

By Representative Waters

1 A bill to be entitled
2 An act relating to the detention of juveniles;
3 amending s. 985.215, F.S.; authorizing the
4 court to continue to hold a juvenile in
5 detention if the court finds that the juvenile
6 is a clear and present danger to himself or
7 herself or to the community; requiring that the
8 court specify by written order the need for and
9 the benefits derived from continued detention;
10 providing for future repeal; requiring that the
11 Juvenile Justice Estimating Conference submit a
12 report to the Legislature concerning the effect
13 of the act on the juvenile justice system and
14 on the number of juveniles held in detention;
15 providing an effective date.

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

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19 Section 1. Subsections (1) and (2) of section 985.215,
20 Florida Statutes, are amended to read:

21 985.215 Detention.--

22 (1) The juvenile probation officer shall receive
23 custody of a child who has been taken into custody from the
24 law enforcement agency and shall review the facts in the law
25 enforcement report or probable cause affidavit and make such
26 further inquiry as is ~~may be~~ necessary to determine whether
27 detention care is required.

28 (a) During the period of time from the taking of the
29 child into custody to the date of the detention hearing, the
30 initial decision as to the child's placement into secure
31 detention care, nonsecure detention care, or home detention

1 care shall be made by the juvenile probation officer pursuant
2 to ss. 985.213 and 985.214.

3 (b) The juvenile probation officer shall base the
4 decision whether or not to place the child into secure
5 detention care, home detention care, or nonsecure detention
6 care on an assessment of risk in accordance with the risk
7 assessment instrument and procedures developed by the
8 Department of Juvenile Justice under s. 985.213. However, a
9 child charged with possessing or discharging a firearm on
10 school property in violation of s. 790.115 shall be placed in
11 secure detention care.

12 (c) If the juvenile probation officer determines that
13 a child who is eligible for detention based upon the results
14 of the risk assessment instrument should be released, the
15 juvenile probation officer shall contact the state attorney,
16 who may authorize release. If detention is not authorized, the
17 child may be released by the juvenile probation officer in
18 accordance with s. 985.211.

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20 Under no circumstances shall the juvenile probation officer or
21 the state attorney or law enforcement officer authorize the
22 detention of any child in a jail or other facility intended or
23 used for the detention of adults, without an order of the
24 court.

25 (2) Subject to the provisions of subsection (1), a
26 child taken into custody and placed into nonsecure or home
27 detention care or detained in secure detention care prior to a
28 detention hearing may continue to be detained by the court if:

29 (a) The child is alleged to be an escapee or an
30 absconder from a commitment program, a probation program, or
31 conditional release supervision, or is alleged to have escaped

1 while being lawfully transported to or from such program or
2 supervision.

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

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

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

12 (e) The child is charged with possession or
13 discharging a firearm on school property in violation of s.
14 790.115.

15 (f) The child is charged with a capital felony, a life
16 felony, a felony of the first degree, a felony of the second
17 degree that does not involve a violation of chapter 893, or a
18 felony of the third degree that is also a crime of violence,
19 including any such offense involving the use or possession of
20 a firearm.

21 (g) The child is charged with any second degree or
22 third degree felony involving a violation of chapter 893 or
23 any third degree felony that is not also a crime of violence,
24 and the child:

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

28 2. Has a record of law violations prior to court
29 hearings;

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

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

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

4 (h) The child is alleged to have violated the
5 conditions of the child's probation or conditional release
6 supervision. However, a child detained under this paragraph
7 may be held only in a consequence unit as provided in s.
8 985.231(1)(a)1.c. If a consequence unit is not available, the
9 child shall be placed on home detention with electronic
10 monitoring.

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

23 (j) The child is detained on a judicial order for
24 failure to appear and has previously willfully failed to
25 appear, after proper notice, at two or more court hearings of
26 any nature on the same case regardless of the results of the
27 risk assessment instrument. A child may be held in secure
28 detention for up to 72 hours in advance of the next scheduled
29 court hearing pursuant to this paragraph. The child's failure
30 to keep the clerk of court and defense counsel informed of a
31 current and valid mailing address where the child will receive

1 notice to appear at court proceedings does not provide an
2 adequate ground for excusal of the child's nonappearance at
3 the hearings.

4 (k) The court finds that the child is a clear and
5 present danger to himself or herself or to the community, in
6 which case the court may detain the child through a written
7 order. The written order must specify the need for continued
8 detention and the benefits derived by the child or the
9 community due to holding the child in detention. This
10 paragraph expires October 1, 2004.

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12 A child who meets any of these criteria and who is ordered to
13 be detained pursuant to this subsection shall be given a
14 hearing within 24 hours after being taken into custody. The
15 purpose of the detention hearing is to determine the existence
16 of probable cause that the child has committed the delinquent
17 act or violation of law with which he or she is charged and
18 the need for continued detention. Unless a child is detained
19 under paragraph (d) or paragraph (e), the court shall use
20 ~~utilize~~ the results of the risk assessment performed by the
21 juvenile probation officer and, based on the criteria in this
22 subsection, shall determine the need for continued detention.
23 A child placed into secure, nonsecure, or home detention care
24 may continue to be so detained by the court pursuant to this
25 subsection. If the court orders a placement more restrictive
26 than indicated by the results of the risk assessment
27 instrument, the court shall state, in writing, clear and
28 convincing reasons for such placement. Except as provided in
29 s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b),
30 paragraph (10)(c), or paragraph (10)(d), when a child is
31 placed into secure or nonsecure detention care, or into a

1 respite home or other placement pursuant to a court order
2 following a hearing, the court order must include specific
3 instructions that direct the release of the child from such
4 placement no later than 5 p.m. on the last day of the
5 detention period specified in paragraph (5)(b) or paragraph
6 (5)(c), or subparagraph (10)(a)1., whichever is applicable,
7 unless the requirements of such applicable provision have been
8 met or an order of continuance has been granted pursuant to
9 paragraph (5)(f).

10 Section 2. By October 1, 2003, the Juvenile Justice
11 Estimating Conference shall submit a report to the Legislature
12 concerning the effect of this act on the juvenile justice
13 system and on the number of juveniles who are held in
14 detention.

15 Section 3. This act shall take effect October 1, 2002.

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18 SENATE SUMMARY

19 Provides that the court may continue to hold a juvenile
20 in detention pursuant to a written order if the court
21 finds that the juvenile is a clear and present danger to
22 himself or herself or to the community. Requires the
23 Juvenile Justice Estimating Conference to report to the
24 Legislature on the effect of such provision on the
25 juvenile justice system and on the number of juveniles
26 held in detention. Provides for the future repeal of
27 provisions authorizing the continued detention of a
28 juvenile.
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