

By Senator Clary

4-1154-04

See HB 623

1 A bill to be entitled
2 An act relating to juvenile justice; amending
3 s. 287.042, F.S.; providing an exemption from
4 competitive solicitation requirements for
5 contracted provider organizations acting as
6 agents of the Department of Juvenile Justice;
7 amending s. 790.22, F.S.; eliminating a
8 requirement that the department provide
9 nonidentifying information concerning certain
10 juvenile offenders to the Office of Economic
11 Development and Demographic Research; amending
12 s. 984.06, F.S.; revising provisions limiting
13 public inspection of court records pertaining
14 to children and families in need of services;
15 authorizing a guardian ad litem to inspect such
16 records under certain circumstances; amending
17 s. 985.201, F.S.; clarifying circumstances in
18 which the court may retain jurisdiction beyond
19 the 19th birthday of certain juvenile
20 offenders; amending s. 985.2075, F.S.;
21 expanding the circumstances in which a youth
22 custody officer is authorized to act; requiring
23 youth custody officers to file petitions and
24 gather evidence in certain circumstances;
25 amending ss. 985.213 and 985.215, F.S.;
26 authorizing the use of telephone or video
27 teleconference to facilitate the appearance of
28 a child at detention hearings; amending s.
29 985.231, F.S.; authorizing the department or
30 the state attorney to file an affidavit
31 alleging violation of a probation of

1 postcommitment probation program; requiring the
2 state attorney to represent the state in any
3 hearing on such alleged violation; providing
4 for quarterly, rather than monthly, treatment
5 reports; authorizing the use of telephone or
6 video teleconference to facilitate the
7 appearance of a child at certain hearings;
8 conforming provisions relating to jurisdiction;
9 providing an effective date.

10

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

12

13 Section 1. Paragraph (a) of subsection (2) of section
14 287.042, Florida Statutes, is amended to read:

15 287.042 Powers, duties, and functions.--The department
16 shall have the following powers, duties, and functions:

17 (2)(a) To establish purchasing agreements and procure
18 state term contracts for commodities and contractual services,
19 pursuant to s. 287.057, under which state agencies shall, and
20 eligible users may, make purchases pursuant to s. 287.056. The
21 department may restrict purchases from some term contracts to
22 state agencies only for those term contracts where the
23 inclusion of other governmental entities will have an adverse
24 effect on competition or to those federal facilities located
25 in this state. In such planning or purchasing the Office of
26 Supplier Diversity may monitor to ensure that opportunities
27 are afforded for contracting with minority business
28 enterprises. The department, for state term contracts, and all
29 agencies, for multiyear contractual services or term
30 contracts, shall explore reasonable and economical means to
31 utilize certified minority business enterprises. Purchases by

1 any county, municipality, private nonprofit community
2 transportation coordinator designated pursuant to chapter 427,
3 while conducting business related solely to the Commission for
4 the Transportation Disadvantaged, purchases by a contracted
5 provider organization acting as an agent for the Department of
6 Juvenile Justice while conducting business related solely to
7 the provision of services to juveniles under chapters 984 and
8 985, purchases by any ~~or~~ other local public agency under the
9 provisions in the state purchasing contracts, and purchases,
10 from the corporation operating the correctional work programs,
11 of products or services that are subject to paragraph (1)(f),
12 are exempt from the competitive solicitation requirements
13 otherwise applying to their purchases.

14 Section 2. Subsection (8) of section 790.22, Florida
15 Statutes, is amended to read:

16 790.22 Use of BB guns, air or gas-operated guns, or
17 electric weapons or devices by minor under 16; limitation;
18 possession of firearms by minor under 18 prohibited;
19 penalties.--

20 (8) Notwithstanding s. 985.213 or s. 985.215(1), if a
21 minor under 18 years of age is charged with an offense that
22 involves the use or possession of a firearm, as defined in s.
23 790.001, including a violation of subsection (3), or is
24 charged for any offense during the commission of which the
25 minor possessed a firearm, the minor shall be detained in
26 secure detention, unless the state attorney authorizes the
27 release of the minor, and shall be given a hearing within 24
28 hours after being taken into custody. At the hearing, the
29 court may order that the minor continue to be held in secure
30 detention in accordance with the applicable time periods
31 specified in s. 985.215(5), if the court finds that the minor

1 meets the criteria specified in s. 985.215(2), or if the court
2 finds by clear and convincing evidence that the minor is a
3 clear and present danger to himself or herself or the
4 community. The Department of Juvenile Justice shall prepare a
5 form for all minors charged under this subsection that states
6 the period of detention and the relevant demographic
7 information, including, but not limited to, the sex, age, and
8 race of the minor; whether or not the minor was represented by
9 private counsel or a public defender; the current offense; and
10 the minor's complete prior record, including any pending
11 cases. The form shall be provided to the judge to be
12 considered when determining whether the minor should be
13 continued in secure detention under this subsection. An order
14 placing a minor in secure detention because the minor is a
15 clear and present danger to himself or herself or the
16 community must be in writing, must specify the need for
17 detention and the benefits derived by the minor or the
18 community by placing the minor in secure detention, and must
19 include a copy of the form provided by the department. ~~The~~
20 ~~Department of Juvenile Justice must send the form, including a~~
21 ~~copy of any order, without client-identifying information, to~~
22 ~~the Office of Economic and Demographic Research.~~

23 Section 3. Subsection (3) of section 984.06, Florida
24 Statutes, is amended to read:

25 984.06 Oaths, records, and confidential information.--

26 (3) The clerk shall keep all court records required by
27 this chapter separate from other records of the circuit court.
28 All court records required by this chapter are not open to
29 inspection by the public. All ~~such~~ records shall ~~may~~ be
30 inspected only upon order of the court by persons ~~a person~~
31 deemed by the court to have a proper interest therein, except

1 that, subject to the provisions of s. 63.162, a child and the
2 parents or legal custodians of the child and their attorneys,
3 the guardian ad litem, if one has been appointed for the
4 child, law enforcement agencies, and the department and its
5 designees have the right to ~~may~~ inspect and copy any official
6 record pertaining to the child. The court may permit
7 authorized representatives of recognized organizations
8 compiling statistics for proper purposes to inspect and make
9 abstracts from official records, under whatever conditions
10 upon their use and disposition the court may deem ~~deems~~
11 proper, and may punish by contempt proceedings any violation
12 of those conditions.

13 Section 4. Subsection (4) of section 985.201, Florida
14 Statutes, is amended to read:

15 985.201 Jurisdiction.--

16 (4)(a) Notwithstanding ss. 743.07, 985.229, 985.23,
17 and 985.231, and except as provided in ss. 985.31 and 985.313,
18 when the jurisdiction of any child who is alleged to have
19 committed a delinquent act or violation of law is obtained,
20 the court shall retain jurisdiction, unless relinquished by
21 its order, until the child reaches 19 years of age, with the
22 same power over the child that the court had prior to the
23 child becoming an adult. The court may continue to retain
24 jurisdiction of the child beyond the child's 19th birthday in
25 accordance with the following:

26 ~~(b)~~1. The court may retain jurisdiction over a child
27 committed to the department for placement in a juvenile prison
28 or in a high-risk or maximum-risk residential commitment
29 program to allow the child to participate in a juvenile
30 conditional release program pursuant to s. 985.316. In no case
31 shall the jurisdiction of the court be retained beyond the

1 child's 22nd birthday. However, if the child is not successful
2 in the conditional release program, the department may use the
3 transfer procedure under s. 985.404.

4 2. The court may retain jurisdiction over a child
5 committed to the department for placement in an intensive
6 residential treatment program for offenders less than 13 years
7 of age 10-year-old to 13-year-old offenders, in the
8 residential commitment program in a juvenile prison, in a
9 residential sex offender program, or in a program for serious
10 or habitual juvenile offenders as provided in s. 985.311 or s.
11 985.31 until the child reaches the age of 21. The court may
12 retain such jurisdiction solely for the purpose of allowing
13 the child to complete such program.~~If the court exercises~~
14 ~~this jurisdiction retention, it shall do so solely for the~~
15 ~~purpose of the child completing the intensive residential~~
16 ~~treatment program for 10-year-old to 13-year-old offenders, in~~
17 ~~the residential commitment program in a juvenile prison, in a~~
18 ~~residential sex offender program, or the program for serious~~
19 ~~or habitual juvenile offenders.~~Such jurisdiction retention
20 does not apply for other programs, other purposes, or new
21 offenses.

22 **(b)(c)** The court may retain jurisdiction over a child
23 and the child's parent or legal guardian whom the court has
24 ordered to pay restitution until the restitution order is
25 satisfied or until the court orders otherwise. If the court
26 retains such jurisdiction after the date upon which the
27 court's jurisdiction would cease under this section, it shall
28 do so solely for the purpose of enforcing the restitution
29 order. The terms of the restitution order are subject to the
30 provisions of s. 775.089(5).

31

1 ~~(c)(d)~~ This subsection does not prevent the exercise
2 of jurisdiction by any court having jurisdiction of the child
3 if the child, after becoming an adult, commits a violation of
4 law.

5 Section 5. Subsection (1) of section 985.2075, Florida
6 Statutes, is amended, and subsection (4) is added to that
7 section, to read:

8 985.2075 Youth custody officer.--

9 (1) There is created within the Department of Juvenile
10 Justice the position of youth custody officer. The duties of
11 each youth custody officer shall be to take youth into custody
12 if the officer has probable cause to believe that the youth
13 has violated the conditions of probation, home detention,
14 conditional release, or postcommitment probation, has
15 absconded supervision of the department, has escaped from a
16 department facility, or has failed to appear in court after
17 being properly noticed. The authority of the youth custody
18 officer to take youth into custody is specifically limited to
19 this purpose.

20 (4) A youth custody officer who, while in the
21 performance of his or her duties, takes a youth into custody
22 for any reason specified in subsection (1) and has probable
23 cause to believe that the youth committed a crime during the
24 course of, or subsequent to, being taken into custody must
25 file the appropriate petitions and gather any evidence for
26 prosecution in a court of law.

27 Section 6. Subsection (2) of section 985.213, Florida
28 Statutes, is amended to read:

29 985.213 Use of detention.--

30 (2)(a) All determinations and court orders regarding
31 placement of a child into detention care shall comply with all

1 requirements and criteria provided in this part and shall be
2 based on a risk assessment of the child, unless the child is
3 placed into detention care as provided in subparagraph (b)3.
4 (b)1. The risk assessment instrument for detention
5 care placement determinations and orders shall be developed by
6 the Department of Juvenile Justice in agreement with
7 representatives appointed by the following associations: the
8 Conference of Circuit Judges of Florida, the Prosecuting
9 Attorneys Association, the Public Defenders Association, the
10 Florida Sheriffs Association, and the Florida Association of
11 Chiefs of Police. Each association shall appoint two
12 individuals, one representing an urban area and one
13 representing a rural area. The parties involved shall evaluate
14 and revise the risk assessment instrument as is considered
15 necessary using the method for revision as agreed by the
16 parties. The risk assessment instrument shall take into
17 consideration, but need not be limited to, prior history of
18 failure to appear, prior offenses, offenses committed pending
19 adjudication, any unlawful possession of a firearm, theft of a
20 motor vehicle or possession of a stolen motor vehicle, and
21 probation status at the time the child is taken into custody.
22 The risk assessment instrument shall also take into
23 consideration appropriate aggravating and mitigating
24 circumstances, and shall be designed to target a narrower
25 population of children than s. 985.215(2). The risk assessment
26 instrument shall also include any information concerning the
27 child's history of abuse and neglect. The risk assessment
28 shall indicate whether detention care is warranted, and, if
29 detention care is warranted, whether the child should be
30 placed into secure, nonsecure, or home detention care.
31

1 2. If, at the detention hearing, the court finds a
2 material error in the scoring of the risk assessment
3 instrument, the court may amend the score to reflect factual
4 accuracy.

5 3. A child who is charged with committing an offense
6 of domestic violence as defined in s. 741.28 and who does not
7 meet detention criteria may be held in secure detention if the
8 court makes specific written findings that:

9 a. Respite care for the child is not available; and

10 b. It is necessary to place the child in secure
11 detention in order to protect the victim from injury.

12
13 The child may not be held in secure detention under this
14 subparagraph for more than 48 hours unless ordered by the
15 court. After 48 hours, the court shall hold a hearing if the
16 state attorney or victim requests that secure detention be
17 continued. The child may continue to be held in detention care
18 if the court makes a specific, written finding that detention
19 care is necessary to protect the victim from injury. However,
20 the child may not be held in detention care beyond the time
21 limits set forth in s. 985.215.

22 4. For a child who is under the supervision of the
23 department through probation, home detention, nonsecure
24 detention, conditional release, postcommitment probation, or
25 commitment and who is charged with committing a new offense,
26 the risk assessment instrument may be completed and scored
27 based on the underlying charge for which the child was placed
28 under the supervision of the department and the new offense.

29 (c) The child may appear by telephone or video
30 teleconference at any court hearing required by this
31 paragraph.

1 Section 7. Section 985.215, Florida Statutes, is
2 amended to read:

3 985.215 Detention.--

4 (1) The juvenile probation officer shall receive
5 custody of a child who has been taken into custody from the
6 law enforcement agency and shall review the facts in the law
7 enforcement report or probable cause affidavit and make such
8 further inquiry as may be necessary to determine whether
9 detention care is required.

10 (a) During the period of time from the taking of the
11 child into custody to the date of the detention hearing, the
12 initial decision as to the child's placement into secure
13 detention care, nonsecure detention care, or home detention
14 care shall be made by the juvenile probation officer pursuant
15 to ss. 985.213 and 985.214.

16 (b) The juvenile probation officer shall base the
17 decision whether or not to place the child into secure
18 detention care, home detention care, or nonsecure detention
19 care on an assessment of risk in accordance with the risk
20 assessment instrument and procedures developed by the
21 Department of Juvenile Justice under s. 985.213. However, a
22 child charged with possessing or discharging a firearm on
23 school property in violation of s. 790.115 shall be placed in
24 secure detention care.

25 (c) If the juvenile probation officer determines that
26 a child who is eligible for detention based upon the results
27 of the risk assessment instrument should be released, the
28 juvenile probation officer shall contact the state attorney,
29 who may authorize release. If detention is not authorized, the
30 child may be released by the juvenile probation officer in
31 accordance with s. 985.211.

1
2 Under no circumstances shall the juvenile probation officer or
3 the state attorney or law enforcement officer authorize the
4 detention of any child in a jail or other facility intended or
5 used for the detention of adults, without an order of the
6 court.

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

11 (a) The child is alleged to be an escapee or an
12 absconder from a commitment program, a probation program, or
13 conditional release supervision, or is alleged to have escaped
14 while being lawfully transported to or from such program or
15 supervision.

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

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

22 (d) The child is charged with committing an offense of
23 domestic violence as defined in s. 741.28 and is detained as
24 provided in s. 985.213(2)(b)3.

25 (e) The child is charged with possession or
26 discharging a firearm on school property in violation of s.
27 790.115.

28 (f) The child is charged with a capital felony, a life
29 felony, a felony of the first degree, a felony of the second
30 degree that does not involve a violation of chapter 893, or a
31 felony of the third degree that is also a crime of violence,

1 including any such offense involving the use or possession of
2 a firearm.

3 (g) The child is charged with any second degree or
4 third degree felony involving a violation of chapter 893 or
5 any third degree felony that is not also a crime of violence,
6 and the child:

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

10 2. Has a record of law violations prior to court
11 hearings;

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

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

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

17 (h) The child is alleged to have violated the
18 conditions of the child's probation or conditional release
19 supervision. However, a child detained under this paragraph
20 may be held only in a consequence unit as provided in s.
21 985.231(1)(a)1.c. If a consequence unit is not available, the
22 child shall be placed on home detention with electronic
23 monitoring.

24 (i) The child is detained on a judicial order for
25 failure to appear and has previously willfully failed to
26 appear, after proper notice, for an adjudicatory hearing on
27 the same case regardless of the results of the risk assessment
28 instrument. A child may be held in secure detention for up to
29 72 hours in advance of the next scheduled court hearing
30 pursuant to this paragraph. The child's failure to keep the
31 clerk of court and defense counsel informed of a current and

1 valid mailing address where the child will receive notice to
2 appear at court proceedings does not provide an adequate
3 ground for excusal of the child's nonappearance at the
4 hearings.

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

17

18 A child who meets any of these criteria and who is ordered to
19 be detained pursuant to this subsection shall be given a
20 hearing within 24 hours after being taken into custody. The
21 purpose of the detention hearing is to determine the existence
22 of probable cause that the child has committed the delinquent
23 act or violation of law with which he or she is charged and
24 the need for continued detention. Unless a child is detained
25 under paragraph (d) or paragraph (e), the court shall utilize
26 the results of the risk assessment performed by the juvenile
27 probation officer and, based on the criteria in this
28 subsection, shall determine the need for continued detention.
29 A child placed into secure, nonsecure, or home detention care
30 may continue to be so detained by the court pursuant to this
31 subsection. If the court orders a placement more restrictive

1 than indicated by the results of the risk assessment
2 instrument, the court shall state, in writing, clear and
3 convincing reasons for such placement. Except as provided in
4 s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b),
5 paragraph (10)(c), or paragraph (10)(d), when a child is
6 placed into secure or nonsecure detention care, or into a
7 respite home or other placement pursuant to a court order
8 following a hearing, the court order must include specific
9 instructions that direct the release of the child from such
10 placement no later than 5 p.m. on the last day of the
11 detention period specified in paragraph (5)(b) or paragraph
12 (5)(c), or subparagraph (10)(a)1., whichever is applicable,
13 unless the requirements of such applicable provision have been
14 met or an order of continuance has been granted pursuant to
15 paragraph (5)(f).

16 (3) Except in emergency situations, a child may not be
17 placed into or transported in any police car or similar
18 vehicle that at the same time contains an adult under arrest,
19 unless the adult is alleged or believed to be involved in the
20 same offense or transaction as the child.

21 (4) The court shall order the delivery of a child to a
22 jail or other facility intended or used for the detention of
23 adults:

24 (a) When the child has been transferred or indicted
25 for criminal prosecution as an adult pursuant to this part,
26 except that the court may not order or allow a child alleged
27 to have committed a misdemeanor who is being transferred for
28 criminal prosecution pursuant to either s. 985.226 or s.
29 985.227 to be detained or held in a jail or other facility
30 intended or used for the detention of adults; however, such
31 child may be held temporarily in a detention facility; or

1 (b) When a child taken into custody in this state is
2 wanted by another jurisdiction for prosecution as an adult.

3
4 The child shall be housed separately from adult inmates to
5 prohibit a child from having regular contact with incarcerated
6 adults, including trustees. "Regular contact" means sight and
7 sound contact. Separation of children from adults shall permit
8 no more than haphazard or accidental contact. The receiving
9 jail or other facility shall contain a separate section for
10 children and shall have an adequate staff to supervise and
11 monitor the child's activities at all times. Supervision and
12 monitoring of children includes physical observation and
13 documented checks by jail or receiving facility supervisory
14 personnel at intervals not to exceed 15 minutes. This
15 paragraph does not prohibit placing two or more children in
16 the same cell. Under no circumstances shall a child be placed
17 in the same cell with an adult.

18 (5)(a) A child may not be placed into or held in
19 secure, nonsecure, or home detention care for longer than 24
20 hours unless the court orders such detention care, and the
21 order includes specific instructions that direct the release
22 of the child from such detention care, in accordance with
23 subsection (2). The order shall be a final order, reviewable
24 by appeal pursuant to s. 985.234 and the Florida Rules of
25 Appellate Procedure. Appeals of such orders shall take
26 precedence over other appeals and other pending matters.

27 (b) The arresting law enforcement agency shall
28 complete and present its investigation of an offense under
29 this subsection to the appropriate state attorney's office
30 within 8 days after placement of the child in secure
31 detention. The investigation shall include, but is not limited

1 to, police reports and supplemental police reports, witness
2 statements, and evidence collection documents. The failure of
3 a law enforcement agency to complete and present its
4 investigation within 8 days shall not entitle a juvenile to be
5 released from secure detention or to a dismissal of any
6 charges.

7 (c) Except as provided in paragraph (g), a child may
8 not be held in secure, nonsecure, or home detention care under
9 a special detention order for more than 21 days unless an
10 adjudicatory hearing for the case has been commenced in good
11 faith by the court.

12 (d) Except as provided in paragraph (g), a child may
13 not be held in secure, nonsecure, or home detention care for
14 more than 15 days following the entry of an order of
15 adjudication.

16 (e) A child who was not in secure detention at the
17 time of the adjudicatory hearing, but for whom residential
18 commitment is anticipated or recommended, may be placed under
19 a special detention order for a period not to exceed 72 hours,
20 excluding weekends and legal holidays, for the purpose of
21 conducting a comprehensive evaluation as provided in s.
22 985.229(1). Motions for the issuance of such special detention
23 order may be made subsequent to a finding of delinquency. Upon
24 said motion, the court shall conduct a hearing to determine
25 the appropriateness of such special detention order and shall
26 order the least restrictive level of detention necessary to
27 complete the comprehensive evaluation process that is
28 consistent with public safety. Such special detention order
29 may be extended for an additional 72 hours upon further order
30 of the court.

31

1 (f) The time limits in paragraphs (c) and (d) do not
2 include periods of delay resulting from a continuance granted
3 by the court for cause on motion of the child or his or her
4 counsel or of the state. Upon the issuance of an order
5 granting a continuance for cause on a motion by either the
6 child, the child's counsel, or the state, the court shall
7 conduct a hearing at the end of each 72-hour period, excluding
8 Saturdays, Sundays, and legal holidays, to determine the need
9 for continued detention of the child and the need for further
10 continuance of proceedings for the child or the state.

11 (g) Upon good cause being shown that the nature of the
12 charge requires additional time for the prosecution or defense
13 of the case, the court may extend the time limits for
14 detention specified in paragraph (c) an additional 9 days if
15 the child is charged with an offense that would be, if
16 committed by an adult, a capital felony, a life felony, a
17 felony of the first degree, or a felony of the second degree
18 involving violence against any individual.

19 (6)(a) When any child is placed into secure,
20 nonsecure, or home detention care or into other placement
21 pursuant to a court order following a detention hearing, the
22 court shall order the parents or guardians of such child to
23 pay to the Department of Juvenile Justice fees in the amount
24 of \$5 per day that the child is under the care or supervision
25 of the department in order to partially offset the cost of the
26 care, support, maintenance, and other usual and ordinary
27 obligations of parents to provide for the needs of their
28 children, unless the court makes a finding on the record that
29 the parent or guardian of the child is indigent.

30 (b) At the time of the detention hearing, the
31 department shall report to the court, verbally or in writing,

1 any available information concerning the ability of the parent
2 or guardian of the child to pay such fee. If the court makes a
3 finding of indigency, the parent or guardian shall pay to the
4 department a nominal subsistence fee of \$2 per day that the
5 child is securely detained outside the home or \$1 per day if
6 the child is otherwise detained in lieu of other fees related
7 to the parent's obligation for the child's cost of care. The
8 nominal subsistence fee may only be waived or reduced if the
9 court makes a finding that such payment would constitute a
10 significant financial hardship. Such finding shall be in
11 writing and shall contain a detailed description of the facts
12 that led the court to make both the finding of indigency and
13 the finding of significant financial hardship.

14 (c) In addition, the court may reduce the fees or
15 waive the fees as to each parent or guardian if the court
16 makes a finding on the record that the parent or guardian was
17 the victim of the delinquent act or violation of law for which
18 the child is detained and that the parent or guardian is
19 cooperating in the investigation of the offense.

20 (d) The court must include specific findings in the
21 detention order as to what fees are ordered, reduced, or
22 waived. If the court fails to enter an order as required by
23 this subsection, it shall be presumed that the court intended
24 the parent or guardian to pay to the department the fee of \$5
25 per day that the child remains in detention care.

26 (e) With respect to a child who has been found to have
27 committed a delinquent act or violation of law, whether or not
28 adjudication is withheld, and whose parent or guardian
29 receives public assistance for any portion of that child's
30 care, the department must seek a federal waiver to garnish or
31 otherwise order the payments of the portion of the public

1 assistance relating to that child to offset the costs of
2 providing care, custody, maintenance, rehabilitation,
3 intervention, or corrective services to the child. When the
4 order affects the guardianship estate, a certified copy of the
5 order shall be delivered to the judge having jurisdiction of
6 the guardianship estate.

7 (f) The clerk of the circuit court shall act as a
8 depository for these fees. Upon each payment received, the
9 clerk of the circuit court shall receive a fee from the total
10 payment of 3 percent of any payment made except that no fee
11 shall be less than \$1 nor more than \$5 per payment made. This
12 fee shall serve as a service charge for the administration,
13 management, and maintenance of each payment. At the end of
14 each month, the clerk of the circuit court shall send all
15 money collected under this section to the state Grants and
16 Donations Trust Fund.

17 (g) The parent or guardian shall provide to the
18 department the parent's or guardian's name, address, social
19 security number, date of birth, and driver's license number or
20 identification card number and sufficient financial
21 information for the department to be able to determine the
22 parent's or guardian's ability to pay. If the parent or
23 guardian refuses to provide the department with any
24 identifying information or financial information, the court
25 shall order the parent to comply and may pursue contempt of
26 court sanctions for failure to comply.

27 (h) The department may employ a collection agency for
28 the purpose of receiving, collecting, and managing the payment
29 of unpaid and delinquent fees. The collection agency must be
30 registered and in good standing under chapter 559. The
31 department may pay to the collection agency a fee from the

1 amount collected under the claim or may authorize the agency
2 to deduct the fee from the amount collected. The department
3 may also pay for collection services from available authorized
4 funds.

5 (i) The department may enter into agreements with
6 parents or guardians to establish a schedule of periodic
7 payments if payment of the obligation in full presents an
8 undue hardship. Any such agreement may provide for payment of
9 interest consistent with prevailing loan rates.

10 (j) The Department of Juvenile Justice shall provide
11 to the payor documentation of any amounts paid by the payor to
12 the Department of Juvenile Justice on behalf of the child. All
13 payments received by the department pursuant to this
14 subsection shall be deposited in the state Grants and
15 Donations Trust Fund. Neither the court nor the department may
16 extend the child's length of stay in detention care solely for
17 the purpose of collecting fees.

18 (7) If a child is detained and a petition for
19 delinquency is filed, the child shall be arraigned in
20 accordance with the Florida Rules of Juvenile Procedure within
21 48 hours after the filing of the petition for delinquency.

22 (8) If a child is detained pursuant to this section,
23 the Department of Juvenile Justice may transfer the child from
24 nonsecure or home detention care to secure detention care only
25 if significantly changed circumstances warrant such transfer.

26 (9) If a child is on release status and not detained
27 pursuant to this section, the child may be placed into secure,
28 nonsecure, or home detention care only pursuant to a court
29 hearing in which the original risk assessment instrument,
30 rescored based on newly discovered evidence or changed

31

1 | circumstances with the results recommending detention, is
2 | introduced into evidence.

3 | (10)(a)1. When a child is committed to the Department
4 | of Juvenile Justice awaiting dispositional placement, removal
5 | of the child from detention care shall occur within 5 days,
6 | excluding Saturdays, Sundays, and legal holidays. Any child
7 | held in secure detention during the 5 days must meet detention
8 | admission criteria pursuant to this section. If the child is
9 | committed to a moderate-risk residential program, the
10 | department may seek an order from the court authorizing
11 | continued detention for a specific period of time necessary
12 | for the appropriate residential placement of the child.
13 | However, such continued detention in secure detention care may
14 | not exceed 15 days after commitment, excluding Saturdays,
15 | Sundays, and legal holidays, and except as otherwise provided
16 | in this subsection.

17 | 2. The court must place all children who are
18 | adjudicated and awaiting placement in a residential commitment
19 | program in detention care. Children who are in home detention
20 | care or nonsecure detention care may be placed on electronic
21 | monitoring.

22 | (b) A child who is placed in home detention care,
23 | nonsecure detention care, or home or nonsecure detention care
24 | with electronic monitoring, while awaiting placement in a
25 | low-risk or moderate-risk program, may be held in secure
26 | detention care for 5 days, if the child violates the
27 | conditions of the home detention care, the nonsecure detention
28 | care, or the electronic monitoring agreement. For any
29 | subsequent violation, the court may impose an additional 5
30 | days in secure detention care.

31 |

1 (c) If the child is committed to a high-risk
2 residential program, the child must be held in detention care
3 until placement or commitment is accomplished.

4 (d) If the child is committed to a maximum-risk
5 residential program, the child must be held in detention care
6 until placement or commitment is accomplished.

7 (e) Upon specific appropriation, the department may
8 obtain comprehensive evaluations, including, but not limited
9 to, medical, academic, psychological, behavioral,
10 sociological, and vocational needs of a youth with multiple
11 arrests for all level criminal acts or a youth committed to a
12 minimum-risk or low-risk commitment program.

13 (f) Regardless of detention status, a child being
14 transported by the department to a commitment facility of the
15 department may be placed in secure detention overnight, not to
16 exceed a 24-hour period, for the specific purpose of ensuring
17 the safe delivery of the child to his or her commitment
18 program, court, appointment, transfer, or release.

19 (11)(a) When a juvenile sexual offender is placed in
20 detention, detention staff shall provide appropriate
21 monitoring and supervision to ensure the safety of other
22 children in the facility.

23 (b) When a juvenile sexual offender, pursuant to this
24 subsection, is released from detention or transferred to home
25 detention or nonsecure detention, detention staff shall
26 immediately notify the appropriate law enforcement agency and
27 school personnel.

28 (12) The child may appear by telephone or video
29 teleconference at any court hearing required by this section.

30 Section 8. Section 985.231, Florida Statutes, is
31 amended, to read:

1 985.231 Powers of disposition in delinquency cases.--
2 (1)(a) The court that has jurisdiction of an
3 adjudicated delinquent child may, by an order stating the
4 facts upon which a determination of a sanction and
5 rehabilitative program was made at the disposition hearing:
6 1. Place the child in a probation program or a
7 postcommitment probation program under the supervision of an
8 authorized agent of the Department of Juvenile Justice or of
9 any other person or agency specifically authorized and
10 appointed by the court, whether in the child's own home, in
11 the home of a relative of the child, or in some other suitable
12 place under such reasonable conditions as the court may
13 direct. A probation program for an adjudicated delinquent
14 child must include a penalty component such as restitution in
15 money or in kind, community service, a curfew, revocation or
16 suspension of the driver's license of the child, or other
17 nonresidential punishment appropriate to the offense and must
18 also include a rehabilitative program component such as a
19 requirement of participation in substance abuse treatment or
20 in school or other educational program. If the child is
21 attending or is eligible to attend public school and the court
22 finds that the victim or a sibling of the victim in the case
23 is attending or may attend the same school as the child, the
24 court placement order shall include a finding pursuant to the
25 proceedings described in s. 985.23(1)(d). Upon the
26 recommendation of the department at the time of disposition,
27 or subsequent to disposition pursuant to the filing of a
28 petition alleging a violation of the child's conditions of
29 postcommitment probation, the court may order the child to
30 submit to random testing for the purpose of detecting and
31 monitoring the use of alcohol or controlled substances.

1 a. A restrictiveness level classification scale for
2 levels of supervision shall be provided by the department,
3 taking into account the child's needs and risks relative to
4 probation supervision requirements to reasonably ensure the
5 public safety. Probation programs for children shall be
6 supervised by the department or by any other person or agency
7 specifically authorized by the court. These programs must
8 include, but are not limited to, structured or restricted
9 activities as described in this subparagraph, and shall be
10 designed to encourage the child toward acceptable and
11 functional social behavior. If supervision or a program of
12 community service is ordered by the court, the duration of
13 such supervision or program must be consistent with any
14 treatment and rehabilitation needs identified for the child
15 and may not exceed the term for which sentence could be
16 imposed if the child were committed for the offense, except
17 that the duration of such supervision or program for an
18 offense that is a misdemeanor of the second degree, or is
19 equivalent to a misdemeanor of the second degree, may be for a
20 period not to exceed 6 months. When restitution is ordered by
21 the court, the amount of restitution may not exceed an amount
22 the child and the parent or guardian could reasonably be
23 expected to pay or make. A child who participates in any work
24 program under this part is considered an employee of the state
25 for purposes of liability, unless otherwise provided by law.

26 b. The court may conduct judicial review hearings for
27 a child placed on probation for the purpose of fostering
28 accountability to the judge and compliance with other
29 requirements, such as restitution and community service. The
30 court may allow early termination of probation for a child who
31

1 has substantially complied with the terms and conditions of
2 probation.

3 c. If the conditions of the probation program or the
4 postcommitment probation program are violated, the department
5 or the state attorney may bring the child before the court on
6 an affidavit ~~a petition~~ alleging a violation of the program.
7 The state attorney shall represent the state in any hearing on
8 the violation. Any child who violates the conditions of
9 probation or postcommitment probation must be brought before
10 the court if sanctions are sought. A child taken into custody
11 under s. 985.207 for violating the conditions of probation or
12 postcommitment probation shall be held in a consequence unit
13 if such a unit is available. The child shall be afforded a
14 hearing within 24 hours after being taken into custody to
15 determine the existence of probable cause that the child
16 violated the conditions of probation or postcommitment
17 probation. A consequence unit is a secure facility
18 specifically designated by the department for children who are
19 taken into custody under s. 985.207 for violating probation or
20 postcommitment probation, or who have been found by the court
21 to have violated the conditions of probation or postcommitment
22 probation. If the violation involves a new charge of
23 delinquency, the child may be detained under s. 985.215 in a
24 facility other than a consequence unit. If the child is not
25 eligible for detention for the new charge of delinquency, the
26 child may be held in the consequence unit pending a hearing
27 and is subject to the time limitations specified in s.
28 985.215. If the child denies violating the conditions of
29 probation or postcommitment probation, the court shall appoint
30 counsel to represent the child at the child's request. Upon
31 the child's admission, or if the court finds after a hearing

1 that the child has violated the conditions of probation or
2 postcommitment probation, the court shall enter an order
3 revoking, modifying, or continuing probation or postcommitment
4 probation. In each such case, the court shall enter a new
5 disposition order and, in addition to the sanctions set forth
6 in this paragraph, may impose any sanction the court could
7 have imposed at the original disposition hearing. If the child
8 is found to have violated the conditions of probation or
9 postcommitment probation, the court may:

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

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

17 (III) Modify or continue the child's probation program
18 or postcommitment probation program.

19 (IV) Revoke probation or postcommitment probation and
20 commit the child to the department.

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

26 2. Commit the child to a licensed child-caring agency
27 willing to receive the child, but the court may not commit the
28 child to a jail or to a facility used primarily as a detention
29 center or facility or shelter.

30 3. Commit the child to the Department of Juvenile
31 Justice at a residential commitment level defined in s.

1 985.03. Such commitment must be for the purpose of exercising
2 active control over the child, including, but not limited to,
3 custody, care, training, urine monitoring, and treatment of
4 the child and release of the child into the community in a
5 postcommitment nonresidential conditional release program. If
6 the child is eligible to attend public school following
7 residential commitment and the court finds that the victim or
8 a sibling of the victim in the case is or may be attending the
9 same school as the child, the commitment order shall include a
10 finding pursuant to the proceedings described in s.
11 985.23(1)(d). If the child is not successful in the
12 conditional release program, the department may use the
13 transfer procedure under s. 985.404. Notwithstanding s. 743.07
14 and paragraph (d), and except as provided in s. 985.31, the
15 term of the commitment must be until the child is discharged
16 by the department or until he or she reaches the age of 19,
17 except as provided in s. 985.201 ~~21~~.

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

20 5. Require the child and, if the court finds it
21 appropriate, the child's parent or guardian together with the
22 child, to render community service in a public service
23 program.

24 6. As part of the probation program to be implemented
25 by the Department of Juvenile Justice, or, in the case of a
26 committed child, as part of the community-based sanctions
27 ordered by the court at the disposition hearing or before the
28 child's release from commitment, order the child to make
29 restitution in money, through a promissory note cosigned by
30 the child's parent or guardian, or in kind for any damage or
31 loss caused by the child's offense in a reasonable amount or

1 manner to be determined by the court. The clerk of the circuit
2 court shall be the receiving and dispensing agent. In such
3 case, the court shall order the child or the child's parent or
4 guardian to pay to the office of the clerk of the circuit
5 court an amount not to exceed the actual cost incurred by the
6 clerk as a result of receiving and dispensing restitution
7 payments. The clerk shall notify the court if restitution is
8 not made, and the court shall take any further action that is
9 necessary against the child or the child's parent or guardian.
10 A finding by the court, after a hearing, that the parent or
11 guardian has made diligent and good faith efforts to prevent
12 the child from engaging in delinquent acts absolves the parent
13 or guardian of liability for restitution under this
14 subparagraph.

15 7. Order the child and, if the court finds it
16 appropriate, the child's parent or guardian together with the
17 child, to participate in a community work project, either as
18 an alternative to monetary restitution or as part of the
19 rehabilitative or probation program.

20 8. Commit the child to the Department of Juvenile
21 Justice for placement in a program or facility for serious or
22 habitual juvenile offenders in accordance with s. 985.31. Any
23 commitment of a child to a program or facility for serious or
24 habitual juvenile offenders must be for an indeterminate
25 period of time, but the time may not exceed the maximum term
26 of imprisonment that an adult may serve for the same offense.
27 The court may retain jurisdiction over such child until the
28 child reaches the age of 21, specifically for the purpose of
29 the child completing the program.

30 9. In addition to the sanctions imposed on the child,
31 order the parent or guardian of the child to perform community

1 service if the court finds that the parent or guardian did not
2 make a diligent and good faith effort to prevent the child
3 from engaging in delinquent acts. The court may also order the
4 parent or guardian to make restitution in money or in kind for
5 any damage or loss caused by the child's offense. The court
6 shall determine a reasonable amount or manner of restitution,
7 and payment shall be made to the clerk of the circuit court as
8 provided in subparagraph 6.

9 10. Subject to specific appropriation, commit the
10 juvenile sexual offender to the Department of Juvenile Justice
11 for placement in a program or facility for juvenile sexual
12 offenders in accordance with s. 985.308. Any commitment of a
13 juvenile sexual offender to a program or facility for juvenile
14 sexual offenders must be for an indeterminate period of time,
15 but the time may not exceed the maximum term of imprisonment
16 that an adult may serve for the same offense. The court may
17 retain jurisdiction over a juvenile sexual offender until the
18 juvenile sexual offender reaches the age of 21, specifically
19 for the purpose of completing the program.

20 (b)1. When any child is adjudicated by the court to
21 have committed a delinquent act and temporary legal custody of
22 the child has been placed with a licensed child-caring agency
23 or the Department of Juvenile Justice, the court shall order
24 the parents of such child to pay fees to the department in the
25 amount of \$5 per day that the child is under the care or
26 supervision of the department in order to partially offset the
27 cost of the care, support, maintenance, and other usual and
28 ordinary obligations of parents to provide for the needs of
29 their children while in the recommended residential commitment
30 level, unless the court makes a finding on the record that the
31 parent or guardian of the child is indigent.

1 2. No later than the disposition hearing, the
2 department shall provide the court with information concerning
3 the actual cost of care, support, and maintenance of the child
4 in the recommended residential commitment level and concerning
5 the ability of the parent or guardian of the child to pay any
6 fees. If the court makes a finding of indigency, the parent or
7 guardianship shall pay to the department a nominal subsistence
8 fee of \$2 per day that the child is committed outside the home
9 or \$1 per day if the child is otherwise supervised in lieu of
10 other fees related to the parents' obligation for the child's
11 cost of care. The nominal subsistence fee may only be waived
12 or reduced if the court makes a finding that such payment
13 would constitute a significant financial hardship. Such
14 finding shall be in writing and shall contain a detailed
15 description of the facts that led the court to make both the
16 finding of indigency and the finding of significant financial
17 hardship.

18 3. In addition, the court may reduce the fees or waive
19 the fees as to each parent or guardian if the court makes a
20 finding on the record that the parent or guardian was the
21 victim of the delinquent act or violation of law for which the
22 child is subject to placement under this section and that the
23 parent or guardian has cooperated in the investigation and
24 prosecution of the offense.

25 4. All orders committing a child to a residential
26 commitment program shall include specific findings as to what
27 fees are ordered, reduced, or waived. If the court fails to
28 enter an order as required by this paragraph, it shall be
29 presumed that the court intended the parent or guardian to pay
30 fees to the department in an amount of \$5 per day related to
31 the care, support, and maintenance of the child. With regard

1 to a child who reaches the age of 18 prior to the disposition
2 hearing, the court may elect to direct an order required by
3 this paragraph to such child, rather than the parent or
4 guardian. With regard to a child who reaches the age of 18
5 while in the custody of the department, the court may, upon
6 proper motion of any party, hold a hearing as to whether any
7 party should be further obligated respecting the payment of
8 fees. When the order affects the guardianship estate, a
9 certified copy of the order shall be delivered to the judge
10 having jurisdiction of the guardianship estate.

11 5. The clerk of the circuit court shall act as a
12 depository for these fees. Upon each payment received, the
13 clerk of the circuit court shall receive a fee from the total
14 payment of 3 percent of any payment made except that no fee
15 shall be less than \$1 nor more than \$5 per payment made. This
16 fee shall serve as a service charge for the administration,
17 management, and maintenance of each payment. At the end of
18 each month, the clerk of the circuit court shall send all
19 money collected under this section to the state Grants and
20 Donations Trust Fund.

21 6. The parent or guardian shall provide to the
22 department the parent or guardian's name, address, social
23 security number, state of birth, and driver's license number
24 or identification card number and sufficient financial
25 information for the department to be able to determine the
26 parent or guardian's ability to pay. If the parent or guardian
27 refuses to provide the department with any identifying
28 information or financial information, the court shall order
29 the parent to comply and may pursue contempt of court
30 sanctions for failure to comply.

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1 7. The department may employ a collection agency for
2 the purpose of receiving, collecting, and managing the payment
3 of unpaid and delinquent fees. The collection agency must be
4 registered and in good standing under chapter 559. The
5 department may pay to the collection agency a fee from the
6 amount collected under the claim or may authorize the agency
7 to deduct the fee from the amount collected. The department
8 may also pay for collection services from available authorized
9 funds.

10 8. The department may enter into agreements with
11 parents or guardians to establish a schedule of periodic
12 payments if payment of the obligation in full presents an
13 undue hardship. Any such agreement may provide for payment of
14 interests consistent with prevailing loan rates.

15 9. The Department of Juvenile Justice shall provide to
16 the payor documentation of any amounts paid by the payor to
17 the Department of Juvenile Justice on behalf of the child. All
18 payments received by the department pursuant to this
19 subsection shall be deposited in the state Grants and
20 Donations Trust Fund.

21 10. Neither the court nor the department may extend
22 the child's length of stay in placement care solely for the
23 purpose of collecting fees.

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

27 (d) Any commitment of a delinquent child to the
28 Department of Juvenile Justice must be for an indeterminate
29 period of time, which may include periods of temporary
30 release, but the time may not exceed the maximum term of
31 imprisonment that an adult may serve for the same offense. The

1 duration of the child's placement in a residential commitment
2 program of any level shall be based on objective
3 performance-based treatment planning. The child's treatment
4 plan progress and adjustment-related issues shall be reported
5 to the court quarterly, unless the court requests more
6 frequent reports ~~each month~~. The child's length of stay in a
7 residential commitment program may be extended if the child
8 fails to comply with or participate in treatment activities.
9 The child's length of stay in such program shall not be
10 extended for purposes of sanction or punishment. Any temporary
11 release from such program must be approved by the court. Any
12 child so committed may be discharged from institutional
13 confinement or a program upon the direction of the department
14 with the concurrence of the court. The child's treatment plan
15 progress and adjustment-related issues must be communicated to
16 the court at the time the department requests the court to
17 consider releasing the child from the residential commitment
18 program. Notwithstanding s. 743.07 and this subsection, and
19 except as provided in ss. 985.201 and 985.31, a child may not
20 be held under a commitment from a court pursuant to this
21 section after becoming 21 years of age. The department shall
22 give the court that committed the child to the department
23 reasonable notice, in writing, of its desire to discharge the
24 child from a commitment facility. The court that committed the
25 child may thereafter accept or reject the request. If the
26 court does not respond within 10 days after receipt of the
27 notice, the request of the department shall be deemed granted.
28 This section does not limit the department's authority to
29 revoke a child's temporary release status and return the child
30 to a commitment facility for any violation of the terms and
31 conditions of the temporary release.

1 (e) In carrying out the provisions of this part, the
2 court may order the natural parents or legal custodian or
3 guardian of a child who is found to have committed a
4 delinquent act to participate in family counseling and other
5 professional counseling activities deemed necessary for the
6 rehabilitation of the child or to enhance their ability to
7 provide the child with adequate support, guidance, and
8 supervision. The court may also order that the parent,
9 custodian, or guardian support the child and participate with
10 the child in fulfilling a court-imposed sanction. In addition,
11 the court may use its contempt powers to enforce a
12 court-imposed sanction.

13 (f) The court may at any time enter an order ending
14 its jurisdiction over any child.

15 (g) Whenever a child is required by the court to
16 participate in any work program under this part or whenever a
17 child volunteers to work in a specified state, county,
18 municipal, or community service organization supervised work
19 program or to work for the victim, either as an alternative to
20 monetary restitution or as a part of the rehabilitative or
21 probation program, the child is an employee of the state for
22 the purposes of liability. In determining the child's average
23 weekly wage unless otherwise determined by a specific funding
24 program, all remuneration received from the employer is a
25 gratuity, and the child is not entitled to any benefits
26 otherwise payable under s. 440.15, regardless of whether the
27 child may be receiving wages and remuneration from other
28 employment with another employer and regardless of the child's
29 future wage-earning capacity.

30 (h) The court may, upon motion of the child or upon
31 its own motion, within 60 days after imposition of a

1 disposition of commitment, suspend the further execution of
2 the disposition and place the child in a probation program
3 upon such terms and conditions as the court may require. The
4 department shall forward to the court all relevant material on
5 the child's progress while in custody not later than 3 working
6 days prior to the hearing on the motion to suspend the
7 disposition.

8 (i) The nonconsent of the child to commitment or
9 treatment in a substance abuse treatment program in no way
10 precludes the court from ordering such commitment or
11 treatment.

12 (j) If the offense committed by the child was grand
13 theft of a motor vehicle, the court:

14 1. Upon a first adjudication for a grand theft of a
15 motor vehicle, may place the youth in a boot camp, unless the
16 child is ineligible pursuant to s. 985.309, and shall order
17 the youth to complete a minimum of 50 hours of community
18 service.

19 2. Upon a second adjudication for grand theft of a
20 motor vehicle which is separate and unrelated to the previous
21 adjudication, may place the youth in a boot camp, unless the
22 child is ineligible pursuant to s. 985.309, and shall order
23 the youth to complete a minimum of 100 hours of community
24 service.

25 3. Upon a third adjudication for grand theft of a
26 motor vehicle which is separate and unrelated to the previous
27 adjudications, shall place the youth in a boot camp or other
28 treatment program, unless the child is ineligible pursuant to
29 s. 985.309, and shall order the youth to complete a minimum of
30 250 hours of community service.

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1 (2) Following a delinquency adjudicatory hearing
2 pursuant to s. 985.228 and a delinquency disposition hearing
3 pursuant to s. 985.23 which results in a commitment
4 determination, the court shall, on its own or upon request by
5 the state or the department, determine whether the protection
6 of the public requires that the child be placed in a program
7 for serious or habitual juvenile offenders and whether the
8 particular needs of the child would be best served by a
9 program for serious or habitual juvenile offenders as provided
10 in s. 985.31. The determination shall be made pursuant to ss.
11 985.03(48) and 985.23(3).

12 (3) Following a delinquency adjudicatory hearing
13 pursuant to s. 985.228, the court may on its own or upon
14 request by the state or the department and subject to specific
15 appropriation, determine whether a juvenile sexual offender
16 placement is required for the protection of the public and
17 what would be the best approach to address the treatment needs
18 of the juvenile sexual offender. When the court determines
19 that a juvenile has no history of a recent comprehensive
20 assessment focused on sexually deviant behavior, the court
21 may, subject to specific appropriation, order the department
22 to conduct or arrange for an examination to determine whether
23 the juvenile sexual offender is amenable to community-based
24 treatment.

25 (a) The report of the examination shall include, at a
26 minimum, the following:

- 27 1. The juvenile sexual offender's account of the
28 incident and the official report of the investigation.
29 2. The juvenile sexual offender's offense history.
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1 3. A multidisciplinary assessment of the sexually
2 deviant behaviors, including an assessment by a certified
3 psychologist, therapist, or psychiatrist.

4 4. An assessment of the juvenile sexual offender's
5 family, social, educational, and employment situation. The
6 report shall set forth the sources of the evaluator's
7 information.

8 (b) The report shall assess the juvenile sexual
9 offender's amenability to treatment and relative risk to the
10 victim and the community.

11 (c) The department shall provide a proposed plan to
12 the court that shall include, at a minimum:

13 1. The frequency and type of contact between the
14 offender and therapist.

15 2. The specific issues and behaviors to be addressed
16 in the treatment and description of planned treatment methods.

17 3. Monitoring plans, including any requirements
18 regarding living conditions, school attendance and
19 participation, lifestyle, and monitoring by family members,
20 legal guardians, or others.

21 4. Anticipated length of treatment.

22 5. Recommended crime-related prohibitions and curfew.

23 6. Reasonable restrictions on the contact between the
24 juvenile sexual offender and either the victim or alleged
25 victim.

26 (d) After receipt of the report on the proposed plan
27 of treatment, the court shall consider whether the community
28 and the offender will benefit from use of juvenile sexual
29 offender community-based treatment alternative disposition and
30 consider the opinion of the victim or the victim's family as
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1 to whether the offender should receive a community-based
2 treatment alternative disposition under this subsection.

3 (e) If the court determines that this juvenile sexual
4 offender community-based treatment alternative is appropriate,
5 the court may place the offender on community supervision for
6 up to 3 years. As a condition of community treatment and
7 supervision, the court may order the offender to:

8 1. Undergo available outpatient juvenile sexual
9 offender treatment for up to 3 years. A program or provider
10 may not be used for such treatment unless it has an
11 appropriate program designed for sexual offender treatment.
12 The department shall not change the treatment provider without
13 first notifying the state attorney's office.

14 2. Remain within described geographical boundaries and
15 notify the court or the department counselor prior to any
16 change in the offender's address, educational program, or
17 employment.

18 3. Comply with all requirements of the treatment plan.

19 (f) The juvenile sexual offender treatment provider
20 shall submit quarterly reports on the respondent's progress in
21 treatment to the court and the parties to the proceedings. The
22 juvenile sexual offender reports shall reference the treatment
23 plan and include, at a minimum, the following:

24 1. Dates of attendance.

25 2. The juvenile sexual offender's compliance with the
26 requirements of treatment.

27 3. A description of the treatment activities.

28 4. The sexual offender's relative progress in
29 treatment.

30 5. The offender's family support of the treatment
31 objectives.

1 6. Any other material specified by the court at the
2 time of the disposition.

3 (g) At the disposition hearing, the court may set case
4 review hearings as the court considers appropriate.

5 (h) If the juvenile sexual offender violates any
6 condition of the disposition or the court finds that the
7 juvenile sexual offender is failing to make satisfactory
8 progress in treatment, the court may revoke the
9 community-based treatment alternative and order commitment to
10 the department pursuant to subsection (1).

11 (i) If the court determines that the juvenile sexual
12 offender is not amenable to community-based treatment, the
13 court shall proceed with a juvenile sexual offender
14 disposition hearing pursuant to subsection (1).

15 (4) The child may appear by telephone or video
16 teleconference at any court hearing required by this section
17 or otherwise related to treatment progress in the commitment
18 program.

19 Section 9. This act shall take effect July 1, 2004.
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