14 Chiefs of Police. Each association shall appoint two  
15 individuals, one representing an urban area and one  
16 representing a rural area. The parties involved shall  
17 evaluate and revise the risk assessment instrument as is  
18 considered necessary using the method for revision as agreed  
19 by the parties. The risk assessment instrument shall take into  
20 consideration, but need not be limited to, prior history of  
21 failure to appear, prior offenses, offenses committed pending  
22 adjudication, any unlawful possession of a firearm, theft of a  
23 motor vehicle or possession of a stolen motor vehicle, and  
24 probation status at the time the child is taken into custody.  
25 The risk assessment instrument shall also take into  
26 consideration appropriate aggravating and mitigating  
27 circumstances, and shall be designed to target a narrower  
28 population of children than s. 985.215(2). The risk assessment  
29 instrument shall also include any information concerning the  
30 child's history of abuse and neglect. The risk assessment  
31 shall indicate whether detention care is warranted, and, if

1 detention care is warranted, whether the child should be  
2 placed into secure, ~~nonsecure, or home~~ detention care or under  
3 detention supervision through electronic monitoring in  
4 conjunction with a court-ordered condition of confinement to a  
5 designated residence during designated hours.

6           2. If, at the detention hearing, the court finds a  
7 material error in the scoring of the risk assessment  
8 instrument, the court may amend the score to reflect factual  
9 accuracy.

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

- 14           a. Respite care for the child is not available; and  
15           b. It is necessary to place the child in secure  
16 detention in order to protect the victim from injury.

17  
18 The child may not be held in secure detention under this  
19 subparagraph for more than 48 hours unless ordered by the  
20 court. After 48 hours, the court shall hold a hearing if the  
21 state attorney or victim requests that secure detention be  
22 continued. The child may continue to be held in detention care  
23 if the court makes a specific, written finding that detention  
24 care is necessary to protect the victim from injury. However,  
25 the child may not be held in detention care beyond the time  
26 limits set forth in s. 985.215.

27           4. For a child who is under the supervision of the  
28 department or a designated agent of the department through  
29 electronic monitoring in conjunction with a court-ordered  
30 condition of confinement to a designated residence during  
31 designated hours, probation, ~~home detention, nonsecure~~

1 ~~detention~~, conditional release, postcommitment probation, or  
2 commitment and who is charged with committing a new offense,  
3 the risk assessment instrument may be completed and scored  
4 based on the underlying charge for which the child was placed  
5 under such the supervision ~~of the department~~ and the new  
6 offense.

7 (3)(a) While a child who is currently enrolled in  
8 school is under detention supervision through electronic  
9 monitoring in conjunction with a condition of confinement to a  
10 designated residence during designated hours ~~in nonsecure or~~  
11 ~~home detention care~~, the child shall continue to attend school  
12 unless otherwise ordered by the court.

13 Section 14. Subsection (1) of section 985.214, Florida  
14 Statutes, is amended to read:

15 985.214 Prohibited uses of detention.--

16 (1) A child alleged to have committed a delinquent act  
17 or violation of law may not be placed into secure, ~~nonsecure,~~  
18 ~~or home~~ detention care or placed under the supervision of the  
19 department through electronic monitoring in conjunction with a  
20 court-ordered condition of confinement to a designated  
21 residence during designated hours for any of the following  
22 reasons:

23 (a) To allow a parent to avoid his or her legal  
24 responsibility.

25 (b) To permit more convenient administrative access to  
26 the child.

27 (c) To facilitate further interrogation or  
28 investigation.

29 (d) Due to a lack of more appropriate facilities.

30 Section 15. Subsections (1) and (2), paragraphs (a),  
31 (c), and (d) of subsection (5), paragraph (a) of subsection



1 (6), subsections (8) and (9), paragraphs (a) and (b) of  
2 subsection (10), and paragraph (b) of subsection (11) of  
3 section 985.215, Florida Statutes, are amended to read:

4 985.215 Detention.--

5 (1) The juvenile probation officer shall receive  
6 custody of a child who has been taken into custody from the  
7 law enforcement agency and shall review the facts in the law  
8 enforcement report or probable cause affidavit and make such  
9 further inquiry as may be necessary to determine whether  
10 detention care is required.

11 (a) During the period of time from the taking of the  
12 child into custody to the date of the detention hearing, the  
13 initial decision as to the child's placement into secure  
14 detention care or into detention supervision through the use  
15 of electronic monitoring in conjunction with a condition of  
16 confinement to a designated residence during designated hours,  
17 ~~nonsecure detention care, or home detention care~~ shall be made  
18 by the juvenile probation officer pursuant to ss. 985.213 and  
19 985.214.

20 (b) The juvenile probation officer shall base the  
21 decision whether or not to place the child into secure  
22 detention care or into detention supervision through the use  
23 of electronic monitoring in conjunction with a condition of  
24 confinement to a designated residence during designated hours,  
25 ~~home detention care, or nonsecure detention care~~ on an  
26 assessment of risk in accordance with the risk assessment  
27 instrument and procedures developed by the Department of  
28 Juvenile Justice under s. 985.213. However, a child charged  
29 with possessing or discharging a firearm on school property in  
30 violation of s. 790.115 shall be placed in secure detention  
31 care.

1           (c) If the juvenile probation officer determines that  
2 a child who is eligible for detention based upon the results  
3 of the risk assessment instrument should be released, the  
4 juvenile probation officer shall contact the state attorney,  
5 who may authorize release. If detention is not authorized, the  
6 child may be released by the juvenile probation officer in  
7 accordance with s. 985.211.

8  
9 Under no circumstances shall the juvenile probation officer or  
10 the state attorney or law enforcement officer authorize the  
11 detention of any child in a jail or other facility intended or  
12 used for the detention of adults, without an order of the  
13 court.

14           (2) Subject to the provisions of subsection (1), a  
15 child taken into custody and placed into detention supervision  
16 through the use of electronic monitoring in conjunction with a  
17 condition of confinement to a designated residence during  
18 designated hours ~~nonsecure or home detention care~~ or detained  
19 in secure detention care prior to a detention hearing may  
20 continue to be detained by the court if:

21           (a) The child is alleged to be an escapee or an  
22 absconder from a commitment program, a probation program, or  
23 conditional release supervision, or is alleged to have escaped  
24 while being lawfully transported to or from such program or  
25 supervision.

26           (b) The child is wanted in another jurisdiction for an  
27 offense which, if committed by an adult, would be a felony.

28           (c) The child is charged with a delinquent act or  
29 violation of law and requests in writing through legal counsel  
30 to be detained for protection from an imminent physical threat  
31 to his or her personal safety.

1 (d) The child is charged with committing an offense of  
2 domestic violence as defined in s. 741.28(1) and is detained  
3 as provided in s. 985.213(2)(b)3.

4 (e) The child is charged with possession or  
5 discharging a firearm on school property in violation of s.  
6 790.115.

7 (f) The child is charged with a capital felony, a life  
8 felony, a felony of the first degree, a felony of the second  
9 degree that does not involve a violation of chapter 893, or a  
10 felony of the third degree that is also a crime of violence,  
11 including any such offense involving the use or possession of  
12 a firearm.

13 (g) The child is charged with any second degree or  
14 third degree felony involving a violation of chapter 893 or  
15 any third degree felony that is not also a crime of violence,  
16 and the child:

17 1. Has a record of failure to appear at court hearings  
18 after being properly notified in accordance with the Rules of  
19 Juvenile Procedure;

20 2. Has a record of law violations prior to court  
21 hearings;

22 3. Has already been detained or has been released and  
23 is awaiting final disposition of the case;

24 4. Has a record of violent conduct resulting in  
25 physical injury to others; or

26 5. Is found to have been in possession of a firearm.

27 (h) The child is alleged to have violated the  
28 conditions of the child's probation or conditional release  
29 supervision and qualifies to be held in secure detention  
30 pursuant to the provisions of s. 985.213(2)(b)4. Otherwise,  
31 such ~~However, a child detained under this paragraph may be~~

1 held only in ~~a consequence unit as provided in s.~~  
2 ~~985.231(1)(a)1.c.~~ If a consequence unit is not available, the  
3 ~~child shall be placed on home~~ detention supervision with  
4 electronic monitoring.

5 (i) The child is detained on a judicial order for  
6 failure to appear and has previously willfully failed to  
7 appear, after proper notice, for an adjudicatory hearing on  
8 the same case regardless of the results of the risk assessment  
9 instrument. A child may be held in secure detention for up to  
10 72 hours in advance of the next scheduled court hearing  
11 pursuant to this paragraph. The child's failure to keep the  
12 clerk of court and defense counsel informed of a current and  
13 valid mailing address where the child will receive notice to  
14 appear at court proceedings does not provide an adequate  
15 ground for excusal of the child's nonappearance at the  
16 hearings.

17 (j) The child is detained on a judicial order for  
18 failure to appear and has previously willfully failed to  
19 appear, after proper notice, at two or more court hearings of  
20 any nature on the same case regardless of the results of the  
21 risk assessment instrument. A child may be held in secure  
22 detention for up to 72 hours in advance of the next scheduled  
23 court hearing pursuant to this paragraph. The child's failure  
24 to keep the clerk of court and defense counsel informed of a  
25 current and valid mailing address where the child will receive  
26 notice to appear at court proceedings does not provide an  
27 adequate ground for excusal of the child's nonappearance at  
28 the hearings.

29  
30 A child who meets any of these criteria and who is ordered to  
31 be detained pursuant to this subsection shall be given a

1 hearing within 24 hours after being taken into custody. The  
2 purpose of the detention hearing is to determine the existence  
3 of probable cause that the child has committed the delinquent  
4 act or violation of law with which he or she is charged and  
5 the need for continued detention. Unless a child is detained  
6 under paragraph (d) or paragraph (e), the court shall utilize  
7 the results of the risk assessment performed by the juvenile  
8 probation officer and, based on the criteria in this  
9 subsection, shall determine the need for continued detention.  
10 A child placed into ~~secure, nonsecure, or home~~ detention care  
11 or into detention supervision through the use of electronic  
12 monitoring in conjunction with a condition of confinement to a  
13 designated residence during designated hours may continue to  
14 be so detained by the court pursuant to this subsection. If  
15 the court orders a placement more restrictive than indicated  
16 by the results of the risk assessment instrument, the court  
17 shall state, in writing, clear and convincing reasons for such  
18 placement. Except as provided in s. 790.22(8) or in  
19 subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c),  
20 or paragraph (10)(d), when a child is placed into ~~secure or~~  
21 ~~nonsecure~~ detention care, or into a respite home or other  
22 placement pursuant to a court order following a hearing, the  
23 court order must include specific instructions that direct the  
24 release of the child from such placement no later than 5 p.m.  
25 on the last day of the detention period specified in paragraph  
26 (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1.,  
27 whichever is applicable, unless the requirements of such  
28 applicable provision have been met or an order of continuance  
29 has been granted pursuant to paragraph (5)(f).  
30 (5)(a) A child may not be placed into or held in  
31 ~~secure, nonsecure, or home~~ detention care or under detention

1 supervision through the use of electronic monitoring in  
2 conjunction with a condition of confinement to a designated  
3 residence during designated hours for longer than 24 hours  
4 unless the court orders such detention care or supervision,  
5 and the order includes specific instructions that direct the  
6 release of the child from such detention care, in accordance  
7 with subsection (2). The order shall be a final order,  
8 reviewable by appeal pursuant to s. 985.234 and the Florida  
9 Rules of Appellate Procedure. Appeals of such orders shall  
10 take precedence over other appeals and other pending matters.

11 (c) Except as provided in paragraph (g), a child may  
12 not be held in ~~secure, nonsecure, or home~~ detention care or  
13 under detention supervision through the use of electronic  
14 monitoring in conjunction with a condition of confinement to a  
15 designated residence during designated hours under a special  
16 detention order for more than 21 days unless an adjudicatory  
17 hearing for the case has been commenced in good faith by the  
18 court.

19 (d) Except as provided in paragraph (g), a child may  
20 not be held in ~~secure, nonsecure, or home~~ detention care or  
21 under detention supervision through the use of electronic  
22 monitoring in conjunction with a condition of confinement to a  
23 designated residence during designated hours for more than 15  
24 days following the entry of an order of adjudication.

25 (6)(a) When any child is placed into ~~secure,~~  
26 ~~nonsecure, or home~~ detention care, into detention supervision  
27 through the use of electronic monitoring in conjunction with a  
28 condition of confinement to a designated residence during  
29 designated hours, or into other placement pursuant to a court  
30 order following a detention hearing, the court shall order the  
31 parents or guardians of such child to pay to the Department of

1 Juvenile Justice fees in the amount of \$5 per day that the  
2 child is under the care or supervision of the department in  
3 order to partially offset the cost of the care, support,  
4 maintenance, and other usual and ordinary obligations of  
5 parents to provide for the needs of their children, unless the  
6 court makes a finding on the record that the parent or  
7 guardian of the child is indigent.

8 (8) If a child is detained pursuant to this section,  
9 the Department of Juvenile Justice may transfer the child from  
10 detention supervision through the use of electronic monitoring  
11 in conjunction with a condition of confinement to a designated  
12 residence during designated hours ~~nonsecure or home detention~~  
13 ~~care~~ to secure detention care only if significantly changed  
14 circumstances warrant such transfer.

15 (9) If a child is on release status and not detained  
16 pursuant to this section, the child may be placed into secure,  
17 ~~nonsecure, or home~~ detention care or into detention  
18 supervision through the use of electronic monitoring in  
19 conjunction with a condition of confinement to a designated  
20 residence during designated hours only pursuant to a court  
21 hearing in which the original risk assessment instrument,  
22 rescored based on newly discovered evidence or changed  
23 circumstances with the results recommending detention, is  
24 introduced into evidence.

25 (10)(a)1. When a child is committed to the Department  
26 of Juvenile Justice awaiting dispositional placement, removal  
27 of the child from detention care shall occur within 5 days,  
28 excluding Saturdays, Sundays, and legal holidays. Any child  
29 held in secure detention during the 5 days must meet detention  
30 admission criteria pursuant to this section. If the child is  
31 committed to a moderate-risk residential program, the

1 department may seek an order from the court authorizing  
2 continued detention for a specific period of time necessary  
3 for the appropriate residential placement of the child.  
4 However, such continued detention in secure detention care may  
5 not exceed 15 days after commitment, excluding Saturdays,  
6 Sundays, and legal holidays, and except as otherwise provided  
7 in this subsection.

8           2. The court must place all children who are  
9 adjudicated and awaiting placement in a residential commitment  
10 program in detention care. Children who are not subject to an  
11 order of placement into secure detention care may be placed  
12 into detention supervision through the use of electronic  
13 monitoring in conjunction with a condition of confinement to a  
14 designated residence during designated hours ~~in home detention~~  
15 ~~care or nonsecure detention care may be placed on electronic~~  
16 ~~monitoring.~~

17           (b) A child who is placed in detention supervision  
18 through the use of electronic monitoring in conjunction with a  
19 condition of confinement to a designated residence during  
20 designated hours ~~home detention care, nonsecure detention~~  
21 ~~care, or home or nonsecure detention care with electronic~~  
22 ~~monitoring~~, while awaiting placement in a low-risk or  
23 moderate-risk program, may be held in secure detention care  
24 for 5 days, if the child violates the conditions of such  
25 monitoring or confinement ~~the home detention care, the~~  
26 ~~nonsecure detention care, or the electronic monitoring~~  
27 ~~agreement.~~ For any subsequent violation, the court may impose  
28 an additional 5 days in secure detention care.

29           (11)

30           (b) When a juvenile sexual offender, pursuant to this  
31 subsection, is released from detention care or supervision, or



1 is transferred from secure detention to detention supervision  
2 through the use of electronic monitoring in conjunction with a  
3 condition of confinement to a designated residence during  
4 designated hours ~~home detention or nonsecure detention,~~  
5 detention staff shall immediately notify the appropriate law  
6 enforcement agency and school personnel.

7 Section 16. Paragraph (a) of subsection (1) of section  
8 985.231, Florida Statutes, is amended to read:

9 985.231 Powers of disposition in delinquency cases.--

10 (1)(a) The court that has jurisdiction of an  
11 adjudicated delinquent child may, by an order stating the  
12 facts upon which a determination of a sanction and  
13 rehabilitative program was made at the disposition hearing:

14 1. Place the child in a probation program or a  
15 postcommitment probation program under the supervision of an  
16 authorized agent of the Department of Juvenile Justice or of  
17 any other person or agency specifically authorized and  
18 appointed by the court, whether in the child's own home, in  
19 the home of a relative of the child, or in some other suitable  
20 place under such reasonable conditions as the court may  
21 direct. A probation program for an adjudicated delinquent  
22 child must include a penalty component such as restitution in  
23 money or in kind, community service, a curfew, revocation or  
24 suspension of the driver's license of the child, or other  
25 nonresidential punishment appropriate to the offense and must  
26 also include a rehabilitative program component such as a  
27 requirement of participation in substance abuse treatment or  
28 in school or other educational program. If the child is  
29 attending or is eligible to attend public school and the court  
30 finds that the victim or a sibling of the victim in the case  
31 is attending or may attend the same school as the child, the

1 court placement order shall include a finding pursuant to the  
2 proceedings described in s. 985.23(1)(d). Upon the  
3 recommendation of the department at the time of disposition,  
4 or subsequent to disposition pursuant to the filing of a  
5 petition alleging a violation of the child's conditions of  
6 postcommitment probation, the court may order the child to  
7 submit to random testing for the purpose of detecting and  
8 monitoring the use of alcohol or controlled substances.

9 a. A restrictiveness level classification scale for  
10 levels of supervision shall be provided by the department,  
11 taking into account the child's needs and risks relative to  
12 probation supervision requirements to reasonably ensure the  
13 public safety. Probation programs for children shall be  
14 supervised by the department or by any other person or agency  
15 specifically authorized by the court. These programs must  
16 include, but are not limited to, structured or restricted  
17 activities as described in this subparagraph, and shall be  
18 designed to encourage the child toward acceptable and  
19 functional social behavior. If supervision or a program of  
20 community service is ordered by the court, the duration of  
21 such supervision or program must be consistent with any  
22 treatment and rehabilitation needs identified for the child  
23 and may not exceed the term for which sentence could be  
24 imposed if the child were committed for the offense, except  
25 that the duration of such supervision or program for an  
26 offense that is a misdemeanor of the second degree, or is  
27 equivalent to a misdemeanor of the second degree, may be for a  
28 period not to exceed 6 months. When restitution is ordered by  
29 the court, the amount of restitution may not exceed an amount  
30 the child and the parent or guardian could reasonably be  
31 expected to pay or make. A child who participates in any work

1 program under this part is considered an employee of the state  
2 for purposes of liability, unless otherwise provided by law.

3           b. The court may conduct judicial review hearings for  
4 a child placed on probation for the purpose of fostering  
5 accountability to the judge and compliance with other  
6 requirements, such as restitution and community service. The  
7 court may allow early termination of probation for a child who  
8 has substantially complied with the terms and conditions of  
9 probation.

10           c. If the conditions of the probation program or the  
11 postcommitment probation program are violated, the department  
12 or the state attorney may bring the child before the court on  
13 a petition alleging a violation of the program. Any child who  
14 violates the conditions of probation or postcommitment  
15 probation must be brought before the court if sanctions are  
16 sought. A child taken into custody under s. 985.207 for  
17 violating the conditions of probation or postcommitment  
18 probation shall be held pursuant to the provisions of s.  
19 985.215(2)(h)~~in a consequence unit if such a unit is~~  
20 ~~available~~. The child shall be afforded a hearing within 24  
21 hours after being taken into custody to determine the  
22 existence of probable cause that the child violated the  
23 conditions of probation or postcommitment probation. ~~A~~  
24 ~~consequence unit is a secure facility specifically designated~~  
25 ~~by the department for children who are taken into custody~~  
26 ~~under s. 985.207 for violating probation or postcommitment~~  
27 ~~probation, or who have been found by the court to have~~  
28 ~~violated the conditions of probation or postcommitment~~  
29 ~~probation. If the violation involves a new charge of~~  
30 ~~delinquency, the child may be detained under s. 985.215 in a~~  
31 ~~facility other than a consequence unit. If the child is not~~

1 ~~eligible for detention for the new charge of delinquency, the~~  
2 ~~child may be held in the consequence unit pending a hearing~~  
3 ~~and is subject to the time limitations specified in s.~~  
4 ~~985.215.~~ If the child denies violating the conditions of  
5 probation or postcommitment probation, the court shall appoint  
6 counsel to represent the child at the child's request. Upon  
7 the child's admission, or if the court finds after a hearing  
8 that the child has violated the conditions of probation or  
9 postcommitment probation, the court shall enter an order  
10 revoking, modifying, or continuing probation or postcommitment  
11 probation. In each such case, the court shall enter a new  
12 disposition order and, in addition to the sanctions set forth  
13 in this paragraph, may impose any sanction the court could  
14 have imposed at the original disposition hearing. If the child  
15 is found to have violated the conditions of probation or  
16 postcommitment probation, the court may:

17 (I) Place the child in a secure detention facility  
18 ~~consequence unit in that judicial circuit, if available, for~~  
19 up to 5 days for a first violation, and up to 15 days for a  
20 second or subsequent violation.

21 (II) Place the child in detention supervision through  
22 electronic monitoring in conjunction with a condition of  
23 confinement to a designated residence during designated hours  
24 ~~on home detention with electronic monitoring. However, this~~  
25 ~~sanction may be used only if a residential consequence unit is~~  
26 ~~not available.~~

27 (III) Modify or continue the child's probation program  
28 or postcommitment probation program.

29 (IV) Revoke probation or postcommitment probation and  
30 commit the child to the department.

31

1           d. Notwithstanding s. 743.07 and paragraph (d), and  
2 except as provided in s. 985.31, the term of any order placing  
3 a child in a probation program must be until the child's 19th  
4 birthday unless he or she is released by the court, on the  
5 motion of an interested party or on its own motion.

6           2. Commit the child to a licensed child-caring agency  
7 willing to receive the child, but the court may not commit the  
8 child to a jail or to a facility used primarily as a detention  
9 center or facility or shelter.

10           3. Commit the child to the Department of Juvenile  
11 Justice at a residential commitment level defined in s.  
12 985.03. Such commitment must be for the purpose of exercising  
13 active control over the child, including, but not limited to,  
14 custody, care, training, urine monitoring, and treatment of  
15 the child and release of the child into the community in a  
16 postcommitment nonresidential conditional release program. If  
17 the child is eligible to attend public school following  
18 residential commitment and the court finds that the victim or  
19 a sibling of the victim in the case is or may be attending the  
20 same school as the child, the commitment order shall include a  
21 finding pursuant to the proceedings described in s.  
22 985.23(1)(d). If the child is not successful in the  
23 conditional release program, the department may use the  
24 transfer procedure under s. 985.404. Notwithstanding s. 743.07  
25 and paragraph (d), and except as provided in s. 985.31, the  
26 term of the commitment must be until the child is discharged  
27 by the department or until he or she reaches the age of 21.

28           4. Revoke or suspend the driver's license of the  
29 child.

30           5. Require the child and, if the court finds it  
31 appropriate, the child's parent or guardian together with the

1 child, to render community service in a public service  
2 program.

3           6. As part of the probation program to be implemented  
4 by the Department of Juvenile Justice, or, in the case of a  
5 committed child, as part of the community-based sanctions  
6 ordered by the court at the disposition hearing or before the  
7 child's release from commitment, order the child to make  
8 restitution in money, through a promissory note cosigned by  
9 the child's parent or guardian, or in kind for any damage or  
10 loss caused by the child's offense in a reasonable amount or  
11 manner to be determined by the court. The clerk of the circuit  
12 court shall be the receiving and dispensing agent. In such  
13 case, the court shall order the child or the child's parent or  
14 guardian to pay to the office of the clerk of the circuit  
15 court an amount not to exceed the actual cost incurred by the  
16 clerk as a result of receiving and dispensing restitution  
17 payments. The clerk shall notify the court if restitution is  
18 not made, and the court shall take any further action that is  
19 necessary against the child or the child's parent or guardian.  
20 A finding by the court, after a hearing, that the parent or  
21 guardian has made diligent and good faith efforts to prevent  
22 the child from engaging in delinquent acts absolves the parent  
23 or guardian of liability for restitution under this  
24 subparagraph.

25           7. Order the child and, if the court finds it  
26 appropriate, the child's parent or guardian together with the  
27 child, to participate in a community work project, either as  
28 an alternative to monetary restitution or as part of the  
29 rehabilitative or probation program.

30           8. Commit the child to the Department of Juvenile  
31 Justice for placement in a program or facility for serious or

1 habitual juvenile offenders in accordance with s. 985.31. Any  
2 commitment of a child to a program or facility for serious or  
3 habitual juvenile offenders must be for an indeterminate  
4 period of time, but the time may not exceed the maximum term  
5 of imprisonment that an adult may serve for the same offense.  
6 The court may retain jurisdiction over such child until the  
7 child reaches the age of 21, specifically for the purpose of  
8 the child completing the program.

9           9. In addition to the sanctions imposed on the child,  
10 order the parent or guardian of the child to perform community  
11 service if the court finds that the parent or guardian did not  
12 make a diligent and good faith effort to prevent the child  
13 from engaging in delinquent acts. The court may also order the  
14 parent or guardian to make restitution in money or in kind for  
15 any damage or loss caused by the child's offense. The court  
16 shall determine a reasonable amount or manner of restitution,  
17 and payment shall be made to the clerk of the circuit court as  
18 provided in subparagraph 6.

19           10. Subject to specific appropriation, commit the  
20 juvenile sexual offender to the Department of Juvenile Justice  
21 for placement in a program or facility for juvenile sexual  
22 offenders in accordance with s. 985.308. Any commitment of a  
23 juvenile sexual offender to a program or facility for juvenile  
24 sexual offenders must be for an indeterminate period of time,  
25 but the time may not exceed the maximum term of imprisonment  
26 that an adult may serve for the same offense. The court may  
27 retain jurisdiction over a juvenile sexual offender until the  
28 juvenile sexual offender reaches the age of 21, specifically  
29 for the purpose of completing the program.

30           Section 17. Paragraph (a) of subsection (10) of  
31 section 985.404, Florida Statutes, is amended to read:

1           985.404 Administering the juvenile justice  
2 continuum.--  
3           (10)(a) The department shall operate a statewide,  
4 regionally administered system of detention services for  
5 children, in accordance with a comprehensive plan for the  
6 regional administration of all detention services in the  
7 state. The plan must provide for the maintenance of adequate  
8 availability of detention services for all counties. The plan  
9 must cover all the department's operating circuits, with each  
10 operating circuit having a secure facility and detention  
11 supervision services that include the use of electronic  
12 monitoring ~~nonsecure and home detention programs~~, and the plan  
13 may be altered or modified by the Department of Juvenile  
14 Justice as necessary.

15           Section 18. Except as otherwise provided herein, this  
16 act shall take effect January 1, 2002.

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HOUSE SUMMARY

Eliminates staff-secure shelters and physically secure shelters for the placement of children in need of services. Provides that children in need of services and delinquent children found in contempt of court shall be placed in secure detention. Eliminates home detention and replaces it with electronic monitoring. Replaces placement in a residential facility with placement in a structured day-treatment probation supervision program for delinquent children involved in offenses that would be misdemeanors if committed by an adult. See bill for details.