

By Senator Burt

16-294-02

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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