

By Senator Wilson

33-1411-04

1 A bill to be entitled
2 An act relating to sentencing juveniles;
3 amending s. 985.233, F.S.; providing that
4 juveniles may be sentenced to juvenile
5 sanctions or to a combination of juvenile and
6 adult sanctions; directing the Department of
7 Juvenile Justice to give the sentencing court a
8 written report if it determines a juvenile
9 sanction to be inappropriate for a child;
10 providing a procedure for those instances when
11 the department proposes to discharge the child
12 before he or she becomes 21 years of age;
13 requiring the department to notify the
14 sentencing court of its intent to discharge the
15 child no later than 30 days before discharge;
16 directing the department to file written notice
17 with the clerk of the court; directing the
18 department to give a copy of the notice to
19 specified persons; providing that a proposed
20 discharge will be construed as approved if the
21 sentencing court or state attorney fails to
22 object to the discharge; directing the
23 sentencing court to consider the educational
24 needs of the child; requiring the court to
25 prepare findings as to the child's educational
26 needs; authorizing the court to order that
27 certain specified educational goals be met;
28 providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Paragraph (b) of subsection (4) of section
2 985.233, Florida Statutes, is amended to read:

3 985.233 Sentencing powers; procedures; alternatives
4 for juveniles prosecuted as adults.--

5 (4) SENTENCING ALTERNATIVES.--

6 (b) Sentencing to juvenile sanctions.--For juveniles
7 transferred to adult court but who do not qualify for ~~such~~
8 transfer under pursuant to s. 985.226(2)(b) or s.

9 985.227(2)(a) or (b), the court may impose juvenile sanctions
10 under this paragraph. If juvenile sentences are imposed, the
11 court shall, under pursuant to this paragraph, adjudge the
12 child to have committed a delinquent act. Adjudication of
13 delinquency shall not be deemed a conviction, nor shall it
14 operate to impose any of the civil disabilities ordinarily
15 resulting from a conviction. The court shall impose ~~an adult~~
16 ~~sanction or~~ a juvenile sanction or ~~and may not~~ sentence the
17 child to a combination of adult and juvenile sanctions
18 ~~punishments. An adult sanction or~~ A juvenile sanction, or a
19 combination of adult and juvenile sanctions, may include
20 enforcement of an order of restitution or probation previously
21 ordered in any juvenile proceeding. However, if the court
22 imposes a juvenile sanction and the department determines that
23 the sanction is inappropriate ~~unsuitable~~ for the child, the
24 department shall provide the sentencing court with a written
25 report outlining the basis for its objections to the juvenile
26 sanction and shall simultaneously provide a copy to the state
27 attorney and the child's defense counsel. The department shall
28 return custody of the child to the sentencing court for
29 further proceedings, including the imposition of alternative
30 juvenile sanctions, a combination of adult and juvenile
31 sanctions, or adult sanctions.

1 1. Upon adjudicating a child delinquent under
2 subsection (1), the court may:

3 a.1. Place the child in a probation program under the
4 supervision of the department for an indeterminate period of
5 time until the child reaches the age of 21 ~~19~~ years or sooner
6 if discharged by the department ~~order of the court~~. If, at any
7 time before the child becomes 21 years of age, the department
8 proposes to discharge the child from a probation program, the
9 department shall notify the sentencing court of its intent to
10 discharge the child no later than 30 days before discharge.
11 The department shall file a written notice of its proposal
12 with the clerk of the court and give a copy of the written
13 notice to the sentencing judge, the state attorney, and the
14 child's defense counsel at the time it files the notice with
15 the clerk of the court. Failure of the sentencing court or the
16 state attorney to object to the department's notice of
17 discharge within the 30-day time period shall be construed as
18 approval of the proposed discharge. If there is no objection,
19 the clerk of the court shall note on the court file that the
20 case is closed.

21 b.2. Commit the child to the department for treatment
22 in an appropriate program for children for an indeterminate
23 period of time until the child is 21 or sooner if discharged
24 by the department. If, at any time before the child becomes 21
25 years of age the department proposes to discharge the child
26 from a commitment or after-care program, the department shall
27 notify the sentencing court of its intent to discharge the
28 child no later than 30 ~~14~~ days before ~~prior to~~ discharge. The
29 department shall file a written notice of its proposal with
30 the clerk of the court and give a copy of the written notice
31 to the sentencing judge, the state attorney, and the child's

1 defense counsel at the time it files the notice with the clerk
2 of the court. Failure of the sentencing court or the state
3 attorney to object within the 30-day time limit ~~timely respond~~
4 to the department's notice shall be considered approval for
5 discharge. If there is no objection, the clerk of the court
6 shall close the case.

7 c. Place the child on probation under the supervision
8 of the Department of Corrections and commit the child to the
9 department for treatment in an appropriate program for
10 children for an indeterminate period of time until the child
11 reaches the age of 21 years or sooner if discharged by the
12 department. If, at any time before the child becomes 21 years
13 of age, the department proposes to discharge the child from
14 the commitment program, the department shall notify the
15 sentencing court of its intent to discharge the child no later
16 than 30 days before discharge. The department shall file a
17 written notice of its proposal with the clerk of the court and
18 give a copy of the written notice to the sentencing judge, the
19 state attorney, and the child's defense counsel at the time it
20 files the notice with the clerk of the court. Failure of the
21 sentencing court or the state attorney to object to the
22 department's notice of discharge within the 30-day time period
23 shall be construed as approval of the proposed discharge.
24 However, the department may not discharge the child until the
25 Department of Corrections meets with the child to explain the
26 terms of probation.

27 ~~d.3.~~ Order disposition pursuant to s. 985.231 as an
28 alternative to youthful offender or adult sentencing if the
29 court determines not to impose youthful offender or adult
30 sanctions.

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1 2. Upon sentencing a child to juvenile sanctions or a
2 combination of juvenile and adult sanctions under subparagraph
3 1., the court shall consider the educational needs assessment
4 conducted under s. 985.224(1) and (2) and make a finding of
5 the child's educational status. The court's finding shall
6 include, but is not limited to, the child's academic strengths
7 and abilities and the child's unmet or special education
8 needs. The court may order, as a condition of probation or
9 commitment, that the child attain an appropriate educational
10 goal. The appropriate educational goals may include, but are
11 not limited to:

- 12 a. Receiving a high school diploma or its equivalent.
13 b. Successful completion of a literacy course.
14 c. Successful completion of a vocational course.
15 d. Successful completion of the child's current grade,
16 if the child is enrolled in school.
17 e. Enrollment in an apprenticeship or similar program.
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19 It is the intent of the Legislature that the criteria and
20 guidelines in this subsection are mandatory and that a
21 determination of disposition under this subsection is subject
22 to the right of the child to appellate review under s.
23 985.234.

24 Section 2. This act shall take effect July 1, 2004.
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SENATE SUMMARY

Provides that juveniles may be sentenced to juvenile sanctions or to a combination of juvenile and adult sanctions. Directs the Department of Juvenile Justice to give the sentencing court a written report if it determines a juvenile sanction to be inappropriate. Requires the department to notify the sentencing court of its intent to discharge the child no later than 30 days before discharge. Directs the department to file written notice with the clerk of the court and give a copy of the notice to specified persons. Provides that a proposed discharge will be construed as approved if the sentencing court or state attorney fails to object to the discharge. Directs the sentencing court to consider the educational needs of the child. Authorizes the court to order that certain specified educational goals be met.