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A bill to be entitled
 An act relating to juvenile sentencing; amending s.
 985.231, F.S.; authorizing a judge to sentence a
 delinquent child to a specific commitment program or
 facility of the Department of Juvenile Justice; reenacting
 ss. 985.201(4)(a), 985.233(4)(b), 985.31(3)(e) and (k),
 and 985.311(3)(e), F.S., to incorporate by reference the
 amendment to s. 985.231, F.S.; providing an effective
 date.

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

Section 1. Paragraph (a) of subsection (1) of section
 985.231, Florida Statutes, is amended and paragraph (c) of
 subsection (1) and paragraphs (h) and (i) of subsection (3) of
 said section are reenacted, to read:

985.231 Powers of disposition in delinquency cases.--

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

1. Place the child in a probation program or a
 postcommitment probation program under the supervision of an
 authorized agent of the Department of Juvenile Justice or of any
 other person or agency specifically authorized and appointed by
 the court, whether in the child's own home, in the home of a
 relative of the child, or in some other suitable place under
 such reasonable conditions as the court may direct. A probation
 program for an adjudicated delinquent child must include a
 penalty component such as restitution in money or in kind,



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31 community service, a curfew, revocation or suspension of the
32 driver's license of the child, or other nonresidential
33 punishment appropriate to the offense and must also include a
34 rehabilitative program component such as a requirement of
35 participation in substance abuse treatment or in school or other
36 educational program. If the child is attending or is eligible to
37 attend public school and the court finds that the victim or a
38 sibling of the victim in the case is attending or may attend the
39 same school as the child, the court placement order shall
40 include a finding pursuant to the proceedings described in s.
41 985.23(1)(d). Upon the recommendation of the department at the
42 time of disposition, or subsequent to disposition pursuant to
43 the filing of a petition alleging a violation of the child's
44 conditions of postcommitment probation, the court may order the
45 child to submit to random testing for the purpose of detecting
46 and monitoring the use of alcohol or controlled substances.

47 a. A restrictiveness level classification scale for levels
48 of supervision shall be provided by the department, taking into
49 account the child's needs and risks relative to probation
50 supervision requirements to reasonably ensure the public safety.
51 Probation programs for children shall be supervised by the
52 department or by any other person or agency specifically
53 authorized by the court. These programs must include, but are
54 not limited to, structured or restricted activities as described
55 in this subparagraph, and shall be designed to encourage the
56 child toward acceptable and functional social behavior. If
57 supervision or a program of community service is ordered by the
58 court, the duration of such supervision or program must be
59 consistent with any treatment and rehabilitation needs
60 identified for the child and may not exceed the term for which



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61 sentence could be imposed if the child were committed for the
62 offense, except that the duration of such supervision or program
63 for an offense that is a misdemeanor of the second degree, or is
64 equivalent to a misdemeanor of the second degree, may be for a
65 period not to exceed 6 months. When restitution is ordered by
66 the court, the amount of restitution may not exceed an amount
67 the child and the parent or guardian could reasonably be
68 expected to pay or make. A child who participates in any work
69 program under this part is considered an employee of the state
70 for purposes of liability, unless otherwise provided by law.

71 b. The court may conduct judicial review hearings for a
72 child placed on probation for the purpose of fostering
73 accountability to the judge and compliance with other
74 requirements, such as restitution and community service. The
75 court may allow early termination of probation for a child who
76 has substantially complied with the terms and conditions of
77 probation.

78 c. If the conditions of the probation program or the
79 postcommitment probation program are violated, the department or
80 the state attorney may bring the child before the court on a
81 petition alleging a violation of the program. Any child who
82 violates the conditions of probation or postcommitment probation
83 must be brought before the court if sanctions are sought. A
84 child taken into custody under s. 985.207 for violating the
85 conditions of probation or postcommitment probation shall be
86 held in a consequence unit if such a unit is available. The
87 child shall be afforded a hearing within 24 hours after being
88 taken into custody to determine the existence of probable cause
89 that the child violated the conditions of probation or
90 postcommitment probation. A consequence unit is a secure



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91 facility specifically designated by the department for children
92 who are taken into custody under s. 985.207 for violating
93 probation or postcommitment probation, or who have been found by
94 the court to have violated the conditions of probation or
95 postcommitment probation. If the violation involves a new charge
96 of delinquency, the child may be detained under s. 985.215 in a
97 facility other than a consequence unit. If the child is not
98 eligible for detention for the new charge of delinquency, the
99 child may be held in the consequence unit pending a hearing and
100 is subject to the time limitations specified in s. 985.215. If
101 the child denies violating the conditions of probation or
102 postcommitment probation, the court shall appoint counsel to
103 represent the child at the child's request. Upon the child's
104 admission, or if the court finds after a hearing that the child
105 has violated the conditions of probation or postcommitment
106 probation, the court shall enter an order revoking, modifying,
107 or continuing probation or postcommitment probation. In each
108 such case, the court shall enter a new disposition order and, in
109 addition to the sanctions set forth in this paragraph, may
110 impose any sanction the court could have imposed at the original
111 disposition hearing. If the child is found to have violated the
112 conditions of probation or postcommitment probation, the court
113 may:

114 (I) Place the child in a consequence unit in that judicial
115 circuit, if available, for up to 5 days for a first violation,
116 and up to 15 days for a second or subsequent violation.

117 (II) Place the child on home detention with electronic
118 monitoring. However, this sanction may be used only if a
119 residential consequence unit is not available.



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120 (III) Modify or continue the child's probation program or
121 postcommitment probation program.

122 (IV) Revoke probation or postcommitment probation and
123 commit the child to the department.

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

129 2. Commit the child to a licensed child-caring agency
130 willing to receive the child, but the court may not commit the
131 child to a jail or to a facility used primarily as a detention
132 center or facility or shelter.

133 3. Commit the child to the Department of Juvenile Justice
134 at a residential commitment level defined in s. 985.03. The
135 court may, in its discretion, specify a program or facility
136 within the commitment level to which the child has been ordered.

137 Such commitment must be for the purpose of exercising active
138 control over the child, including, but not limited to, custody,
139 care, training, urine monitoring, and treatment of the child and
140 release of the child into the community in a postcommitment
141 nonresidential conditional release program. If the child is
142 eligible to attend public school following residential
143 commitment and the court finds that the victim or a sibling of
144 the victim in the case is or may be attending the same school as
145 the child, the commitment order shall include a finding pursuant
146 to the proceedings described in s. 985.23(1)(d). If the child is
147 not successful in the conditional release program, the
148 department may use the transfer procedure under s. 985.404.

149 Notwithstanding s. 743.07 and paragraph (d), and except as



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150 provided in s. 985.31, the term of the commitment must be until
 151 the child is discharged by the department or until he or she
 152 reaches the age of 21.

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

154 5. Require the child and, if the court finds it
 155 appropriate, the child's parent or guardian together with the
 156 child, to render community service in a public service program.

157 6. As part of the probation program to be implemented by
 158 the Department of Juvenile Justice, or, in the case of a
 159 committed child, as part of the community-based sanctions
 160 ordered by the court at the disposition hearing or before the
 161 child's release from commitment, order the child to make
 162 restitution in money, through a promissory note cosigned by the
 163 child's parent or guardian, or in kind for any damage or loss
 164 caused by the child's offense in a reasonable amount or manner
 165 to be determined by the court. The clerk of the circuit court
 166 shall be the receiving and dispensing agent. In such case, the
 167 court shall order the child or the child's parent or guardian to
 168 pay to the office of the clerk of the circuit court an amount
 169 not to exceed the actual cost incurred by the clerk as a result
 170 of receiving and dispensing restitution payments. The clerk
 171 shall notify the court if restitution is not made, and the court
 172 shall take any further action that is necessary against the
 173 child or the child's parent or guardian. A finding by the court,
 174 after a hearing, that the parent or guardian has made diligent
 175 and good faith efforts to prevent the child from engaging in
 176 delinquent acts absolves the parent or guardian of liability for
 177 restitution under this subparagraph.

178 7. Order the child and, if the court finds it appropriate,
 179 the child's parent or guardian together with the child, to



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180 participate in a community work project, either as an
 181 alternative to monetary restitution or as part of the
 182 rehabilitative or probation program.

183 8. Commit the child to the Department of Juvenile Justice
 184 for placement in a program or facility for serious or habitual
 185 juvenile offenders in accordance with s. 985.31. Any commitment
 186 of a child to a program or facility for serious or habitual
 187 juvenile offenders must be for an indeterminate period of time,
 188 but the time may not exceed the maximum term of imprisonment
 189 that an adult may serve for the same offense. The court may
 190 retain jurisdiction over such child until the child reaches the
 191 age of 21, specifically for the purpose of the child completing
 192 the program.

193 9. In addition to the sanctions imposed on the child,
 194 order the parent or guardian of the child to perform community
 195 service if the court finds that the parent or guardian did not
 196 make a diligent and good faith effort to prevent the child from
 197 engaging in delinquent acts. The court may also order the parent
 198 or guardian to make restitution in money or in kind for any
 199 damage or loss caused by the child's offense. The court shall
 200 determine a reasonable amount or manner of restitution, and
 201 payment shall be made to the clerk of the circuit court as
 202 provided in subparagraph 6.

203 10. Subject to specific appropriation, commit the juvenile
 204 sexual offender to the Department of Juvenile Justice for
 205 placement in a program or facility for juvenile sexual offenders
 206 in accordance with s. 985.308. Any commitment of a juvenile
 207 sexual offender to a program or facility for juvenile sexual
 208 offenders must be for an indeterminate period of time, but the
 209 time may not exceed the maximum term of imprisonment that an



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210 adult may serve for the same offense. The court may retain
211 jurisdiction over a juvenile sexual offender until the juvenile
212 sexual offender reaches the age of 21, specifically for the
213 purpose of completing the program.

214 (c) Any order made pursuant to paragraph (a) shall be in
215 writing as prepared by the clerk of court and may thereafter be
216 modified or set aside by the court.

217 (3) Following a delinquency adjudicatory hearing pursuant
218 to s. 985.228, the court may on its own or upon request by the
219 state or the department and subject to specific appropriation,
220 determine whether a juvenile sexual offender placement is
221 required for the protection of the public and what would be the
222 best approach to address the treatment needs of the juvenile
223 sexual offender. When the court determines that a juvenile has
224 no history of a recent comprehensive assessment focused on
225 sexually deviant behavior, the court may, subject to specific
226 appropriation, order the department to conduct or arrange for an
227 examination to determine whether the juvenile sexual offender is
228 amenable to community-based treatment.

229 (h) If the juvenile sexual offender violates any condition
230 of the disposition or the court finds that the juvenile sexual
231 offender is failing to make satisfactory progress in treatment,
232 the court may revoke the community-based treatment alternative
233 and order commitment to the department pursuant to subsection
234 (1).

235 (i) If the court determines that the juvenile sexual
236 offender is not amenable to community-based treatment, the court
237 shall proceed with a juvenile sexual offender disposition
238 hearing pursuant to subsection (1).



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239 Section 2. For the purpose of incorporating the amendment
 240 to section 985.231, Florida Statutes, in references thereto,
 241 paragraph (a) of subsection (4) of section 985.201, Florida
 242 Statutes, is reenacted to read:

243 985.201 Jurisdiction.--

244 (4)(a) Notwithstanding ss. 743.07, 985.229, 985.23, and
 245 985.231, and except as provided in ss. 985.31 and 985.313, when
 246 the jurisdiction of any child who is alleged to have committed a
 247 delinquent act or violation of law is obtained, the court shall
 248 retain jurisdiction, unless relinquished by its order, until the
 249 child reaches 19 years of age, with the same power over the
 250 child that the court had prior to the child becoming an adult.

251 Section 3. For the purpose of incorporating the amendment
 252 to section 985.231, Florida Statutes, in references thereto,
 253 paragraph (b) of subsection (4) of section 985.233, Florida
 254 Statutes, is reenacted to read:

255 985.233 Sentencing powers; procedures; alternatives for
 256 juveniles prosecuted as adults.--

257 (4) SENTENCING ALTERNATIVES.--

258 (b) *Sentencing to juvenile sanctions.*--For juveniles
 259 transferred to adult court but who do not qualify for such
 260 transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or
 261 (b), the court may impose juvenile sanctions under this
 262 paragraph. If juvenile sentences are imposed, the court shall,
 263 pursuant to this paragraph, adjudge the child to have committed
 264 a delinquent act. Adjudication of delinquency shall not be
 265 deemed a conviction, nor shall it operate to impose any of the
 266 civil disabilities ordinarily resulting from a conviction. The
 267 court shall impose an adult sanction or a juvenile sanction and
 268 may not sentence the child to a combination of adult and



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269 juvenile punishments. An adult sanction or a juvenile sanction
270 may include enforcement of an order of restitution or probation
271 previously ordered in any juvenile proceeding. However, if the
272 court imposes a juvenile sanction and the department determines
273 that the sanction is unsuitable for the child, the department
274 shall return custody of the child to the sentencing court for
275 further proceedings, including the imposition of adult
276 sanctions. Upon adjudicating a child delinquent under subsection
277 (1), the court may:

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

282 2. Commit the child to the department for treatment in an
283 appropriate program for children for an indeterminate period of
284 time until the child is 21 or sooner if discharged by the
285 department. The department shall notify the court of its intent
286 to discharge no later than 14 days prior to discharge. Failure
287 of the court to timely respond to the department's notice shall
288 be considered approval for discharge.

289 3. Order disposition pursuant to s. 985.231 as an
290 alternative to youthful offender or adult sentencing if the
291 court determines not to impose youthful offender or adult
292 sanctions.

293

294 It is the intent of the Legislature that the criteria and
295 guidelines in this subsection are mandatory and that a
296 determination of disposition under this subsection is subject to
297 the right of the child to appellate review under s. 985.234.



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298 Section 4. For the purpose of incorporating the amendment
299 to section 985.231, Florida Statutes, in references thereto,
300 paragraphs (e) and (k) of subsection (3) of section 985.31,
301 Florida Statutes, are reenacted to read:

302 985.31 Serious or habitual juvenile offender.--

303 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
304 TREATMENT.--

305 (e) After a child has been adjudicated delinquent pursuant
306 to s. 985.228, the court shall determine whether the child meets
307 the criteria for a serious or habitual juvenile offender
308 pursuant to s. 985.03(48). If the court determines that the
309 child does not meet such criteria, the provisions of s.
310 985.231(1) shall apply.

311 (k) Any commitment of a child to the department for
312 placement in a serious or habitual juvenile offender program or
313 facility shall be for an indeterminate period of time, but the
314 time shall not exceed the maximum term of imprisonment which an
315 adult may serve for the same offense. Notwithstanding the
316 provisions of ss. 743.07 and 985.231(1)(d), a serious or
317 habitual juvenile offender shall not be held under commitment
318 from a court pursuant to this section, s. 985.231, or s. 985.233
319 after becoming 21 years of age. This provision shall apply only
320 for the purpose of completing the serious or habitual juvenile
321 offender program pursuant to this chapter and shall be used
322 solely for the purpose of treatment.

323 Section 5. For the purpose of incorporating the amendment
324 to section 985.231, Florida Statutes, in references thereto,
325 paragraph (e) of subsection (3) of section 985.311, Florida
326 Statutes, is reenacted to read:



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327 985.311 Intensive residential treatment program for
328 offenders less than 13 years of age.--

329 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
330 TREATMENT.--

331 (e) After a child has been adjudicated delinquent pursuant
332 to s. 985.228(5), the court shall determine whether the child is
333 eligible for an intensive residential treatment program for
334 offenders less than 13 years of age pursuant to s. 985.03(7). If
335 the court determines that the child does not meet the criteria,
336 the provisions of s. 985.231(1) shall apply.

337 Section 6. This act shall take effect upon becoming a law.