

By 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11 is repealed, and subsections (52) through (56) are renumbered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.