

By Senator Geller

29-91-02

1                                   A bill to be entitled  
2           An act relating to the sentencing of juveniles;  
3           amending s. 985.233, F.S.; providing for the  
4           court to sentence a juvenile who has committed  
5           a criminal offense to a combination of juvenile  
6           and adult sanctions; requiring that the  
7           juvenile complete a juvenile commitment program  
8           as part of such a sentence; authorizing the  
9           court to impose adult sanctions if the juvenile  
10          violates any provision of the juvenile  
11          commitment program; deleting provisions  
12          prohibiting the court from imposing a  
13          combination of adult and juvenile punishments;  
14          providing an effective date.

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

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18           Section 1. Paragraphs (a) and (b) of subsection (4) of  
19 section 985.233, Florida Statutes, are amended to read:

20           985.233 Sentencing powers; procedures; alternatives  
21 for juveniles prosecuted as adults.--

22           (4) SENTENCING ALTERNATIVES.--

23           (a) Sentencing to adult sanctions.--

24           1. Cases prosecuted on indictment.--If the child is  
25 found to have committed the offense punishable by death or  
26 life imprisonment, the child shall be sentenced as an adult.  
27 If the juvenile is not found to have committed the indictable  
28 offense but is found to have committed a lesser included  
29 offense or any other offense for which he or she was indicted  
30 as a part of the criminal episode, the court may sentence as  
31 follows:

- 1           a. As an adult;
- 2           b. Pursuant to chapter 958; or
- 3           c. As a juvenile pursuant to this section.
- 4           2. Other cases.--If a child who has been transferred
- 5 for criminal prosecution pursuant to information or waiver of
- 6 juvenile court jurisdiction is found to have committed a
- 7 violation of state law or a lesser included offense for which
- 8 he or she was charged as a part of the criminal episode, the
- 9 court may sentence as follows:
- 10          a. As an adult;
- 11          b. Pursuant to chapter 958; ~~or~~
- 12          c. As an adult under a combination of juvenile and
- 13 adult sanctions; or
- 14          d.~~e.~~ As a juvenile pursuant to this section.
- 15           3. Notwithstanding any other provision to the
- 16 contrary, if the state attorney is required to file a motion
- 17 to transfer and certify the juvenile for prosecution as an
- 18 adult pursuant to s. 985.226(2)(b) and that motion is granted,
- 19 or if the state attorney is required to file an information
- 20 pursuant to s. 985.227(2)(a) or (b), the court must impose
- 21 adult sanctions.
- 22           4. Any sentence imposing adult sanctions is presumed
- 23 appropriate, and the court is not required to set forth
- 24 specific findings or enumerate the criteria in this subsection
- 25 as any basis for its decision to impose adult sanctions.
- 26           5. When a child has been transferred for criminal
- 27 prosecution as an adult and has been found to have committed a
- 28 violation of state law, the disposition of the case may
- 29 include the enforcement of any restitution ordered in any
- 30 juvenile proceeding.
- 31

1           6. If the court imposes a combination of juvenile and  
2 adult sanctions, the juvenile shall be placed on adult  
3 community control with a special condition that the juvenile  
4 complete a juvenile commitment program during the first part  
5 of the sentence. If the juvenile violates any provision of the  
6 juvenile commitment program, the court may sanction the  
7 juvenile as though the juvenile had violated adult community  
8 control.

9           (b) Sentencing to juvenile sanctions.--For juveniles  
10 transferred to adult court but who do not qualify for such  
11 transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or  
12 (b), the court may impose juvenile sanctions under this  
13 paragraph. If juvenile sentences are imposed, the court shall,  
14 pursuant to this paragraph, adjudge the child to have  
15 committed a delinquent act. Adjudication of delinquency shall  
16 not be deemed a conviction, nor shall it operate to impose any  
17 of the civil disabilities ordinarily resulting from a  
18 conviction. ~~The court shall impose an adult sanction or a~~  
19 ~~juvenile sanction and may not sentence the child to a~~  
20 ~~combination of adult and juvenile punishments.~~An adult  
21 sanction or a juvenile sanction may include enforcement of an  
22 order of restitution or probation previously ordered in any  
23 juvenile proceeding. However, if the court imposes a juvenile  
24 sanction and the department determines that the sanction is  
25 unsuitable for the child, the department shall return custody  
26 of the child to the sentencing court for further proceedings,  
27 including the imposition of adult sanctions. Upon adjudicating  
28 a child delinquent under subsection (1), the court may:

29           1. Place the child in a probation program under the  
30 supervision of the department for an indeterminate period of  
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1 time until the child reaches the age of 19 years or sooner if  
2 discharged by order of the court.

3 2. Commit the child to the department for treatment in  
4 an appropriate program for children for an indeterminate  
5 period of time until the child is 21 or sooner if discharged  
6 by the department. The department shall notify the court of  
7 its intent to discharge no later than 14 days prior to  
8 discharge. Failure of the court to timely respond to the  
9 department's notice shall be considered approval for  
10 discharge.

11 3. Order disposition pursuant to s. 985.231 as an  
12 alternative to youthful offender or adult sentencing if the  
13 court determines not to impose youthful offender or adult  
14 sanctions.

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16 It is the intent of the Legislature that the criteria and  
17 guidelines in this subsection are mandatory and that a  
18 determination of disposition under this subsection is subject  
19 to the right of the child to appellate review under s.  
20 985.234.

21 Section 2. This act shall take effect July 1, 2002.

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24 SENATE SUMMARY

25 Authorizes the court to impose a combination of juvenile  
26 and adult sanctions against a juvenile who commits a  
27 criminal offense. Requires that the juvenile complete a  
28 commitment program for juveniles as part of the  
29 combination sentence. Provides for the court to impose  
30 adult sanctions if the juvenile violates the juvenile  
31 commitment program.