

By Senator Villalobos

38-997-04

See HB

1 A bill to be entitled
2 An act relating to juvenile justice; creating
3 s. 985.001, F.S., relating to purposes and
4 intent for the chapter; amending and
5 redesignating provisions of s. 985.01, F.S.,
6 relating to such purposes and intent; deleting
7 references to personnel standards and screening
8 and the authority of the Department of Juvenile
9 Justice to enter into certain contracts;
10 creating s. 985.002, F.S., relating to the
11 legislative intent for the juvenile justice
12 system; amending and redesignating s. 985.02,
13 F.S.; revising a reference and a
14 cross-reference to conform; creating s.
15 985.003, F.S., relating to definitions for the
16 chapter; amending and redesignating s. 985.03,
17 F.S.; deleting the definition of the term
18 "detention center or facility"; redesignating
19 provisions that provide definitions for the
20 terms "child eligible for an intensive
21 residential treatment program for offenders
22 less than 13 years of age," "juvenile sex
23 offender," "serious or habitual juvenile
24 offender," and "serious or habitual juvenile
25 offender program"; revising a reference and
26 cross-references to conform; creating s.
27 985.0201, F.S., relating to the jurisdiction of
28 the juvenile court; amending and redesignating
29 s. 985.201, F.S.; amending and redesignating a
30 provision of s. 985.219, F.S., relating to such
31 jurisdiction; revising references and

1 cross-references to conform; creating s.
2 985.0202, F.S., relating to legal
3 representation for delinquency cases;
4 redesignating s. 985.202, F.S.; creating
5 985.0203, F.S., relating to the right to
6 counsel; amending and redesignating s. 985.203,
7 F.S., and s. 985.203, F.S., as amended by ch.
8 2002-402, Laws of Florida; revising references
9 to conform; creating s. 985.0205, F.S.,
10 relating to open hearings; redesignating s.
11 985.205, F.S.; creating s. 985.0206, F.S.,
12 relating to the rights of victims in juvenile
13 proceedings; amending and redesignating s.
14 985.206, F.S.; providing for the release to
15 victims of certain information; creating s.
16 985.0216, F.S., relating to punishment for
17 contempt of court and alternative sanctions;
18 amending and redesignating s. 985.216, F.S.;
19 deleting a provision authorizing the secure
20 placement of a child in need of services as a
21 sanction for contempt of court; revising a
22 cross-reference to conform; creating s.
23 985.2104, F.S., relating to oaths, records, and
24 confidential information; amending and
25 redesignating s. 985.04, F.S.; clarifying a
26 provision related to the release of certain
27 information; revising references and
28 cross-references to conform; creating s.
29 985.2105, F.S., relating to court records;
30 amending and redesignating s. 985.05, F.S.;
31 revising references and cross-references to

1 conform; creating s. 985.2106, F.S., relating
2 to the statewide information-sharing system and
3 interagency workgroup; redesignating s. 985.06,
4 F.S.; creating s. 985.2108, F.S., relating to
5 information systems; redesignating s. 985.08,
6 F.S.; creating s. 985.3207, F.S., relating to
7 taking a child into custody; amending and
8 redesignating s. 985.207, F.S.; redesignating a
9 provision of s. 985.215, F.S., relating to
10 transporting a child who has been taken into
11 custody; revising a reference and
12 cross-references to conform; creating s.
13 985.32075, F.S., relating to youth custody
14 officers; redesignating s. 985.2075, F.S.;
15 creating s. 985.3212, F.S., relating to
16 fingerprinting and photographing; amending and
17 redesignating s. 985.212, F.S.; revising a
18 cross-reference to conform; creating s.
19 985.32211, F.S., relating to release or
20 delivery from custody; amending and
21 redesignating provisions of s. 985.211, F.S.,
22 relating to such release or delivery; revising
23 cross-references to conform; creating s.
24 985.3301, F.S., relating to civil citations;
25 amending and redesignating s. 985.301, F.S.;
26 revising a cross-reference to conform; creating
27 s. 985.33065, F.S., relating to prearrest or
28 postarrest diversion programs; redesignating s.
29 985.3065, F.S.; creating s. 985.3307, F.S.,
30 relating to probable cause affidavits; amending
31 and redesignating provisions of s. 985.211,

1 F.S., relating to probable cause affidavits and
2 certain requirements upon the taking of a child
3 into custody; revising cross-references to
4 conform; creating s. 985.33209, F.S., relating
5 to juvenile assessment centers; redesignating
6 s. 985.209, F.S.; creating s. 985.3321, F.S.,
7 relating to the intake and case-management
8 system; amending and redesignating provisions
9 of s. 985.21, F.S., relating to intake and
10 case-management; revising cross-references to
11 conform; creating s. 985.33212, F.S., relating
12 to the responsibilities of the juvenile
13 probation officer during intake and to
14 screenings and assessments; amending and
15 redesignating provisions of s. 985.21, F.S.,
16 relating to such responsibilities, screenings,
17 and assessments; revising cross-references to
18 conform; creating s. 985.33213, F.S., relating
19 to filing decisions in juvenile cases;
20 redesignating and amending provisions of s.
21 985.21, F.S., relating to such decisions;
22 revising cross-references to conform; creating
23 s. 985.33303, F.S., relating to neighborhood
24 restorative justice; redesignating s. 985.303,
25 F.S.; creating s. 985.33304, F.S., relating to
26 community arbitration; redesignating and
27 amending s. 985.304; F.S.; revising a reference
28 to conform; creating s. 985.4224, F.S.,
29 relating to medical, psychiatric,
30 psychological, substance abuse, and educational
31 examination and treatment; providing for the

1 use of information gathered through the intake
2 and case-management system; redesignating s.
3 985.224, F.S.; redesignating a provision of s.
4 985.215, F.S., relating to comprehensive
5 evaluations of certain youth; creating s.
6 985.4229, F.S., relating to evaluations for
7 dispositions; providing for the use of
8 information gathered through the intake and
9 case-management system; redesignating
10 provisions of s. 985.229, F.S., relating to
11 such evaluations; creating s. 985.44223, F.S.,
12 relating to incompetency in juvenile
13 delinquency cases; redesignating s. 985.223,
14 F.S.; providing effective dates.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. The provisions of chapter 985 are
19 redesignated and substantially reorganized. Chapter 985 is
20 reentitled from "DELINQUENCY; INTERSTATE COMPACT ON JUVENILES"
21 to "JUVENILE JUSTICE; INTERSTATE COMPACT ON JUVENILES"; part I
22 of that chapter is captioned "GENERAL PROVISIONS" and consists
23 of ss. 985.001, 985.002, 985.003, 985.0201, 985.0202,
24 985.0203, 985.0205, 985.0206, and 985.0216; part II of that
25 chapter is recaptioned from "DELINQUENCY AND CASE PROCESSING"
26 to "RECORDS AND INFORMATION" and consists of ss. 985.2104,
27 985.2105, 985.2106, 985.2108; part III of that chapter is
28 recaptioned from "JUVENILE JUSTICE CONTINUUM" to "CUSTODY AND
29 INTAKE; INTERVENTION AND DIVERSION" and consists of ss.
30 985.3207, 985.32075, 985.3212, 985.32211, 985.3301, 985.33065,
31 985.3307, 985.33209, 985.3321, 985.33212, 985.33213,

1 985.33303, and 985.33304; part IV of that chapter is
2 recaptioned from "JUVENILE JUSTICE SYSTEM ADMINISTRATION" to
3 "EXAMINATIONS AND EVALUATIONS" and consists of ss. 985.4224,
4 985.4229, 985.44223, and 985.44418; part V of that chapter is
5 recaptioned from "INTERSTATE COMPACT ON JUVENILES" to
6 "DETENTION" and consists of ss. 985.50213, 985.5213, 985.5215,
7 985.52152, 985.52155, 985.53215, 985.56215, 985.57215, and
8 985.58208; part VI is captioned "PETITION, ARRAIGNMENT, AND
9 ADJUDICATION" and consists of ss. 985.6218, 985.6219, 985.622,
10 985.6221, 985.6222, 985.6306, and 985.66228; part VII is
11 captioned "DISPOSITION; POSTDISPOSITION" and consists of ss.
12 985.7229, 985.723, 985.7231, 985.72311, 985.72312, 985.72313,
13 985.732132, 985.72314, 985.73215, 985.72316, 985.7316,
14 985.73313, 985.73331, 985.74231, 985.75311, 985.76312,
15 985.77309, 985.78314, 985.79231; part VIII is captioned
16 "AUTHORITY OF THE COURT OVER PARENTS OR GUARDIANS" and
17 consists of ss. 985.8203, 985.8204, 985.8231, and 985.8233;
18 PART IX is captioned "APPEAL" and consists of ss. 985.90234,
19 985.90235, and 985.90236; part X is captioned "TRANSFER TO
20 ADULT COURT" and consists of ss. 985.91226, 985.91227,
21 985.91228, 985.91223, 985.91223, 985.9133, and 985.91347; part
22 XI is captioned "DEPARTMENT OF JUVENILE JUSTICE" and consists
23 of ss. 985.94, 985.9405, 985.9406, 985.9415, 985.9416,
24 986.94315, 984.943155, 985.94317, 985.94319, 985.94412,
25 985.9442, 985.445, 985.9447, 985.9449, 985.946, 985.94635,
26 985.94636, 985.94745, 985.9475, 985.9483, 985.94841,
27 985.948411, 985.948422, 985.948475, 985.948541, 985.948542;
28 part XII is captioned "MISCELLANEOUS OFFENSES" and consists of
29 ss. 985.5045, 985.5046, 985.53141, and 985.5365; and part XIII
30 is captioned "INTERSTATE COMPACT ON JUVENILES" and consists of
31

1 ss. 985.9601, 985.9602, 985.9603, 985.9604, 985.9605,
2 985.9606, and 985.9607.

3 Section 2. Section 985.01, Florida Statutes, is
4 amended and redesignated as section 985.001, Florida Statutes,
5 which is created to read:

6 985.001 ~~985.01~~ Purposes and intent; ~~personnel~~
7 ~~standards and screening.--~~

8 (1) The purposes of this chapter are:

9 (a) To provide judicial and other procedures to assure
10 due process through which children and other interested
11 parties are assured fair hearings by a respectful and
12 respected court or other tribunal and the recognition,
13 protection, and enforcement of their constitutional and other
14 legal rights, while ensuring that public safety interests and
15 the authority and dignity of the courts are adequately
16 protected.

17 (b) To provide for the care, safety, and protection of
18 children in an environment that fosters healthy social,
19 emotional, intellectual, and physical development; to ensure
20 secure and safe custody; and to promote the health and
21 well-being of all children under the state's care.

22 (c) To ensure the protection of society, by providing
23 for a comprehensive standardized assessment of the child's
24 needs so that the most appropriate control, discipline,
25 punishment, and treatment can be administered consistent with
26 the seriousness of the act committed, the community's
27 long-term need for public safety, the prior record of the
28 child, and the specific rehabilitation needs of the child,
29 while also providing whenever possible restitution to the
30 victim of the offense.

31

1 (d) To preserve and strengthen the child's family ties
2 whenever possible, by providing for removal of the child from
3 parental custody only when his or her welfare or the safety
4 and protection of the public cannot be adequately safeguarded
5 without such removal; and, when the child is removed from his
6 or her own family, to secure custody, care, and discipline for
7 the child as nearly as possible equivalent to that which
8 should have been given by the parents; and to assure, in all
9 cases in which a child must be permanently removed from
10 parental custody, that the child be placed in an approved
11 family home, adoptive home, independent living program, or
12 other placement that provides the most stable and permanent
13 living arrangement for the child, as determined by the court.

14 (e)1. To assure that the adjudication and disposition
15 of a child alleged or found to have committed a violation of
16 Florida law be exercised with appropriate discretion and in
17 keeping with the seriousness of the offense and the need for
18 treatment services, and that all findings made under this
19 chapter be based upon facts presented at a hearing that meets
20 the constitutional standards of fundamental fairness and due
21 process.

22 2. To assure that the sentencing and placement of a
23 child tried as an adult be appropriate and in keeping with the
24 seriousness of the offense and the child's need for
25 rehabilitative services, and that the proceedings and
26 procedures applicable to such sentencing and placement be
27 applied within the full framework of constitutional standards
28 of fundamental fairness and due process.

29 (f) To provide children committed to the Department of
30 Juvenile Justice with training in life skills, including
31 career education.

1 ~~(2) The Department of Juvenile Justice or the~~
2 ~~Department of Children and Family Services, as appropriate,~~
3 ~~may contract with the Federal Government, other state~~
4 ~~departments and agencies, county and municipal governments and~~
5 ~~agencies, public and private agencies, and private individuals~~
6 ~~and corporations in carrying out the purposes of, and the~~
7 ~~responsibilities established in, this chapter.~~

8 ~~(a) When the Department of Juvenile Justice or the~~
9 ~~Department of Children and Family Services contracts with a~~
10 ~~provider for any program for children, all personnel,~~
11 ~~including owners, operators, employees, and volunteers, in the~~
12 ~~facility must be of good moral character. Each contract~~
13 ~~entered into by either department for services delivered on an~~
14 ~~appointment or intermittent basis by a provider that does not~~
15 ~~have regular custodial responsibility for children and each~~
16 ~~contract with a school for before or aftercare services must~~
17 ~~ensure that the owners, operators, and all personnel who have~~
18 ~~direct contact with children are of good moral character. A~~
19 ~~volunteer who assists on an intermittent basis for less than~~
20 ~~40 hours per month need not be screened if the volunteer is~~
21 ~~under direct and constant supervision by persons who meet the~~
22 ~~screening requirements.~~

23 ~~(b) The Department of Juvenile Justice and the~~
24 ~~Department of Children and Family Services shall require~~
25 ~~employment screening pursuant to chapter 435, using the level~~
26 ~~2 standards set forth in that chapter for personnel in~~
27 ~~programs for children or youths.~~

28 ~~(c) The Department of Juvenile Justice or the~~
29 ~~Department of Children and Family Services may grant~~
30 ~~exemptions from disqualification from working with children as~~
31 ~~provided in s. 435.07.~~

1 ~~(3)~~ It is the intent of the Legislature that this
2 chapter be liberally interpreted and construed in conformity
3 with its declared purposes.

4 Section 3. Paragraph (a) of subsection (4) of section
5 985.02, Florida Statutes, is amended and said section is
6 redesignated as section 985.002, Florida Statutes, which is
7 created to read:

8 985.002 ~~985.02~~ Legislative intent for the juvenile
9 justice system.--

10 (4) DETENTION.--

11 (a) The Legislature finds that there is a need for a
12 secure placement for certain children alleged to have
13 committed a delinquent act. The Legislature finds that secure
14 detention ~~under part II~~ should be used only when less
15 restrictive interim placement alternatives prior to
16 adjudication and disposition are not appropriate. The
17 Legislature further finds that decisions to detain should be
18 based in part on a prudent assessment of risk and be limited
19 to situations where there is clear and convincing evidence
20 that a child presents a risk of failing to appear or presents
21 a substantial risk of inflicting bodily harm on others as
22 evidenced by recent behavior; presents a history of committing
23 a serious property offense prior to adjudication, disposition,
24 or placement; has acted in direct or indirect contempt of
25 court; or requests protection from imminent bodily harm.

26 Section 4. Section 985.03, Florida Statutes, is
27 amended and redesignated as section 985.003, Florida Statutes,
28 which is created to read:

29 985.003 ~~985.03~~ Definitions.--When used in this
30 chapter, the term:

31

1 (1) "Addictions receiving facility" means a substance
2 abuse service provider as defined in chapter 397.

3 (2) "Adjudicatory hearing" means a hearing for the
4 court to determine whether or not the facts support the
5 allegations stated in the petition, as is provided for under
6 s. 985.228 in delinquency cases.

7 (3) "Adult" means any natural person other than a
8 child.

9 (4) "Arbitration" means a process whereby a neutral
10 third person or panel, called an arbitrator or an arbitration
11 panel, considers the facts and arguments presented by the
12 parties and renders a decision which may be binding or
13 nonbinding.

14 (5) "Authorized agent" or "designee" of the department
15 means a person or agency assigned or designated by the
16 Department of Juvenile Justice or the Department of Children
17 and Family Services, as appropriate, to perform duties or
18 exercise powers pursuant to this chapter and includes contract
19 providers and their employees for purposes of providing
20 services to and managing cases of children in need of services
21 and families in need of services.

22 (6) "Child" or "juvenile" or "youth" means any
23 unmarried person under the age of 18 who has not been
24 emancipated by order of the court and who has been found or
25 alleged to be dependent, in need of services, or from a family
26 in need of services; or any married or unmarried person who is
27 charged with a violation of law occurring prior to the time
28 that person reached the age of 18 years.

29 ~~(7) "Child eligible for an intensive residential~~
30 ~~treatment program for offenders less than 13 years of age"~~
31 ~~means a child who has been found to have committed a~~

1 ~~delinquent act or a violation of law in the case currently~~
2 ~~before the court and who meets at least one of the following~~
3 ~~criteria:~~

4 ~~(a) The child is less than 13 years of age at the time~~
5 ~~of the disposition for the current offense and has been~~
6 ~~adjudicated on the current offense for:~~

- 7 ~~1. Arson;~~
- 8 ~~2. Sexual battery;~~
- 9 ~~3. Robbery;~~
- 10 ~~4. Kidnapping;~~
- 11 ~~5. Aggravated child abuse;~~
- 12 ~~6. Aggravated assault;~~
- 13 ~~7. Aggravated stalking;~~
- 14 ~~8. Murder;~~
- 15 ~~9. Manslaughter;~~
- 16 ~~10. Unlawful throwing, placing, or discharging of a~~
17 ~~destructive device or bomb;~~
- 18 ~~11. Armed burglary;~~
- 19 ~~12. Aggravated battery;~~
- 20 ~~13. Any lewd or lascivious offense committed upon or~~
21 ~~in the presence of a person less than 16 years of age; or~~
- 22 ~~14. Carrying, displaying, using, threatening, or~~
23 ~~attempting to use a weapon or firearm during the commission of~~
24 ~~a felony.~~

25 ~~(b) The child is less than 13 years of age at the time~~
26 ~~of the disposition, the current offense is a felony, and the~~
27 ~~child has previously been committed at least once to a~~
28 ~~delinquency commitment program.~~

29 ~~(c) The child is less than 13 years of age and is~~
30 ~~currently committed for a felony offense and transferred from~~
31 ~~a moderate-risk or high-risk residential commitment placement.~~

1 ~~(8)~~ "Child in need of services" means a child for whom
2 there is no pending investigation into an allegation or
3 suspicion of abuse, neglect, or abandonment; no pending
4 referral alleging the child is delinquent; or no current
5 supervision by the Department of Juvenile Justice or the
6 Department of Children and Family Services for an adjudication
7 of dependency or delinquency. The child must also, pursuant to
8 this chapter, be found by the court:

9 (a) To have persistently run away from the child's
10 parents or legal custodians despite reasonable efforts of the
11 child, the parents or legal custodians, and appropriate
12 agencies to remedy the conditions contributing to the
13 behavior. Reasonable efforts shall include voluntary
14 participation by the child's parents or legal custodians and
15 the child in family mediation, services, and treatment offered
16 by the Department of Juvenile Justice or the Department of
17 Children and Family Services;

18 (b) To be habitually truant from school, while subject
19 to compulsory school attendance, despite reasonable efforts to
20 remedy the situation pursuant to ss. 1003.26 and 1003.27 and
21 through voluntary participation by the child's parents or
22 legal custodians and by the child in family mediation,
23 services, and treatment offered by the Department of Juvenile
24 Justice or the Department of Children and Family Services; or

25 (c) To have persistently disobeyed the reasonable and
26 lawful demands of the child's parents or legal custodians, and
27 to be beyond their control despite efforts by the child's
28 parents or legal custodians and appropriate agencies to remedy
29 the conditions contributing to the behavior. Reasonable
30 efforts may include such things as good faith participation in
31 family or individual counseling.

1 (8)~~(9)~~ "Child who has been found to have committed a
2 delinquent act" means a child who, pursuant to the provisions
3 of this chapter, is found by a court to have committed a
4 violation of law or to be in direct or indirect contempt of
5 court, except that this definition shall not include an act
6 constituting contempt of court arising out of a dependency
7 proceeding or a proceeding concerning a child or family in
8 need of services pursuant to part III of this chapter.

9 (9)~~(10)~~ "Child support" means a court-ordered
10 obligation, enforced under chapter 61 and ss.
11 409.2551-409.2597, for monetary support for the care,
12 maintenance, training, and education of a child.

13 (10)~~(11)~~ "Circuit" means any of the 20 judicial
14 circuits as set forth in s. 26.021.

15 (11)~~(12)~~ "Comprehensive assessment" or "assessment"
16 means the gathering of information for the evaluation of a
17 juvenile offender's or a child's physical, psychological,
18 educational, vocational, and social condition and family
19 environment as they relate to the child's need for
20 rehabilitative and treatment services, including substance
21 abuse treatment services, mental health services,
22 developmental services, literacy services, medical services,
23 family services, and other specialized services, as
24 appropriate.

25 (12)~~(13)~~ "Conditional release" means the care,
26 treatment, help, and supervision provided to a juvenile
27 released from a residential commitment program which is
28 intended to promote rehabilitation and prevent recidivism. The
29 purpose of conditional release is to protect the public,
30 reduce recidivism, increase responsible productive behavior,
31 and provide for a successful transition of the youth from the

1 department to the family. Conditional release includes, but is
2 not limited to, nonresidential community-based programs.

3 (13)~~(14)~~ "Court," unless otherwise expressly stated,
4 means the circuit court assigned to exercise jurisdiction
5 under this chapter.

6 (14)~~(15)~~(a) "Delinquency program" means any intake,
7 probation, or similar program; regional detention center or
8 facility; or community-based program, whether owned and
9 operated by or contracted by the Department of Juvenile
10 Justice, or institution owned and operated by or contracted by
11 the Department of Juvenile Justice, which provides intake,
12 supervision, or custody and care of children who are alleged
13 to be or who have been found to be delinquent pursuant to this
14 chapter ~~part II~~.

15 (b) "Delinquency program staff" means supervisory and
16 direct care staff of a delinquency program as well as support
17 staff who have direct contact with children in a delinquency
18 program.

19 (c) "Delinquency prevention programs" means programs
20 designed for the purpose of reducing the occurrence of
21 delinquency, including youth and street gang activity, and
22 juvenile arrests. The term excludes arbitration, diversionary
23 or mediation programs, and community service work or other
24 treatment available subsequent to a child committing a
25 delinquent act.

26 (15)~~(16)~~ "Department" means the Department of Juvenile
27 Justice.

28 (16)~~(17)~~ "Designated facility" or "designated
29 treatment facility" means any facility designated by the
30 Department of Juvenile Justice to provide treatment to
31 juvenile offenders.

1 (17)~~(18)~~ "Detention care" means the temporary care of
2 a child in secure, nonsecure, or home detention, pending a
3 court adjudication or disposition or execution of a court
4 order. There are three types of detention care, as follows:

5 (a) "Secure detention" means temporary custody of the
6 child while the child is under the physical restriction of a
7 detention center or facility pending adjudication,
8 disposition, or placement.

9 (b) "Nonsecure detention" means temporary custody of
10 the child while the child is in a residential home in the
11 community in a physically nonrestrictive environment under the
12 supervision of the Department of Juvenile Justice pending
13 adjudication, disposition, or placement.

14 (c) "Home detention" means temporary custody of the
15 child while the child is released to the custody of the
16 parent, guardian, or custodian in a physically nonrestrictive
17 environment under the supervision of the Department of
18 Juvenile Justice staff pending adjudication, disposition, or
19 placement.

20 ~~(19) "Detention center or facility" means a facility~~
21 ~~used pending court adjudication or disposition or execution of~~
22 ~~court order for the temporary care of a child alleged or found~~
23 ~~to have committed a violation of law. A detention center or~~
24 ~~facility may provide secure or nonsecure custody. A facility~~
25 ~~used for the commitment of adjudicated delinquents shall not~~
26 ~~be considered a detention center or facility.~~

27 (18)~~(20)~~ "Detention hearing" means a hearing for the
28 court to determine if a child should be placed in temporary
29 custody, as provided for under ss. 985.213 and 985.215 in
30 delinquency cases.

31

1 ~~(19)~~(21) "Disposition hearing" means a hearing in
2 which the court determines the most appropriate dispositional
3 services in the least restrictive available setting provided
4 for under s. 985.231, in delinquency cases.

5 ~~(20)~~(22) "Family" means a collective of persons,
6 consisting of a child and a parent, guardian, adult custodian,
7 or adult relative, in which:

8 (a) The persons reside in the same house or living
9 unit; or

10 (b) The parent, guardian, adult custodian, or adult
11 relative has a legal responsibility by blood, marriage, or
12 court order to support or care for the child.

13 ~~(21)~~(23) "Family in need of services" means a family
14 that has a child for whom there is no pending investigation
15 into an allegation of abuse, neglect, or abandonment or no
16 current supervision by the Department of Juvenile Justice or
17 the Department of Children and Family Services for an
18 adjudication of dependency or delinquency. The child must also
19 have been referred to a law enforcement agency or the
20 Department of Juvenile Justice for:

21 (a) Running away from parents or legal custodians;

22 (b) Persistently disobeying reasonable and lawful
23 demands of parents or legal custodians, and being beyond their
24 control; or

25 (c) Habitual truancy from school.

26 ~~(22)~~(24) "Foster care" means care provided a child in
27 a foster family or boarding home, group home, agency boarding
28 home, child care institution, or any combination thereof.

29 ~~(23)~~(25) "Habitually truant" means that:

30 (a) The child has 15 unexcused absences within 90
31 calendar days with or without the knowledge or justifiable

1 consent of the child's parent or legal guardian, is subject to
2 compulsory school attendance under s. 1003.21(1) and (2)(a),
3 and is not exempt under s. 1003.21(3), s. 1003.24, or any
4 other exemptions specified by law or the rules of the State
5 Board of Education.

6 (b) Escalating activities to determine the cause, and
7 to attempt the remediation, of the child's truant behavior
8 under ss. 1003.26 and 1003.27 have been completed.

9
10 If a child who is subject to compulsory school attendance is
11 responsive to the interventions described in ss. 1003.26 and
12 1003.27 and has completed the necessary requirements to pass
13 the current grade as indicated in the district pupil
14 progression plan, the child shall not be determined to be
15 habitually truant and shall be passed. If a child within the
16 compulsory school attendance age has 15 unexcused absences
17 within 90 calendar days or fails to enroll in school, the
18 state attorney may file a child-in-need-of-services petition.
19 Prior to filing a petition, the child must be referred to the
20 appropriate agency for evaluation. After consulting with the
21 evaluating agency, the state attorney may elect to file a
22 child-in-need-of-services petition.

23 (c) A school representative, designated according to
24 school board policy, and a juvenile probation officer of the
25 Department of Juvenile Justice have jointly investigated the
26 truancy problem or, if that was not feasible, have performed
27 separate investigations to identify conditions that could be
28 contributing to the truant behavior; and if, after a joint
29 staffing of the case to determine the necessity for services,
30 such services were determined to be needed, the persons who
31 performed the investigations met jointly with the family and

1 child to discuss any referral to appropriate community
2 agencies for economic services, family or individual
3 counseling, or other services required to remedy the
4 conditions that are contributing to the truant behavior.

5 (d) The failure or refusal of the parent or legal
6 guardian or the child to participate, or make a good faith
7 effort to participate, in the activities prescribed to remedy
8 the truant behavior, or the failure or refusal of the child to
9 return to school after participation in activities required by
10 this subsection, or the failure of the child to stop the
11 truant behavior after the school administration and the
12 Department of Juvenile Justice have worked with the child as
13 described in s. 1003.27(3) shall be handled as prescribed in
14 s. 1003.27.

15 (24)~~(26)~~ "Halfway house" means a community-based
16 residential program for 10 or more committed delinquents at
17 the moderate-risk commitment level which is operated or
18 contracted by the Department of Juvenile Justice.

19 (25)~~(27)~~ "Intake" means the initial acceptance and
20 screening by the Department of Juvenile Justice of a complaint
21 or a law enforcement report or probable cause affidavit of
22 delinquency, family in need of services, or child in need of
23 services to determine the recommendation to be taken in the
24 best interests of the child, the family, and the community.
25 The emphasis of intake is on diversion and the least
26 restrictive available services. Consequently, intake includes
27 such alternatives as:

28 (a) The disposition of the complaint, report, or
29 probable cause affidavit without court or public agency action
30 or judicial handling when appropriate.

31

1 (b) The referral of the child to another public or
2 private agency when appropriate.

3 (c) The recommendation by the juvenile probation
4 officer of judicial handling when appropriate and warranted.

5 (26)~~(28)~~ "Judge" means the circuit judge exercising
6 jurisdiction pursuant to this chapter.

7 (27)~~(29)~~ "Juvenile justice continuum" includes, but is
8 not limited to, delinquency prevention programs and services
9 designed for the purpose of preventing or reducing delinquent
10 acts, including criminal activity by youth gangs, and juvenile
11 arrests, as well as programs and services targeted at children
12 who have committed delinquent acts, and children who have
13 previously been committed to residential treatment programs
14 for delinquents. The term includes
15 children-in-need-of-services and families-in-need-of-services
16 programs; conditional release; substance abuse and mental
17 health programs; educational and vocational programs;
18 recreational programs; community services programs; community
19 service work programs; and alternative dispute resolution
20 programs serving children at risk of delinquency and their
21 families, whether offered or delivered by state or local
22 governmental entities, public or private for-profit or
23 not-for-profit organizations, or religious or charitable
24 organizations.

25 (28)~~(30)~~ "Juvenile probation officer" means the
26 authorized agent of the Department of Juvenile Justice who
27 performs the intake, case management, or supervision
28 functions.

29 ~~(31) "Juvenile sexual offender" means:~~

30 ~~(a) A juvenile who has been found by the court~~
31 ~~pursuant to s. 985.228 to have committed a violation of~~

1 ~~chapter 794, chapter 796, chapter 800, s. 827.071, or s.~~
2 ~~847.0133.~~

3 ~~(b) A juvenile found to have committed any felony~~
4 ~~violation of law or delinquent act involving juvenile sexual~~
5 ~~abuse. "Juvenile sexual abuse" means any sexual behavior which~~
6 ~~occurs without consent, without equality, or as a result of~~
7 ~~coercion. For purposes of this subsection, the following~~
8 ~~definitions apply:~~

9 ~~1. "Coercion" means the exploitation of authority, use~~
10 ~~of bribes, threats of force, or intimidation to gain~~
11 ~~cooperation or compliance.~~

12 ~~2. "Equality" means two participants operating with~~
13 ~~the same level of power in a relationship, neither being~~
14 ~~controlled nor coerced by the other.~~

15 ~~3. "Consent" means an agreement including all of the~~
16 ~~following:~~

17 ~~a. Understanding what is proposed based on age,~~
18 ~~maturity, developmental level, functioning, and experience.~~

19 ~~b. Knowledge of societal standards for what is being~~
20 ~~proposed.~~

21 ~~c. Awareness of potential consequences and~~
22 ~~alternatives.~~

23 ~~d. Assumption that agreement or disagreement will be~~
24 ~~accepted equally.~~

25 ~~e. Voluntary decision.~~

26 ~~f. Mental competence.~~

27
28 ~~Juvenile sexual offender behavior ranges from noncontact~~
29 ~~sexual behavior such as making obscene phone calls,~~
30 ~~exhibitionism, voyeurism, and the showing or taking of lewd~~
31 ~~photographs to varying degrees of direct sexual contact, such~~

1 ~~as frottage, fondling, digital penetration, rape, fellatio,~~
2 ~~sodomy, and various other sexually aggressive acts.~~

3 (29)~~(32)~~ "Legal custody or guardian" means a legal
4 status created by court order or letter of guardianship which
5 vests in a custodian of the person or guardian, whether an
6 agency or an individual, the right to have physical custody of
7 the child and the right and duty to protect, train, and
8 discipline the child and to provide him or her with food,
9 shelter, education, and ordinary medical, dental, psychiatric,
10 and psychological care.

11 (30)~~(33)~~ "Licensed child-caring agency" means a
12 person, society, association, or agency licensed by the
13 Department of Children and Family Services to care for,
14 receive, and board children.

15 (31)~~(34)~~ "Licensed health care professional" means a
16 physician licensed under chapter 458, an osteopathic physician
17 licensed under chapter 459, a nurse licensed under part I of
18 chapter 464, a physician assistant licensed under chapter 458
19 or chapter 459, or a dentist licensed under chapter 466.

20 (32)~~(35)~~ "Likely to injure oneself" means that, as
21 evidenced by violent or other actively self-destructive
22 behavior, it is more likely than not that within a 24-hour
23 period the child will attempt to commit suicide or inflict
24 serious bodily harm on himself or herself.

25 (33)~~(36)~~ "Likely to injure others" means that it is
26 more likely than not that within a 24-hour period the child
27 will inflict serious and unjustified bodily harm on another
28 person.

29 (34)~~(37)~~ "Mediation" means a process whereby a neutral
30 third person called a mediator acts to encourage and
31 facilitate the resolution of a dispute between two or more

1 parties. It is an informal and nonadversarial process with the
2 objective of helping the disputing parties reach a mutually
3 acceptable and voluntary agreement. In mediation,
4 decisionmaking authority rests with the parties. The role of
5 the mediator includes, but is not limited to, assisting the
6 parties in identifying issues, fostering joint problem
7 solving, and exploring settlement alternatives.

8 (35)~~(38)~~ "Necessary medical treatment" means care
9 which is necessary within a reasonable degree of medical
10 certainty to prevent the deterioration of a child's condition
11 or to alleviate immediate pain of a child.

12 (36)~~(39)~~ "Next of kin" means an adult relative of a
13 child who is the child's brother, sister, grandparent, aunt,
14 uncle, or first cousin.

15 (37)~~(40)~~ "Parent" means a woman who gives birth to a
16 child and a man whose consent to the adoption of the child
17 would be required under s. 63.062(1). If a child has been
18 legally adopted, the term "parent" means the adoptive mother
19 or father of the child. The term does not include an
20 individual whose parental relationship to the child has been
21 legally terminated, or an alleged or prospective parent,
22 unless the parental status falls within the terms of either s.
23 39.503(1) or s. 63.062(1).

24 (38)~~(41)~~ "Preliminary screening" means the gathering
25 of preliminary information to be used in determining a child's
26 need for further evaluation or assessment or for referral for
27 other substance abuse services through means such as
28 psychosocial interviews; urine and breathalyzer screenings;
29 and reviews of available educational, delinquency, and
30 dependency records of the child.

31

1 (39)~~(42)~~ "Preventive services" means social services
2 and other supportive and rehabilitative services provided to
3 the parent of the child, the legal guardian of the child, or
4 the custodian of the child and to the child for the purpose of
5 averting the removal of the child from the home or disruption
6 of a family which will or could result in the placement of a
7 child in foster care. Social services and other supportive and
8 rehabilitative services shall promote the child's need for a
9 safe, continuous, stable living environment and shall promote
10 family autonomy and shall strengthen family life as the first
11 priority whenever possible.

12 (40)~~(43)~~ "Probation" means the legal status of
13 probation created by law and court order in cases involving a
14 child who has been found to have committed a delinquent act.
15 Probation is an individualized program in which the freedom of
16 the child is limited and the child is restricted to
17 noninstitutional quarters or restricted to the child's home in
18 lieu of commitment to the custody of the Department of
19 Juvenile Justice. Youth on probation may be assessed and
20 classified for placement in day-treatment probation programs
21 designed for youth who represent a minimum risk to themselves
22 and public safety and do not require placement and services in
23 a residential setting. Program types in this more intensive
24 and structured day-treatment probation option include
25 vocational programs, marine programs, juvenile justice
26 alternative schools, training and rehabilitation programs, and
27 gender-specific programs.

28 (41)~~(44)~~ "Relative" means a grandparent,
29 great-grandparent, sibling, first cousin, aunt, uncle,
30 great-aunt, great-uncle, niece, or nephew, whether related by
31

1 the whole or half blood, by affinity, or by adoption. The term
2 does not include a stepparent.

3 (42)~~(45)~~ "Residential commitment level" means the
4 level of security provided by programs that service the
5 supervision, custody, care, and treatment needs of committed
6 children. Sections 985.3141 and 985.404(11) apply to children
7 placed in programs at any residential commitment level. The
8 levels of residential commitment are as follows:

9 (a) Low-risk residential.--Programs or program models
10 at this commitment level are residential but may allow youth
11 to have unsupervised access to the community. Youth assessed
12 and classified for placement in programs at this commitment
13 level represent a low risk to themselves and public safety but
14 do require placement and services in residential settings.
15 Children who have been found to have committed delinquent acts
16 that involve firearms, delinquent acts that are sexual
17 offenses, or delinquent acts that would be life felonies or
18 first degree felonies if committed by an adult shall not be
19 committed to a program at this level.

20 (b) Moderate-risk residential.--Programs or program
21 models at this commitment level are residential but may allow
22 youth to have supervised access to the community. Facilities
23 are either environmentally secure, staff secure, or are
24 hardware-secure with walls, fencing, or locking doors.
25 Facilities shall provide 24-hour awake supervision, custody,
26 care, and treatment of residents. Youth assessed and
27 classified for placement in programs at this commitment level
28 represent a moderate risk to public safety and require close
29 supervision. The staff at a facility at this commitment level
30 may seclude a child who is a physical threat to himself or
31

1 herself or others. Mechanical restraint may also be used when
2 necessary.

3 (c) High-risk residential.--Programs or program models
4 at this commitment level are residential and shall not allow
5 youth to have access to the community. Facilities are
6 hardware-secure with perimeter fencing and locking doors.
7 Facilities shall provide 24-hour awake supervision, custody,
8 care, and treatment of residents. Youth assessed and
9 classified for this level of placement require close
10 supervision in a structured residential setting. Placement in
11 programs at this level is prompted by a concern for public
12 safety that outweighs placement in programs at lower
13 commitment levels. The staff at a facility at this commitment
14 level may seclude a child who is a physical threat to himself
15 or herself or others. Mechanical restraint may also be used
16 when necessary. The facility may provide for single cell
17 occupancy.

18 (d) Maximum-risk residential.--Programs or program
19 models at this commitment level include juvenile correctional
20 facilities and juvenile prisons. The programs are long-term
21 residential and shall not allow youth to have access to the
22 community. Facilities are maximum-custody hardware-secure with
23 perimeter security fencing and locking doors. Facilities shall
24 provide 24-hour awake supervision, custody, care, and
25 treatment of residents. The staff at a facility at this
26 commitment level may seclude a child who is a physical threat
27 to himself or herself or others. Mechanical restraint may also
28 be used when necessary. The facility shall provide for single
29 cell occupancy, except that youth may be housed together
30 during prerelease transition. Youth assessed and classified
31 for this level of placement require close supervision in a

1 maximum security residential setting. Placement in a program
2 at this level is prompted by a demonstrated need to protect
3 the public.

4 (43)~~(46)~~ "Respite" means a placement that is available
5 for the care, custody, and placement of a youth charged with
6 domestic violence as an alternative to secure detention or for
7 placement of a youth when a shelter bed for a child in need of
8 services or a family in need of services is unavailable.

9 (44)~~(47)~~ "Secure detention center or facility" means a
10 physically restricting facility for the temporary care of
11 children, pending adjudication, disposition, or placement.

12 ~~(48) "Serious or habitual juvenile offender," for~~
13 ~~purposes of commitment to a residential facility and for~~
14 ~~purposes of records retention, means a child who has been~~
15 ~~found to have committed a delinquent act or a violation of~~
16 ~~law, in the case currently before the court, and who meets at~~
17 ~~least one of the following criteria:~~

18 ~~(a) The youth is at least 13 years of age at the time~~
19 ~~of the disposition for the current offense and has been~~
20 ~~adjudicated on the current offense for:~~

- 21 ~~1. Arson;~~
- 22 ~~2. Sexual battery;~~
- 23 ~~3. Robbery;~~
- 24 ~~4. Kidnapping;~~
- 25 ~~5. Aggravated child abuse;~~
- 26 ~~6. Aggravated assault;~~
- 27 ~~7. Aggravated stalking;~~
- 28 ~~8. Murder;~~
- 29 ~~9. Manslaughter;~~
- 30 ~~10. Unlawful throwing, placing, or discharging of a~~
31 ~~destructive device or bomb;~~

1 ~~11. Armed burglary;~~
2 ~~12. Aggravated battery;~~
3 ~~13. Any lewd or lascivious offense committed upon or~~
4 ~~in the presence of a person less than 16 years of age; or~~
5 ~~14. Carrying, displaying, using, threatening, or~~
6 ~~attempting to use a weapon or firearm during the commission of~~
7 ~~a felony.~~
8 ~~(b) The youth is at least 13 years of age at the time~~
9 ~~of the disposition, the current offense is a felony, and the~~
10 ~~child has previously been committed at least two times to a~~
11 ~~delinquency commitment program.~~
12 ~~(c) The youth is at least 13 years of age and is~~
13 ~~currently committed for a felony offense and transferred from~~
14 ~~a moderate-risk or high-risk residential commitment placement.~~
15 ~~(49) "Serious or habitual juvenile offender program"~~
16 ~~means the program established in s. 985.31.~~
17 (45)~~(50)~~ "Shelter" means a place for the temporary
18 care of a child who is alleged to be or who has been found to
19 be delinquent.
20 (46)~~(51)~~ "Shelter hearing" means a hearing provided
21 for under s. 984.14 in family-in-need-of-services cases or
22 child-in-need-of-services cases.
23 (47)~~(52)~~ "Staff-secure shelter" means a facility in
24 which a child is supervised 24 hours a day by staff members
25 who are awake while on duty. The facility is for the temporary
26 care and assessment of a child who has been found to be
27 dependent, who has violated a court order and been found in
28 contempt of court, or whom the Department of Children and
29 Family Services is unable to properly assess or place for
30 assistance within the continuum of services provided for
31 dependent children.

1 (48)~~(53)~~ "Substance abuse" means using, without
2 medical reason, any psychoactive or mood-altering drug,
3 including alcohol, in such a manner as to induce impairment
4 resulting in dysfunctional social behavior.

5 (49)~~(54)~~ "Taken into custody" means the status of a
6 child immediately when temporary physical control over the
7 child is attained by a person authorized by law, pending the
8 child's release, detention, placement, or other disposition as
9 authorized by law.

10 (50)~~(55)~~ "Temporary legal custody" means the
11 relationship that a juvenile court creates between a child and
12 an adult relative of the child, adult nonrelative approved by
13 the court, or other person until a more permanent arrangement
14 is ordered. Temporary legal custody confers upon the custodian
15 the right to have temporary physical custody of the child and
16 the right and duty to protect, train, and discipline the child
17 and to provide the child with food, shelter, and education,
18 and ordinary medical, dental, psychiatric, and psychological
19 care, unless these rights and duties are otherwise enlarged or
20 limited by the court order establishing the temporary legal
21 custody relationship.

22 (51)~~(56)~~ "Temporary release" means the terms and
23 conditions under which a child is temporarily released from a
24 commitment facility or allowed home visits. If the temporary
25 release is from a moderate-risk residential facility, a
26 high-risk residential facility, or a maximum-risk residential
27 facility, the terms and conditions of the temporary release
28 must be approved by the child, the court, and the facility.
29 The term includes periods during which the child is supervised
30 pursuant to a conditional release program or a period during
31 which the child is supervised by a juvenile probation officer

1 or other nonresidential staff of the department or staff
2 employed by an entity under contract with the department.

3 (52)~~(57)~~ "Training school" means one of the following
4 facilities: the Arthur G. Dozier School or the Eckerd Youth
5 Development Center.

6 (53)~~(58)~~ "Violation of law" or "delinquent act" means
7 a violation of any law of this state, the United States, or
8 any other state which is a misdemeanor or a felony or a
9 violation of a county or municipal ordinance which would be
10 punishable by incarceration if the violation were committed by
11 an adult.

12 (54)~~(59)~~ "Waiver hearing" means a hearing provided for
13 under s. 985.226(3).

14 Section 5. Section 985.201, Florida Statutes, is
15 amended and redesignated as section 985.0201, Florida
16 Statutes, and present subsection (8) of section 985.219,
17 Florida Statutes, is redesignated as subsection (2) of section
18 985.0201, Florida Statutes, which is created to read:

19 985.0201 ~~985.201~~ Jurisdiction.--

20 (1) The circuit court has exclusive original
21 jurisdiction of proceedings in which a child is alleged to
22 have committed a delinquent act or violation of law.

23 (2)~~(8)~~ The jurisdiction of the court shall attach to
24 the child and the case when the summons is served upon the
25 child and a parent or legal or actual custodian or guardian of
26 the child, or when the child is taken into custody with or
27 without service of summons and before or after the filing of a
28 petition, whichever first occurs, and thereafter the court may
29 control the child and the case in accordance with this chapter
30 part.

31

1 (3)~~(2)~~ During the prosecution of any violation of law
2 against any person who has been presumed to be an adult, if it
3 is shown that the person was a child at the time the offense
4 was committed and that the person does not meet the criteria
5 for prosecution and sentencing as an adult, the court shall
6 immediately transfer the case, together with the physical
7 custody of the person and all physical evidence, papers,
8 documents, and testimony, original and duplicate, connected
9 therewith, to the appropriate court for proceedings under this
10 chapter. The circuit court is exclusively authorized to assume
11 jurisdiction over any juvenile offender who is arrested and
12 charged with violating a federal law or a law of the District
13 of Columbia, who is found or is living or domiciled in a
14 county in which the circuit court is established, and who is
15 surrendered to the circuit court as provided in 18 U.S.C. s.
16 5001.

17 (4)~~(3)~~(a) Petitions alleging delinquency ~~filed under~~
18 ~~this part~~ shall be filed in the county where the delinquent
19 act or violation of law occurred, but the circuit court for
20 that county may transfer the case to the circuit court of the
21 circuit in which the child resides or will reside at the time
22 of detention or placement for dispositional purposes. A child
23 who has been detained shall be transferred to the appropriate
24 detention center or facility or other placement directed by
25 the receiving court.

26 (b) The jurisdiction to be exercised by the court when
27 a child is taken into custody before the filing of a petition
28 under subsection (2)~~s. 985.219(8)~~ shall be exercised by the
29 circuit court for the county in which the child is taken into
30 custody, which court shall have personal jurisdiction of the
31 child and the child's parent or legal guardian. Upon the

1 filing of a petition in the appropriate circuit court, the
2 court that is exercising initial jurisdiction of the person of
3 the child shall, if the child has been detained, immediately
4 order the child to be transferred to the detention center or
5 facility or other placement as ordered by the court having
6 subject matter jurisdiction of the case.

7 (5)~~(4)~~(a) Notwithstanding ss. 743.07, 985.229, 985.23,
8 and 985.231, and except as provided in ss. 985.31 and
9 paragraph (f) ~~985.313~~, when the jurisdiction of any child who
10 is alleged to have committed a delinquent act or violation of
11 law is obtained, the court shall retain jurisdiction, unless
12 relinquished by its order, until the child reaches 19 years of
13 age, with the same power over the child that the court had
14 prior to the child becoming an adult.

15 (b) Notwithstanding ss. 743.07 and 985.231(1)(d), and
16 except as provided in s. 985.31, the term of any order placing
17 a child in a probation program must be until the child's 19th
18 birthday unless he or she is released by the court, on the
19 motion of an interested party or on its own motion.

20 (c) Notwithstanding ss. 743.07 and 985.231(1)(d), and
21 except as provided in s. 985.31, the term of the commitment
22 must be until the child is discharged by the department or
23 until he or she reaches the age of 21.

24 ~~(d)(b)1.~~ The court may retain jurisdiction over a
25 child committed to the department for placement in a juvenile
26 prison or in a high-risk or maximum-risk residential
27 commitment program to allow the child to participate in a
28 juvenile conditional release program pursuant to s. 985.316.
29 In no case shall the jurisdiction of the court be retained
30 beyond the child's 22nd birthday. However, if the child is not
31

1 successful in the conditional release program, the department
2 may use the transfer procedure under s. 985.404.

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

18 (f) The court may retain jurisdiction over a child
19 committed to a juvenile correctional facility or a juvenile
20 prison until the child reaches the age of 21 years,
21 specifically for the purpose of allowing the child to complete
22 such program.

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

1 (h)~~(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 6. Section 985.202, Florida Statutes, is
6 redesignated as section 985.0202, Florida Statutes.

7 Section 7. Subsection (1) of section 985.203, Florida
8 Statutes, is amended and said section is redesignated as
9 section 985.0203, Florida Statutes, which is created to read:

10 985.0203 ~~985.203~~ Right to counsel.--

11 (1) A child is entitled to representation by legal
12 counsel at all stages of any proceedings under this chapter
13 ~~part~~. If the child and the parents or other legal guardian are
14 indigent and unable to employ counsel for the child, the court
15 shall appoint counsel pursuant to s. 27.52. Determination of
16 indigency and costs of representation shall be as provided by
17 ss. 27.52 and 938.29. Legal counsel representing a child who
18 exercises the right to counsel shall be allowed to provide
19 advice and counsel to the child at any time subsequent to the
20 child's arrest, including prior to a detention hearing while
21 in secure detention care. A child shall be represented by
22 legal counsel at all stages of all court proceedings unless
23 the right to counsel is freely, knowingly, and intelligently
24 waived by the child. If the child appears without counsel, the
25 court shall advise the child of his or her rights with respect
26 to representation of court-appointed counsel.

27 Section 8. Effective July 1, 2004, section 985.203,
28 Florida Statutes, as amended by chapter 2003-402, Laws of
29 Florida, is redesignated as section 985.0203, Florida Statutes
30 and subsection (1) of said section is amended to read:

31 985.0203 ~~985.203~~ Right to counsel.--

1 (1) A child is entitled to representation by legal
2 counsel at all stages of any proceedings under this chapter
3 ~~part~~. If the child and the parents or other legal guardian are
4 indigent and unable to employ counsel for the child, the court
5 shall appoint counsel pursuant to s. 27.52. Determination of
6 indigence and costs of representation shall be as provided by
7 ss. 27.52 and 938.29. Legal counsel representing a child who
8 exercises the right to counsel shall be allowed to provide
9 advice and counsel to the child at any time subsequent to the
10 child's arrest, including prior to a detention hearing while
11 in secure detention care. A child shall be represented by
12 legal counsel at all stages of all court proceedings unless
13 the right to counsel is freely, knowingly, and intelligently
14 waived by the child. If the child appears without counsel, the
15 court shall advise the child of his or her rights with respect
16 to representation of court-appointed counsel.

17 Section 9. Section 985.205, Florida Statutes, is
18 redesignated as section 985.0205, Florida Statutes.

19 Section 10. Section 985.206, Florida Statutes, is
20 amended and redesignated as section 985.0206, Florida
21 Statutes, which is created to read:

22 985.0206 ~~985.206~~ Rights of victims; juvenile
23 proceedings.--

24 (1) Nothing in this chapter prohibits:

25 (a)~~(1)~~ The victim of the offense;

26 (b)~~(2)~~ The victim's parent or guardian if the victim
27 is a minor;

28 (c)~~(3)~~ The lawful representative of the victim or of
29 the victim's parent or guardian if the victim is a minor; or

30 (d)~~(4)~~ The next of kin if the victim is a homicide
31 victim,

1
2 from the right to be informed of, to be present during, and to
3 be heard when relevant at, all crucial stages of the
4 proceedings involving the juvenile offender, to the extent
5 that such rights do not interfere with the constitutional
6 rights of the juvenile offender. A person enumerated in this
7 section may not reveal to any outside party any confidential
8 information obtained pursuant to this paragraph regarding a
9 case involving a juvenile offense, except as is reasonably
10 necessary to pursue legal remedies.

11 (2) A law enforcement agency may release a copy of
12 the juvenile offense report to the victim of the offense.
13 However, information gained by the victim pursuant to this
14 chapter, including the next of kin of a homicide victim,
15 regarding any case handled in juvenile court, must not be
16 revealed to any outside party, except as is reasonably
17 necessary in pursuit of legal remedies.

18 Section 11. Subsection (2) and paragraph (b) of
19 subsection (4) of section 985.216, Florida Statutes, are
20 amended and said section is redesignated as section 985.0216,
21 Florida Statutes, which is created to read:

22 985.0216 ~~985.216~~ Punishment for contempt of court;
23 alternative sanctions.--

24 (2) PLACEMENT IN A SECURE FACILITY.--A child may be
25 placed in a secure facility for purposes of punishment for
26 contempt of court if alternative sanctions are unavailable or
27 inappropriate, or if the child has already been ordered to
28 serve an alternative sanction but failed to comply with the
29 sanction.

30 ~~(a)~~ A delinquent child who has been held in direct or
31 indirect contempt may be placed in a secure detention facility

1 not to exceed 5 days for a first offense and not to exceed 15
2 days for a second or subsequent offense.

3 ~~(b) A child in need of services who has been held in~~
4 ~~direct contempt or indirect contempt may be placed, not to~~
5 ~~exceed 5 days for a first offense and not to exceed 15 days~~
6 ~~for a second or subsequent offense, in a staff-secure shelter~~
7 ~~or a staff-secure residential facility solely for children in~~
8 ~~need of services if such placement is available, or, if such~~
9 ~~placement is not available, the child may be placed in an~~
10 ~~appropriate mental health facility or substance abuse facility~~
11 ~~for assessment. In addition to disposition under this~~
12 ~~paragraph, a child in need of services who is held in direct~~
13 ~~contempt or indirect contempt may be placed in a physically~~
14 ~~secure facility as provided under s. 984.226 if conditions of~~
15 ~~eligibility are met.~~

16 (4) CONTEMPT OF COURT SANCTIONS; PROCEDURE AND DUE
17 PROCESS.--

18 (b) If a child is charged with indirect contempt of
19 court, the court must hold a hearing within 24 hours to
20 determine whether the child committed indirect contempt of a
21 valid court order. At the hearing, the following due process
22 rights must be provided to the child:

23 1. Right to a copy of the order to show cause alleging
24 facts supporting the contempt charge.

25 2. Right to an explanation of the nature and the
26 consequences of the proceedings.

27 3. Right to legal counsel and the right to have legal
28 counsel appointed by the court if the juvenile is indigent,
29 pursuant to s. 985.0203 ~~985.203~~.

30 4. Right to confront witnesses.

31 5. Right to present witnesses.

1 6. Right to have a transcript or record of the
2 proceeding.

3 7. Right to appeal to an appropriate court.
4

5 The child's parent or guardian may address the court regarding
6 the due process rights of the child. The court shall review
7 the placement of the child every 72 hours to determine whether
8 it is appropriate for the child to remain in the facility.

9 Section 12. Section 985.04, Florida Statutes, is
10 amended and redesignated as section 985.2104, Florida
11 Statutes, which is created to read:

12 985.2104 ~~985.04~~ Oaths; records; confidential
13 information.--

14 ~~(5)(1)~~ Authorized agents of the Department of Juvenile
15 Justice may administer oaths and affirmations.

16 ~~(6)(2)~~ Records maintained by the Department of
17 Juvenile Justice, including copies of records maintained by
18 the court, which pertain to a child found to have committed a
19 delinquent act which, if committed by an adult, would be a
20 crime specified in ss. 435.03 and 435.04 may not be destroyed
21 pursuant to this section for a period of 25 years after the
22 youth's final referral to the department, except in cases of
23 the death of the child. Such records, however, shall be sealed
24 by the court for use only in meeting the screening
25 requirements for personnel in s. 402.3055 and the other
26 sections cited above, or pursuant to departmental rule;
27 however, current criminal history information must be obtained
28 from the Department of Law Enforcement in accordance with s.
29 943.053. The information shall be released to those persons
30 specified in the above cited sections for the purposes of
31 complying with those sections. The court may punish by

1 contempt any person who releases or uses the records for any
2 unauthorized purpose.
3 (1)~~(3)(a)~~ Except as provided in subsections (2), (3),
4 ~~(4)~~, ~~(5)~~, and (6), and (7) and s. 943.053, all information
5 obtained under this chapter ~~part~~ in the discharge of official
6 duty by any judge, any employee of the court, any authorized
7 agent of the Department of Juvenile Justice, the Parole
8 Commission, the Department of Corrections, the juvenile
9 justice circuit boards, any law enforcement agent, or any
10 licensed professional or licensed community agency
11 representative participating in the assessment or treatment of
12 a juvenile is confidential and may be disclosed only to the
13 authorized personnel of the court, the Department of Juvenile
14 Justice and its designees, the Department of Corrections, the
15 Parole Commission, law enforcement agents, school
16 superintendents and their designees, any licensed professional
17 or licensed community agency representative participating in
18 the assessment or treatment of a juvenile, and others entitled
19 under this chapter to receive that information, or upon order
20 of the court. Within each county, the sheriff, the chiefs of
21 police, the district school superintendent, and the department
22 shall enter into an interagency agreement for the purpose of
23 sharing information about juvenile offenders among all
24 parties. The agreement must specify the conditions under which
25 summary criminal history information is to be made available
26 to appropriate school personnel, and the conditions under
27 which school records are to be made available to appropriate
28 department personnel. Such agreement shall require
29 notification to any classroom teacher of assignment to the
30 teacher's classroom of a juvenile who has been placed in a
31 probation or commitment program for a felony offense. The

1 agencies entering into such agreement must comply with s.
2 943.0525, and must maintain the confidentiality of information
3 that is otherwise exempt from s. 119.07(1), as provided by
4 law.

5 ~~(b) The department shall disclose to the school~~
6 ~~superintendent the presence of any child in the care and~~
7 ~~custody or under the jurisdiction or supervision of the~~
8 ~~department who has a known history of criminal sexual behavior~~
9 ~~with other juveniles; is an alleged juvenile sex offender, as~~
10 ~~defined in s. 39.01; or has pled guilty or nolo contendere to,~~
11 ~~or has been found to have committed, a violation of chapter~~
12 ~~794, chapter 796, chapter 800, s. 827.071, or s. 847.0133,~~
13 ~~regardless of adjudication. Any employee of a district school~~
14 ~~board who knowingly and willfully discloses such information~~
15 ~~to an unauthorized person commits a misdemeanor of the second~~
16 ~~degree, punishable as provided in s. 775.082 or s. 775.083.~~

17 (7)~~(4)~~(a) Records in the custody of the Department of
18 Juvenile Justice regarding children are not open to inspection
19 by the public. Such records may be inspected only upon order
20 of the Secretary of Juvenile Justice or his or her authorized
21 agent by persons who have sufficient reason and upon such
22 conditions for their use and disposition as the secretary or
23 his or her authorized agent deems proper. The information in
24 such records may be disclosed only to other employees of the
25 Department of Juvenile Justice who have a need therefor in
26 order to perform their official duty; to other persons as
27 authorized by rule of the Department of Juvenile Justice; and,
28 upon request, to the Department of Corrections. The secretary
29 or his or her authorized agent may permit properly qualified
30 persons to inspect and make abstracts from records for
31 statistical purposes under whatever conditions upon their use

1 and disposition the secretary or his or her authorized agent
2 deems proper, provided adequate assurances are given that
3 children's names and other identifying information will not be
4 disclosed by the applicant.

5 (b) The destruction of records pertaining to children
6 committed to or supervised by the Department of Juvenile
7 Justice pursuant to a court order, which records are retained
8 until a child reaches the age of 24 years or until a serious
9 or habitual delinquent child reaches the age of 26 years,
10 shall be subject to chapter 943.

11 (2)~~(5)~~ Notwithstanding any other provisions of this
12 chapter part, the name, photograph, address, and crime or
13 arrest report of a child:

14 (a) Taken into custody if the child has been taken
15 into custody by a law enforcement officer for a violation of
16 law which, if committed by an adult, would be a felony;

17 (b) Found by a court to have committed three or more
18 violations of law which, if committed by an adult, would be
19 misdemeanors;

20 (c) Transferred to the adult system pursuant to s.
21 985.227, indicted pursuant to s. 985.225, or waived pursuant
22 to s. 985.226;

23 (d) Taken into custody by a law enforcement officer
24 for a violation of law subject to the provisions of s.
25 985.227(2)(b) or (d); or

26 (e) Transferred to the adult system but sentenced to
27 the juvenile system pursuant to s. 985.233

28
29 shall not be considered confidential and exempt from the
30 provisions of s. 119.07(1) solely because of the child's age.

31

1 ~~(3)(6)~~ A law enforcement agency may release a copy
2 ~~This part does not prohibit the release~~ of the juvenile
3 offense report ~~by a law enforcement agency~~ to the victim of
4 the offense. However, information gained by the victim
5 pursuant to this chapter, including the next of kin of a
6 homicide victim, regarding any case handled in juvenile court,
7 must not be revealed to any outside party, except as is
8 reasonably necessary in pursuit of legal remedies.

9 ~~(4)(7)~~(a) Notwithstanding any other provision of this
10 section, when a child of any age is taken into custody by a
11 law enforcement officer for an offense that would have been a
12 felony if committed by an adult, or a crime of violence, the
13 law enforcement agency must notify the superintendent of
14 schools that the child is alleged to have committed the
15 delinquent act.

16 (b) Notwithstanding paragraph (a) or any other
17 provision of this section, when a child of any age is formally
18 charged by a state attorney with a felony or a delinquent act
19 that would be a felony if committed by an adult, the state
20 attorney shall notify the superintendent of the child's school
21 that the child has been charged with such felony or delinquent
22 act. The information obtained by the superintendent of schools
23 pursuant to this section must be released within 48 hours
24 after receipt to appropriate school personnel, including the
25 principal of the school of the child. The principal must
26 immediately notify the child's immediate classroom teachers.
27 Upon notification, the principal is authorized to begin
28 disciplinary actions pursuant to s. 1006.09(1)-(4).

29 ~~(c)~~ The department shall disclose to the school
30 superintendent the presence of any child in the care and
31 custody or under the jurisdiction or supervision of the

1 department who has a known history of criminal sexual behavior
2 with other juveniles; is an alleged juvenile sex offender, as
3 defined in s. 39.01; or has pled guilty or nolo contendere to,
4 or has been found to have committed, a violation of chapter
5 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133,
6 regardless of adjudication. Any employee of a district school
7 board who knowingly and willfully discloses such information
8 to an unauthorized person commits a misdemeanor of the second
9 degree, punishable as provided in s. 775.082 or s. 775.083.

10 (8) Criminal history information made available to
11 governmental agencies by the Department of Law Enforcement or
12 other criminal justice agencies shall not be used for any
13 purpose other than that specified in the provision authorizing
14 the releases.

15 Section 13. Section 985.05, Florida Statutes is
16 amended and redesignated as section 985.2105, Florida
17 Statutes, which is created to read:

18 985.2105 ~~985.05~~ Court records.--

19 (1) The clerk of the court shall make and keep records
20 of all cases brought before it pursuant to this chapter part.
21 The court shall preserve the records pertaining to a child
22 charged with committing a delinquent act or violation of law
23 until the child reaches 24 years of age or reaches 26 years of
24 age if he or she is a serious or habitual delinquent child,
25 until 5 years after the last entry was made, or until 3 years
26 after the death of the child, whichever is earlier, and may
27 then destroy them, except that records made of traffic
28 offenses in which there is no allegation of delinquency may be
29 destroyed as soon as this can be reasonably accomplished. The
30 court shall make official records of all petitions and orders
31 filed in a case arising pursuant to this chapter part and of

1 any other pleadings, certificates, proofs of publication,
2 summonses, warrants, and writs that are filed pursuant to the
3 case.

4 (2) The clerk shall keep all official records required
5 by this section separate from other records of the circuit
6 court, except those records pertaining to motor vehicle
7 violations, which shall be forwarded to the Department of
8 Highway Safety and Motor Vehicles. Except as provided in ss.
9 943.053 and 985.2104(7)~~985.04(4)~~, official records required
10 by this chapter ~~part~~ are not open to inspection by the public,
11 but may be inspected only upon order of the court by persons
12 deemed by the court to have a proper interest therein, except
13 that a child and the parents, guardians, or legal custodians
14 of the child and their attorneys, law enforcement agencies,
15 the Department of Juvenile Justice and its designees, the
16 Parole Commission, and the Department of Corrections shall
17 always have the right to inspect and copy any official record
18 pertaining to the child. The court may permit authorized
19 representatives of recognized organizations compiling
20 statistics for proper purposes to inspect, and make abstracts
21 from, official records under whatever conditions upon the use
22 and disposition of such records the court may deem proper and
23 may punish by contempt proceedings any violation of those
24 conditions.

25 (3) All orders of the court entered pursuant to this
26 chapter ~~part~~ must be in writing and signed by the judge,
27 except that the clerk or deputy clerk may sign a summons or
28 notice to appear.

29 (4) A court record of proceedings under this chapter
30 ~~part~~ is not admissible in evidence in any other civil or
31 criminal proceeding, except that:

1 (a) Orders transferring a child for trial as an adult
2 are admissible in evidence in the court in which he or she is
3 tried, but create no presumption as to the guilt of the child;
4 nor may such orders be read to, or commented upon in the
5 presence of, the jury in any trial.

6 (b) Orders binding an adult over for trial on a
7 criminal charge, made by the judge as a committing magistrate,
8 are admissible in evidence in the court to which the adult is
9 bound over.

10 (c) Records of proceedings under this chapter part
11 forming a part of the record on appeal must be used in the
12 appellate court in the manner provided in s. 985.234.

13 (d) Records are admissible in evidence in any case in
14 which a person is being tried upon a charge of having
15 committed perjury, to the extent such records are necessary to
16 prove the charge.

17 (e) Records of proceedings under this chapter part may
18 be used to prove disqualification pursuant to ss. 110.1127,
19 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175,
20 409.176, and 985.407.

21 Section 14. Sections 985.06 and 985.08, Florida
22 Statutes, are redesignated, respectively, as sections 985.2106
23 and 985.2108, Florida Statutes.

24 Section 15. Section 985.207, Florida Statutes, is
25 amended and redesignated as section 985.3207, Florida
26 Statutes, and present subsection (3) of section 985.215,
27 Florida Statutes, is redesignated as subsection (2) of section
28 985.3207, Florida Statutes, which is created to read:

29 985.3207 ~~985.207~~ Taking a child into custody.--

30 (1) A child may be taken into custody under the
31 following circumstances:

1 (a) Pursuant to an order of the circuit court issued
2 under this chapter ~~part~~, based upon sworn testimony, either
3 before or after a petition is filed.

4 (b) For a delinquent act or violation of law, pursuant
5 to Florida law pertaining to a lawful arrest. If such
6 delinquent act or violation of law would be a felony if
7 committed by an adult or involves a crime of violence, the
8 arresting authority shall immediately notify the district
9 school superintendent, or the superintendent's designee, of
10 the school district with educational jurisdiction of the
11 child. Such notification shall include other education
12 providers such as the Florida School for the Deaf and the
13 Blind, university developmental research schools, and private
14 elementary and secondary schools. The information obtained by
15 the superintendent of schools pursuant to this section must be
16 released within 48 hours after receipt to appropriate school
17 personnel, including the principal of the child's school, or
18 as otherwise provided by law. The principal must immediately
19 notify the child's immediate classroom teachers. Information
20 provided by an arresting authority pursuant to this paragraph
21 may not be placed in the student's permanent record and shall
22 be removed from all school records no later than 9 months
23 after the date of the arrest.

24 (c) By a law enforcement officer for failing to appear
25 at a court hearing after being properly noticed.

26 (d) By a law enforcement officer who has probable
27 cause to believe that the child is in violation of the
28 conditions of the child's probation, home detention,
29 postcommitment probation, or conditional release supervision
30 or has escaped from commitment.

31

1 Nothing in this subsection shall be construed to allow the
2 detention of a child who does not meet the detention criteria
3 in s. 985.215.

4 (2)~~(3)~~ Except in emergency situations, a child may not
5 be placed into or transported in any police car or similar
6 vehicle that at the same time contains an adult under arrest,
7 unless the adult is alleged or believed to be involved in the
8 same offense or transaction as the child.

9 (3) When a child is taken into custody as provided in
10 this section, the person taking the child into custody shall
11 attempt to notify the parent, guardian, or legal custodian of
12 the child. The person taking the child into custody shall
13 continue such attempt until the parent, guardian, or legal
14 custodian of the child is notified or the child is delivered
15 to a juvenile probation officer pursuant to s. 985.21,
16 whichever occurs first. If the child is delivered to a
17 juvenile probation officer before the parent, guardian, or
18 legal custodian is notified, the juvenile probation officer
19 shall continue the attempt to notify until the parent,
20 guardian, or legal custodian of the child is notified.
21 Following notification, the parent or guardian must provide
22 identifying information, including name, address, date of
23 birth, social security number, and driver's license number or
24 identification card number of the parent or guardian to the
25 person taking the child into custody or the juvenile probation
26 officer.

27 (4)~~(3)~~ Taking a child into custody is not an arrest
28 except for the purpose of determining whether the taking into
29 custody or the obtaining of any evidence in conjunction
30 therewith is lawful.

31

1 Section 16. Section 985.2075, Florida Statutes, is
2 redesignated as section 985.32075.

3 Section 17. Paragraph (b) of subsection (1) of section
4 985.212, Florida Statutes, is amended and said section is
5 redesignated as section 985.3212, Florida Statutes, which is
6 created to read:

7 985.3212 ~~985.212~~ Fingerprinting and photographing.--

8 (1)

9 (b) A child who is charged with or found to have
10 committed one of the following offenses shall be
11 fingerprinted, and the fingerprints shall be submitted to the
12 Department of Law Enforcement as provided in s. 943.051(3)(b):

13 1. Assault, as defined in s. 784.011.

14 2. Battery, as defined in s. 784.03.

15 3. Carrying a concealed weapon, as defined in s.
16 790.01(1).

17 4. Unlawful use of destructive devices or bombs, as
18 defined in s. 790.1615(1).

19 5. Negligent treatment of children, as defined in
20 former s. 827.05.

21 6. Assault on a law enforcement officer, a
22 firefighter, or other specified officers, as defined in s.
23 784.07(2)(a).

24 7. Open carrying of a weapon, as defined in s.
25 790.053.

26 8. Exposure of sexual organs, as defined in s. 800.03.

27 9. Unlawful possession of a firearm, as defined in s.
28 790.22(5).

29 10. Petit theft, as defined in s. 812.014.

30 11. Cruelty to animals, as defined in s. 828.12(1).

31

1 12. Arson, resulting in bodily harm to a firefighter,
2 as defined in s. 806.031(1).

3 13. Unlawful possession or discharge of a weapon or
4 firearm at a school-sponsored event or on school property as
5 defined in s. 790.115.

6
7 A law enforcement agency may fingerprint and photograph a
8 child taken into custody upon probable cause that such child
9 has committed any other violation of law, as the agency deems
10 appropriate. Such fingerprint records and photographs shall be
11 retained by the law enforcement agency in a separate file, and
12 these records and all copies thereof must be marked "Juvenile
13 Confidential." These records are not available for public
14 disclosure and inspection under s. 119.07(1) except as
15 provided in ss. 943.053 and 985.204(2)~~985.04(5)~~, but shall be
16 available to other law enforcement agencies, criminal justice
17 agencies, state attorneys, the courts, the child, the parents
18 or legal custodians of the child, their attorneys, and any
19 other person authorized by the court to have access to such
20 records. In addition, such records may be submitted to the
21 Department of Law Enforcement for inclusion in the state
22 criminal history records and used by criminal justice agencies
23 for criminal justice purposes. These records may, in the
24 discretion of the court, be open to inspection by anyone upon
25 a showing of cause. The fingerprint and photograph records
26 shall be produced in the court whenever directed by the court.
27 Any photograph taken pursuant to this section may be shown by
28 a law enforcement officer to any victim or witness of a crime
29 for the purpose of identifying the person who committed such
30 crime.

31

1 Section 18. Present subsections (1) and (7) of section
2 985.211, Florida Statutes, are redesignated, respectively, as
3 subsections (1) and (4) of section 985.32211, Florida
4 Statutes, and present subsections (2) and (5) of section
5 985.211, Florida Statutes, are amended and redesignated,
6 respectively, as subsections (2) and (3) of section 985.32211,
7 Florida Statutes, which is created to read:

8 985.32211 ~~985.211~~ Release or delivery from custody.--

9 (1) A child taken into custody shall be released from
10 custody as soon as is reasonably possible.

11 (2) Unless otherwise ordered by the court pursuant to
12 s. 985.215, and unless there is a need to hold the child, a
13 person taking a child into custody shall attempt to release
14 the child as follows:

15 (a) To the child's parent, guardian, or legal
16 custodian or, if the child's parent, guardian, or legal
17 custodian is unavailable, unwilling, or unable to provide
18 supervision for the child, to any responsible adult. Prior to
19 releasing the child to a responsible adult, other than the
20 parent, guardian, or legal custodian, the person taking the
21 child into custody may conduct a criminal history background
22 check of the person to whom the child is to be released. If
23 the person has a prior felony conviction, or a conviction for
24 child abuse, drug trafficking, or prostitution, that person is
25 not a responsible adult for the purposes of this section. The
26 person to whom the child is released shall agree to inform the
27 department or the person releasing the child of the child's
28 subsequent change of address and to produce the child in court
29 at such time as the court may direct, and the child shall join
30 in the agreement.

31

1 (b) Contingent upon specific appropriation, to a
2 shelter approved by the department or to an authorized agent
3 pursuant to s. 39.401(2)(b).

4 (c) If the child is believed to be suffering from a
5 serious physical condition which requires either prompt
6 diagnosis or prompt treatment, to a law enforcement officer
7 who shall deliver the child to a hospital for necessary
8 evaluation and treatment.

9 (d) If the child is believed to be mentally ill as
10 defined in s. 394.463(1), to a law enforcement officer who
11 shall take the child to a designated public receiving facility
12 as defined in s. 394.455 for examination pursuant to the
13 provisions of s. 394.463.

14 (e) If the child appears to be intoxicated and has
15 threatened, attempted, or inflicted physical harm on himself
16 or herself or another, or is incapacitated by substance abuse,
17 to a law enforcement officer who shall deliver the child to a
18 hospital, addictions receiving facility, or treatment
19 resource.

20 (f) If available, to a juvenile assessment center
21 equipped and staffed to assume custody of the child for the
22 purpose of assessing the needs of the child in custody. The
23 center may then release or deliver the child pursuant to this
24 section with a copy of the assessment.

25 (3)~~(5)~~ Upon taking a child into custody, a law
26 enforcement officer may deliver the child, for temporary
27 custody not to exceed 6 hours, to a secure booking area of a
28 jail or other facility intended or used for the detention of
29 adults, for the purpose of fingerprinting or photographing the
30 child or awaiting appropriate transport to the department or
31 as provided in s. 985.3307(2)~~subsection (4)~~, provided no

1 regular sight and sound contact between the child and adult
2 inmates or trustees is permitted and the receiving facility
3 has adequate staff to supervise and monitor the child's
4 activities at all times.

5 (4)~~(7)~~ Nothing in this section shall prohibit the
6 proper use of law enforcement diversion programs. Law
7 enforcement agencies may initiate and conduct diversion
8 programs designed to divert a child from the need for
9 department custody or judicial handling. Such programs may be
10 cooperative projects with local community service agencies.

11 Section 19. Subsection (4) of section 985.301, Florida
12 Statutes, is amended and said section is redesignated as
13 section 985.3301, Florida Statutes, which is created to read:

14 985.3301 ~~985.301~~ Civil citation.--

15 (4) If the juvenile fails to report timely for a work
16 assignment, complete a work assignment, or comply with
17 assigned intervention services within the prescribed time, or
18 if the juvenile commits a third or subsequent misdemeanor, the
19 law enforcement officer shall issue a report alleging the
20 child has committed a delinquent act, at which point a
21 juvenile probation officer shall perform a preliminary
22 determination as provided under s. 985.21(4).

23 Section 20. Section 985.3065, Florida Statutes, is
24 redesignated as section 985.33065, Florida Statutes.

25 Section 21. Section 985.3307, Florida Statutes, is
26 created, present subsections (3) and (6) of section 985.211,
27 Florida Statutes, are redesignated, respectively, as
28 subsections (1) and (3) of section 985.3307, and present
29 subsection (4) of section 985.211, Florida Statutes, is
30 amended and redesignated as subsection (2) of section
31 985.3307, Florida Statutes, to read:

1 985.3307 Probable cause affidavits.--

2 ~~(1)(3)~~ If the child is released, the person taking the
3 child into custody shall make a written report or probable
4 cause affidavit to the appropriate juvenile probation officer
5 within 24 hours after such release, stating the facts and the
6 reason for taking the child into custody. Such written report
7 or probable cause affidavit shall:

8 (a) Identify the child, the parents, guardian, or
9 legal custodian, and the person to whom the child was
10 released.

11 (b) Contain sufficient information to establish the
12 jurisdiction of the court and to make a prima facie showing
13 that the child has committed a violation of law or a
14 delinquent act.

15 ~~(2)(4)~~ A person taking a child into custody who
16 determines, pursuant to s. 985.215, that the child should be
17 detained or released to a shelter designated by the
18 department, shall make a reasonable effort to immediately
19 notify the parent, guardian, or legal custodian of the child
20 and shall, without unreasonable delay, deliver the child to
21 the appropriate juvenile probation officer or, if the court
22 has so ordered pursuant to s. 985.215, to a detention center
23 or facility. Upon delivery of the child, the person taking the
24 child into custody shall make a written report or probable
25 cause affidavit to the appropriate juvenile probation officer.
26 Such written report or probable cause affidavit must:

27 (a) Identify the child and, if known, the parents,
28 guardian, or legal custodian.

29 (b) Establish that the child was legally taken into
30 custody, with sufficient information to establish the
31

1 jurisdiction of the court and to make a prima facie showing
2 that the child has committed a violation of law.

3 ~~(3)(6)~~(a) A copy of the probable cause affidavit or
4 written report made by the person taking the child into
5 custody shall be filed, by the law enforcement agency which
6 employs the person making such affidavit or written report,
7 with the clerk of the circuit court for the county in which
8 the child is taken into custody or in which the affidavit or
9 report is made within 24 hours after the affidavit or report
10 is made, excluding Saturdays, Sundays, and legal holidays.
11 Such affidavit or report is a case for the purpose of
12 assigning a uniform case number pursuant to this subsection.

13 (b) Upon the filing of a copy of a probable cause
14 affidavit or written report by a law enforcement agency with
15 the clerk of the circuit court, the clerk shall immediately
16 assign a uniform case number to the affidavit or report,
17 forward a copy to the state attorney, and forward a copy to
18 the intake office of the department which serves the county in
19 which the case arose.

20 (c) Each letter of recommendation, written notice,
21 report, or other paper required by law pertaining to the case
22 shall bear the uniform case number of the case, and a copy
23 shall be filed with the clerk of the circuit court by the
24 issuing agency. The issuing agency shall furnish copies to the
25 juvenile probation officer and the state attorney.

26 (d) Upon the filing of a petition based on the
27 allegations of a previously filed probable cause affidavit or
28 written report, the agency filing the petition shall include
29 the appropriate uniform case number on the petition.

30 Section 22. Section 985.209, Florida Statutes, is
31 redesignated as section 985.33209, Florida Statutes.

1 Section 23. Paragraph (a) of subsection (1) of section
2 985.21, Florida Statutes, is amended and redesignated as
3 subsection (1) of section 985.3321, Florida Statutes, and
4 paragraph (b) of subsection (1) and subsection (2) of section
5 985.21, Florida Statutes, are redesignated, respectively, as
6 subsections (3) and (2) of section 985.3321, Florida Statutes,
7 which is created to read:

8 985.3321 ~~985.21~~ Intake and case management system.--

9 ~~(1)(a) During the intake process, the juvenile~~
10 ~~probation officer shall screen each child or shall cause each~~
11 ~~child to be screened in order to determine:~~

12 ~~1. Appropriateness for release, referral to a~~
13 ~~diversionary program including, but not limited to, a~~
14 ~~teen-court program, referral for community arbitration, or~~
15 ~~referral to some other program or agency for the purpose of~~
16 ~~nonofficial or nonjudicial handling.~~

17 ~~2. The presence of medical, psychiatric,~~
18 ~~psychological, substance abuse, educational, or vocational~~
19 ~~problems, or other conditions that may have caused the child~~
20 ~~to come to the attention of law enforcement or the Department~~
21 ~~of Juvenile Justice. The child shall also be screened to~~
22 ~~determine whether the child poses a danger to himself or~~
23 ~~herself or others in the community. The results of this~~
24 ~~screening shall be made available to the court and to court~~
25 ~~officers. In cases where such conditions are identified, and a~~
26 ~~nonjudicial handling of the case is chosen, the juvenile~~
27 ~~probation officer shall attempt to refer the child to a~~
28 ~~program or agency, together with all available and relevant~~
29 ~~assessment information concerning the child's precipitating~~
30 ~~condition.~~

31

1 ~~3.~~ The Department of Juvenile Justice shall develop an
2 intake and a case management system whereby a child brought
3 into intake is assigned a juvenile probation officer if the
4 child was not released, referred to a diversionary program,
5 referred for community arbitration, or referred to some other
6 program or agency for the purpose of nonofficial or
7 nonjudicial handling, and shall make every reasonable effort
8 to provide case management services for the child; provided,
9 however, that case management for children committed to
10 residential programs may be transferred as provided in s.
11 985.316.

12 ~~4. In addition to duties specified in other sections~~
13 ~~and through departmental rules, the assigned juvenile~~
14 ~~probation officer shall be responsible for the following:~~

15 ~~a. Ensuring that a risk assessment instrument~~
16 ~~establishing the child's eligibility for detention has been~~
17 ~~accurately completed and that the appropriate recommendation~~
18 ~~was made to the court.~~

19 ~~b. Inquiring as to whether the child understands his~~
20 ~~or her rights to counsel and against self-incrimination.~~

21 ~~c. Performing the preliminary screening and making~~
22 ~~referrals for comprehensive assessment regarding the child's~~
23 ~~need for substance abuse treatment services, mental health~~
24 ~~services, retardation services, literacy services, or other~~
25 ~~educational or treatment services.~~

26 ~~d. Coordinating the multidisciplinary assessment when~~
27 ~~required, which includes the classification and placement~~
28 ~~process that determines the child's priority needs, risk~~
29 ~~classification, and treatment plan. When sufficient evidence~~
30 ~~exists to warrant a comprehensive assessment and the child~~
31 ~~fails to voluntarily participate in the assessment efforts, it~~

1 ~~is the responsibility of the juvenile probation officer to~~
2 ~~inform the court of the need for the assessment and the~~
3 ~~refusal of the child to participate in such assessment. This~~
4 ~~assessment, classification, and placement process shall~~
5 ~~develop into the predisposition report.~~

6 ~~e. Making recommendations for services and~~
7 ~~facilitating the delivery of those services to the child,~~
8 ~~including any mental health services, educational services,~~
9 ~~family counseling services, family assistance services, and~~
10 ~~substance abuse services. The juvenile probation officer shall~~
11 ~~serve as the primary case manager for the purpose of managing,~~
12 ~~coordinating, and monitoring the services provided to the~~
13 ~~child. Each program administrator within the Department of~~
14 ~~Children and Family Services shall cooperate with the primary~~
15 ~~case manager in carrying out the duties and responsibilities~~
16 ~~described in this section.~~

17
18 ~~The Department of Juvenile Justice shall annually advise the~~
19 ~~Legislature and the Executive Office of the Governor of the~~
20 ~~resources needed in order for the intake and case management~~
21 ~~system to maintain a staff-to-client ratio that is consistent~~
22 ~~with accepted standards and allows the necessary supervision~~
23 ~~and services for each child. The intake process and case~~
24 ~~management system shall provide a comprehensive approach to~~
25 ~~assessing the child's needs, relative risks, and most~~
26 ~~appropriate handling, and shall be based on an individualized~~
27 ~~treatment plan.~~

28 (3)(b) ~~The intake and case management system shall~~
29 ~~facilitate consistency in the recommended placement of each~~
30 ~~child, and in the assessment, classification, and placement~~
31 ~~process, with the following purposes:~~

1 (a)1. An individualized, multidisciplinary assessment
2 process that identifies the priority needs of each individual
3 child for rehabilitation and treatment and identifies any
4 needs of the child's parents or guardians for services that
5 would enhance their ability to provide adequate support,
6 guidance, and supervision for the child. This process shall
7 begin with the detention risk assessment instrument and
8 decision, shall include the intake preliminary screening and
9 comprehensive assessment for substance abuse treatment
10 services, mental health services, retardation services,
11 literacy services, and other educational and treatment
12 services as components, additional assessment of the child's
13 treatment needs, and classification regarding the child's
14 risks to the community and, for a serious or habitual
15 delinquent child, shall include the assessment for placement
16 in a serious or habitual delinquent children program pursuant
17 to s. 985.31. The completed multidisciplinary assessment
18 process shall result in the predisposition report.

19 (b)2. A classification system that assigns a relative
20 risk to the child and the community based upon assessments
21 including the detention risk assessment results when available
22 to classify the child's risk as it relates to placement and
23 supervision alternatives.

24 (c)3. An admissions process that facilitates for each
25 child the utilization of the treatment plan and setting most
26 appropriate to meet the child's programmatic needs and provide
27 the minimum program security needed to ensure public safety.

28 (2) The intake process shall be performed by the
29 department through a case management system. The purpose of
30 the intake process is to assess the child's needs and risks
31 and to determine the most appropriate treatment plan and

1 setting for the child's programmatic needs and risks. The
2 intake process shall result in choosing the most appropriate
3 services through a balancing of the interests and needs of the
4 child with those of the family and the public. The juvenile
5 probation officer is responsible for making informed decisions
6 and recommendations to other agencies, the state attorney, and
7 the courts so that the child and family may receive the least
8 intrusive service alternative throughout the judicial process.
9 The department shall establish uniform procedures for the
10 juvenile probation officer to provide, prior to the filing of
11 a petition or as soon as possible thereafter and prior to a
12 disposition hearing, a preliminary screening of the child and
13 family for substance abuse and mental health services.

14 (4) The Department of Juvenile Justice shall annually
15 advise the Legislature and the Executive Office of the
16 Governor of the resources needed in order for the intake and
17 case-management system to maintain a staff-to-client ratio
18 that is consistent with accepted standards and allows the
19 necessary supervision and services for each child. The intake
20 process and case-management system shall provide a
21 comprehensive approach to assessing the child's needs,
22 relative risks, and most appropriate handling, and shall be
23 based on an individualized treatment plan.

24 Section 24. Section 985.33212, Florida Statutes, is
25 created, subsections (3) and (4) of section 985.21 are amended
26 and redesignated, respectively, as paragraphs (a) and (b) of
27 subsection (1) of section 985.33212, Florida Statutes, and
28 subsection (5) of section 985.21, Florida Statutes, is
29 redesignated as subsection (2) of section 985.33212, Florida
30 Statutes, to read:

31

1 985.33212 Responsibilities of the juvenile probation
2 officer during intake; screenings and assessments.--

3 (1) The juvenile probation officer shall serve as the
4 primary case manager for the purpose of managing,
5 coordinating, and monitoring the services provided to the
6 child. Each program administrator within the Department of
7 Children and Family Services shall cooperate with the primary
8 case manager in carrying out the duties and responsibilities
9 described in this section. In addition to duties specified in
10 other sections and through departmental rules, the assigned
11 juvenile probation officer shall be responsible for the
12 following:

13 (a)(3) Reviewing the probable cause affidavit. The
14 juvenile probation officer shall make a preliminary
15 determination as to whether the report, affidavit, or
16 complaint is complete, consulting with the state attorney as
17 may be necessary.A report, affidavit, or complaint alleging
18 that a child has committed a delinquent act or violation of
19 law shall be made to the intake office operating in the county
20 in which the child is found or in which the delinquent act or
21 violation of law occurred. Any person or agency having
22 knowledge of the facts may make such a written report,
23 affidavit, or complaint and shall furnish to the intake office
24 facts sufficient to establish the jurisdiction of the court
25 and to support a finding by the court that the child has
26 committed a delinquent act or violation of law.

27 (b)(4) Providing notification concerning any apparent
28 insufficiencies in the probable cause affidavit.~~The juvenile~~
29 ~~probation officer shall make a preliminary determination as to~~
30 ~~whether the report, affidavit, or complaint is complete,~~
31 ~~consulting with the state attorney as may be necessary.~~In any

1 case where the juvenile probation officer or the state
2 attorney finds that the report, affidavit, or complaint is
3 insufficient by the standards for a probable cause affidavit,
4 the juvenile probation officer or state attorney shall return
5 the report, affidavit, or complaint, without delay, to the
6 person or agency originating the report, affidavit, or
7 complaint or having knowledge of the facts or to the
8 appropriate law enforcement agency having investigative
9 jurisdiction of the offense, and shall request, and the person
10 or agency shall promptly furnish, additional information in
11 order to comply with the standards for a probable cause
12 affidavit.

13 ~~(a) The juvenile probation officer, upon determining~~
14 ~~that the report, affidavit, or complaint is complete, pursuant~~
15 ~~to uniform procedures established by the department, shall:~~

16 ~~1. When indicated by the preliminary screening,~~
17 ~~provide for a comprehensive assessment of the child and family~~
18 ~~for substance abuse problems, using community-based licensed~~
19 ~~programs with clinical expertise and experience in the~~
20 ~~assessment of substance abuse problems.~~

21 ~~2. When indicated by the preliminary screening,~~
22 ~~provide for a comprehensive assessment of the child and family~~
23 ~~for mental health problems, using community-based~~
24 ~~psychologists, psychiatrists, or other licensed mental health~~
25 ~~professionals with clinical expertise and experience in the~~
26 ~~assessment of mental health problems.~~

27
28 ~~When indicated by the comprehensive assessment, the department~~
29 ~~is authorized to contract within appropriated funds for~~
30 ~~services with a local nonprofit community mental health or~~
31 ~~substance abuse agency licensed or authorized under chapter~~

1 ~~394, or chapter 397, or other authorized nonprofit social~~
2 ~~service agency providing related services. The determination~~
3 ~~of mental health or substance abuse services shall be~~
4 ~~conducted in coordination with existing programs providing~~
5 ~~mental health or substance abuse services in conjunction with~~
6 ~~the intake office. Client information resulting from the~~
7 ~~screening and evaluation shall be documented pursuant to rules~~
8 ~~established by the department and shall serve to assist the~~
9 ~~juvenile probation officer in providing the most appropriate~~
10 ~~services and recommendations in the least intrusive manner.~~
11 ~~Such client information shall be used in the multidisciplinary~~
12 ~~assessment and classification of the child, but such~~
13 ~~information, and any information obtained directly or~~
14 ~~indirectly through the assessment process, is inadmissible in~~
15 ~~court prior to the disposition hearing, unless the child's~~
16 ~~written consent is obtained. At the disposition hearing,~~
17 ~~documented client information shall serve to assist the court~~
18 ~~in making the most appropriate custody, adjudicatory, and~~
19 ~~dispositional decision. If the screening and assessment~~
20 ~~indicate that the interest of the child and the public will be~~
21 ~~best served thereby, the juvenile probation officer, with the~~
22 ~~approval of the state attorney, may refer the child for care,~~
23 ~~diagnostic and evaluation services, substance abuse treatment~~
24 ~~services, mental health services, retardation services, a~~
25 ~~diversionary or arbitration or mediation program, community~~
26 ~~service work, or other programs or treatment services~~
27 ~~voluntarily accepted by the child and the child's parents or~~
28 ~~legal guardians. The victim, if any, and the law enforcement~~
29 ~~agency which investigated the offense shall be notified~~
30 ~~immediately by the state attorney of the action taken under~~
31 ~~this paragraph. Whenever a child volunteers to participate in~~

1 ~~any work program under this chapter or volunteers to work in a~~
2 ~~specified state, county, municipal, or community service~~
3 ~~organization supervised work program or to work for the~~
4 ~~victim, the child shall be considered an employee of the state~~
5 ~~for the purposes of liability. In determining the child's~~
6 ~~average weekly wage, unless otherwise determined by a specific~~
7 ~~funding program, all remuneration received from the employer~~
8 ~~is considered a gratuity, and the child is not entitled to any~~
9 ~~benefits otherwise payable under s. 440.15, regardless of~~
10 ~~whether the child may be receiving wages and remuneration from~~
11 ~~other employment with another employer and regardless of the~~
12 ~~child's future wage-earning capacity.~~

13 ~~(b) The juvenile probation officer, upon determining~~
14 ~~that the report, affidavit, or complaint complies with the~~
15 ~~standards of a probable cause affidavit and that the interest~~
16 ~~of the child and the public will be best served, may recommend~~
17 ~~that a delinquency petition not be filed. If such a~~
18 ~~recommendation is made, the juvenile probation officer shall~~
19 ~~advise in writing the person or agency making the report,~~
20 ~~affidavit, or complaint, the victim, if any, and the law~~
21 ~~enforcement agency having investigative jurisdiction of the~~
22 ~~offense of the recommendation and the reasons therefor; and~~
23 ~~that the person or agency may submit, within 10 days after the~~
24 ~~receipt of such notice, the report, affidavit, or complaint to~~
25 ~~the state attorney for special review. The state attorney,~~
26 ~~upon receiving a request for special review, shall consider~~
27 ~~the facts presented by the report, affidavit, or complaint,~~
28 ~~and by the juvenile probation officer who made the~~
29 ~~recommendation that no petition be filed, before making a~~
30 ~~final decision as to whether a petition or information should~~
31 ~~or should not be filed.~~

1 ~~(c) Subject to the interagency agreement authorized~~
2 ~~under this paragraph, the juvenile probation officer for each~~
3 ~~case in which a child is alleged to have committed a violation~~
4 ~~of law or delinquent act and is not detained shall submit a~~
5 ~~written report to the state attorney, including the original~~
6 ~~report, complaint, or affidavit, or a copy thereof, including~~
7 ~~a copy of the child's prior juvenile record, within 20 days~~
8 ~~after the date the child is taken into custody. In cases in~~
9 ~~which the child is in detention, the intake office report must~~
10 ~~be submitted within 24 hours after the child is placed into~~
11 ~~detention. The intake office report may include a~~
12 ~~recommendation that a petition or information be filed or that~~
13 ~~no petition or information be filed, and may set forth reasons~~
14 ~~for the recommendation. The State Attorney and the Department~~
15 ~~of Juvenile Justice may, on a district-by-district basis,~~
16 ~~enter into interagency agreements denoting the cases that will~~
17 ~~require a recommendation and those for which a recommendation~~
18 ~~is unnecessary.~~

19 ~~(d) The state attorney may in all cases take action~~
20 ~~independent of the action or lack of action of the juvenile~~
21 ~~probation officer, and shall determine the action which is in~~
22 ~~the best interest of the public and the child. If the child~~
23 ~~meets the criteria requiring prosecution as an adult pursuant~~
24 ~~to s. 985.226, the state attorney shall request the court to~~
25 ~~transfer and certify the child for prosecution as an adult or~~
26 ~~shall provide written reasons to the court for not making such~~
27 ~~request. In all other cases, the state attorney may:~~

- 28 ~~1. File a petition for dependency;~~
- 29 ~~2. File a petition pursuant to chapter 984;~~
- 30 ~~3. File a petition for delinquency;~~

31

1 ~~4. File a petition for delinquency with a motion to~~
2 ~~transfer and certify the child for prosecution as an adult;~~

3 ~~5. File an information pursuant to s. 985.227;~~

4 ~~6. Refer the case to a grand jury;~~

5 ~~7. Refer the child to a diversionary, pretrial~~
6 ~~intervention, arbitration, or mediation program, or to some~~
7 ~~other treatment or care program if such program commitment is~~
8 ~~voluntarily accepted by the child or the child's parents or~~
9 ~~legal guardians; or~~

10 ~~8. Decline to file.~~

11 ~~(e) In cases in which a delinquency report, affidavit,~~
12 ~~or complaint is filed by a law enforcement agency and the~~
13 ~~state attorney determines not to file a petition, the state~~
14 ~~attorney shall advise the clerk of the circuit court in~~
15 ~~writing that no petition will be filed thereon.~~

16 (c) Screening the child. During the intake process,
17 the juvenile probation officer shall screen each child or
18 shall cause each child to be screened in order to determine:

19 1. Appropriateness for release, referral to a
20 diversionary program including, but not limited to, a
21 teen-court program, referral for community arbitration, or
22 referral to some other program or agency for the purpose of
23 nonofficial or nonjudicial handling.

24 2. The presence of medical, psychiatric,
25 psychological, substance abuse, educational, or vocational
26 problems, or other conditions that may have caused the child
27 to come to the attention of law enforcement or the Department
28 of Juvenile Justice. The child shall also be screened to
29 determine whether the child poses a danger to himself or
30 herself or others in the community. The results of this
31 screening shall be made available to the court and to court

1 officers. In cases where such conditions are identified, and a
2 nonjudicial handling of the case is chosen, the juvenile
3 probation officer shall attempt to refer the child to a
4 program or agency, together with all available and relevant
5 assessment information concerning the child's precipitating
6 condition.

7 (d) Completing the risk assessment instrument
8 concerning the child. The juvenile probation officer shall
9 ensure that a risk assessment instrument establishing the
10 child's eligibility for detention has been accurately
11 completed and that the appropriate recommendation was made to
12 the court.

13 (e) Inquiring as to whether the child understands his
14 or her rights to counsel and against self-incrimination.

15 (f) Coordinating the multidisciplinary assessment
16 concerning the child. The juvenile probation officer shall
17 coordinate the multidisciplinary assessment when required,
18 which includes the classification and placement process that
19 determines the child's priority needs, risk classification,
20 and treatment plan. When sufficient evidence exists to warrant
21 a comprehensive assessment and the child fails to voluntarily
22 participate in the assessment efforts, it is the
23 responsibility of the juvenile probation officer to inform the
24 court of the need for the assessment and the refusal of the
25 child to participate in such assessment. This assessment,
26 classification, and placement process shall develop into the
27 predisposition report.

28 (g) Coordinating the comprehensive assessment
29 concerning the child. The juvenile probation officer, pursuant
30 to uniform procedures established by the department and upon
31

1 determining that the report, affidavit, or complaint is
2 complete, shall:

3 1. Make referrals for a comprehensive assessment
4 regarding the child's need for substance abuse treatment
5 services, mental health services, retardation services,
6 literacy services, or other educational or treatment services.

7 2. Provide for a comprehensive assessment of the child
8 and family for substance abuse problems, using community-based
9 licensed programs with clinical expertise and experience in
10 the assessment of substance abuse problems.

11 3. Provide for a comprehensive assessment of the child
12 and family for mental health problems, using community-based
13 psychologists, psychiatrists, or other licensed mental health
14 professionals with clinical expertise and experience in the
15 assessment of mental health problems.

16 (h) Making appropriate referrals for services. The
17 juvenile probation officer shall make recommendations for
18 services and facilitating the delivery of those services to
19 the child, including any mental health services, educational
20 services, family counseling services, family assistance
21 services, and substance abuse services.

22 (i) Making recommendations concerning the filing of a
23 petition. Upon determining that the report, affidavit, or
24 complaint complies with the standards of a probable cause
25 affidavit and that the interest of the child and the public
26 will be best served, may recommend that a delinquency petition
27 not be filed. If such a recommendation is made, the juvenile
28 probation officer shall advise in writing the person or agency
29 making the report, affidavit, or complaint, the victim, if
30 any, and the law enforcement agency having investigative
31 jurisdiction of the offense of the recommendation and the

1 reasons therefor; and that the person or agency may submit,
2 within 10 days after the receipt of such notice, the report,
3 affidavit, or complaint to the state attorney for special
4 review. The state attorney, upon receiving a request for
5 special review, shall consider the facts presented by the
6 report, affidavit, or complaint, and by the juvenile probation
7 officer who made the recommendation that no petition be filed,
8 before making a final decision as to whether a petition or
9 information should or should not be filed.

10 (j) Completing the intake report. Subject to the
11 interagency agreement authorized under this paragraph, the
12 juvenile probation officer for each case in which a child is
13 alleged to have committed a violation of law or delinquent act
14 and is not detained shall submit a written report to the state
15 attorney, including the original report, complaint, or
16 affidavit, or a copy thereof, including a copy of the child's
17 prior juvenile record, within 20 days after the date the child
18 is taken into custody. In cases in which the child is in
19 detention, the intake office report must be submitted within
20 24 hours after the child is placed into detention. The intake
21 office report may include a recommendation that a petition or
22 information be filed or that no petition or information be
23 filed, and may set forth reasons for the recommendation. The
24 State Attorney and the Department of Juvenile Justice may, on
25 a district-by-district basis, enter into interagency
26 agreements denoting the cases that will require a
27 recommendation and those for which a recommendation is
28 unnecessary.

29 (2)(5) Prior to requesting that a delinquency petition
30 be filed or prior to filing a dependency petition, the
31 juvenile probation officer may request the parent or legal

1 guardian of the child to attend a course of instruction in
2 parenting skills, training in conflict resolution, and the
3 practice of nonviolence; to accept counseling; or to receive
4 other assistance from any agency in the community which
5 notifies the clerk of the court of the availability of its
6 services. Where appropriate, the juvenile probation officer
7 shall request both parents or guardians to receive such
8 parental assistance. The juvenile probation officer may, in
9 determining whether to request that a delinquency petition be
10 filed, take into consideration the willingness of the parent
11 or legal guardian to comply with such request. The parent or
12 guardian must provide the juvenile probation officer with
13 identifying information, including the parent's or guardian's
14 name, address, date of birth, social security number, and
15 driver's license number or identification card number in order
16 to comply with ss. 985.215(6), 985.231(1)(b), and
17 985.233(4)(d).

18 (3) When indicated by the comprehensive assessment,
19 the department is authorized to contract within appropriated
20 funds for services with a local nonprofit community mental
21 health or substance abuse agency licensed or authorized under
22 chapter 394 or chapter 397, or other authorized nonprofit
23 social service agency providing related services. The
24 determination of mental health or substance abuse services
25 shall be conducted in coordination with existing programs
26 providing mental health or substance abuse services in
27 conjunction with the intake office.

28 (4) Client information resulting from the screening
29 and evaluation shall be documented pursuant to rules
30 established by the department and shall serve to assist the
31 juvenile probation officer in providing the most appropriate

1 services and recommendations in the least intrusive manner.
2 Such client information shall be used in the multidisciplinary
3 assessment and classification of the child, but such
4 information, and any information obtained directly or
5 indirectly through the assessment process, is inadmissible in
6 court prior to the disposition hearing, unless the child's
7 written consent is obtained. At the disposition hearing,
8 documented client information shall serve to assist the court
9 in making the most appropriate custody, adjudicatory, and
10 dispositional decision.

11 (5) If the screening and assessment indicate that the
12 interest of the child and the public will be best served
13 thereby, the juvenile probation officer, with the approval of
14 the state attorney, may refer the child for care, diagnostic
15 and evaluation services, substance abuse treatment services,
16 mental health services, retardation services, a diversionary
17 or arbitration or mediation program, community service work,
18 or other programs or treatment services voluntarily accepted
19 by the child and the child's parents or legal guardians.
20 Whenever a child volunteers to participate in any work program
21 under this chapter or volunteers to work in a specified state,
22 county, municipal, or community service organization
23 supervised work program or to work for the victim, the child
24 shall be considered an employee of the state for the purposes
25 of liability. In determining the child's average weekly wage,
26 unless otherwise determined by a specific funding program, all
27 remuneration received from the employer is considered a
28 gratuity, and the child is not entitled to any benefits
29 otherwise payable under s. 440.15, regardless of whether the
30 child may be receiving wages and remuneration from other

31

1 employment with another employer and regardless of the child's
2 future wage-earning capacity.

3 (6) The victim, if any, and the law enforcement agency
4 that investigated the offense shall be notified immediately by
5 the state attorney of the action taken under this paragraph.

6 Section 25. Section 985.33213, Florida Statutes, is
7 created to read:

8 985.33213 Filing decisions.--

9 (1) The state attorney may in all cases take action
10 independent of the action or lack of action of the juvenile
11 probation officer, and shall determine the action that is in
12 the best interest of the public and the child. If the child
13 meets the criteria requiring prosecution as an adult pursuant
14 to s. 985.226, the state attorney shall request the court to
15 transfer and certify the child for prosecution as an adult or
16 shall provide written reasons to the court for not making such
17 request. In all other cases, the state attorney may:

18 (a) File a petition for dependency;

19 (b) File a petition pursuant to chapter 984;

20 (c) File a petition for delinquency;

21 (d) File a petition for delinquency with a motion to
22 transfer and certify the child for prosecution as an adult;

23 (e) File an information pursuant to s. 985.227;

24 (f) Refer the case to a grand jury;

25 (g) Refer the child to a diversionary, pretrial
26 intervention, arbitration, or mediation program, or to some
27 other treatment or care program if such program commitment is
28 voluntarily accepted by the child or the child's parents or
29 legal guardians; or

30 (h) Decline to file.

31

1 (2) In cases in which a delinquency report, affidavit,
2 or complaint is filed by a law enforcement agency and the
3 state attorney determines not to file a petition, the state
4 attorney shall advise the clerk of the circuit court in
5 writing that no petition will be filed thereon.

6 Section 26. Section 985.303, Florida Statutes, is
7 redesignated as section 985.33303, Florida Statutes.

8 Section 27. Subsection (3) of section 985.304, Florida
9 Statutes, is amended and said section is redesignated as
10 section 985.33304, Florida Statutes, which is created to read:

11 985.33304 ~~985.304~~ Community arbitration.--

12 (3) COMMUNITY ARBITRATORS.--The chief judge of each
13 judicial circuit shall maintain a list of qualified persons
14 who have agreed to serve as community arbitrators for the
15 purpose of carrying out the provisions of this chapter part.
16 Community arbitrators shall meet the qualification and
17 training requirements adopted in rule by the Supreme Court.
18 Whenever possible, qualified volunteers shall be used as
19 community arbitrators.

20 (a) Each community arbitrator or member of a community
21 arbitration panel shall be selected by the chief judge of the
22 circuit, the senior circuit court judge assigned to juvenile
23 cases in the circuit, and the state attorney. A community
24 arbitrator or, in the case of a panel, the chief arbitrator
25 shall have such powers as are necessary to conduct the
26 proceedings in a fair and expeditious manner.

27 (b) A community arbitrator or member of a community
28 arbitration panel shall be trained or experienced in juvenile
29 causes and shall be:

30
31

1 1. Either a graduate of an accredited law school or of
2 an accredited school with a degree in behavioral social work
3 or trained in conflict resolution techniques; and

4 2. A person of the temperament necessary to deal
5 properly with cases involving children and with the family
6 crises likely to be presented to him or her.

7 Section 28. Subsections (1) through (4) and (5)
8 through (8) of section 985.224, Florida Statutes, are
9 redesignated, respectively, as subsections (2) through (5) and
10 (7) through (10) of section 985.4224, Florida Statutes, and
11 paragraph (e) of subsection (10) of section 985.215, Florida
12 Statutes, is redesignated as subsection (6) of section
13 985.4224, Florida Statutes, which is created to read:

14 985.4224 ~~985.224~~ Medical, psychiatric, psychological,
15 substance abuse, and educational examination and treatment.--

16 (1) Information gathered through the intake and
17 case-management system under s. 985.3321 may serve as the
18 basis for further evaluation under this part.

19 ~~(2)~~~~(1)~~ After a detention petition or a petition for
20 delinquency has been filed, the court may order the child
21 named in the petition to be examined by a physician. The court
22 may also order the child to be evaluated by a psychiatrist or
23 a psychologist, by a district school board educational needs
24 assessment team, or, if a developmental disability is
25 suspected or alleged, by the developmental disabilities
26 diagnostic and evaluation team of the Department of Children
27 and Family Services. If it is necessary to place a child in a
28 residential facility for such evaluation, the criteria and
29 procedures established in chapter 393, chapter 394, or chapter
30 397, whichever is applicable, shall be used.

31

1 (3)~~(2)~~ Whenever a child has been found to have
2 committed a delinquent act, or before such finding with the
3 consent of any parent or legal custodian of the child, the
4 court may order the child to be treated by a physician. The
5 court may also order the child to receive mental health,
6 substance abuse, or retardation services from a psychiatrist,
7 psychologist, or other appropriate service provider. If it is
8 necessary to place the child in a residential facility for
9 such services, the procedures and criteria established in
10 chapter 393, chapter 394, or chapter 397, whichever is
11 applicable, shall be used. After a child has been adjudicated
12 delinquent, if an educational needs assessment by the district
13 school board or the Department of Children and Family Services
14 has been previously conducted, the court shall order the
15 report of such needs assessment included in the child's court
16 record in lieu of a new assessment. For purposes of this
17 section, an educational needs assessment includes, but is not
18 limited to, reports of intelligence and achievement tests,
19 screening for learning disabilities and other handicaps, and
20 screening for the need for alternative education.

21 (4)~~(3)~~ When any child is detained pending a hearing,
22 the person in charge of the detention center or facility or
23 his or her designated representative may authorize a triage
24 examination as a preliminary screening device to determine if
25 the child is in need of medical care or isolation or provide
26 or cause to be provided such medical or surgical services as
27 may be deemed necessary by a physician.

28 (5)~~(4)~~ Whenever a child found to have committed a
29 delinquent act is placed by order of the court within the care
30 and custody or under the supervision of the Department of
31 Juvenile Justice and it appears to the court that there is no

1 parent, guardian, or person standing in loco parentis who is
2 capable of authorizing or willing to authorize medical,
3 surgical, dental, or other remedial care or treatment for the
4 child, the court may, after due notice to the parent,
5 guardian, or person standing in loco parentis, if any, order
6 that a representative of the Department of Juvenile Justice
7 may authorize such medical, surgical, dental, or other
8 remedial care for the child by licensed practitioners as may
9 from time to time appear necessary.

10 (6)~~(10)(e)~~ Upon specific appropriation, the department
11 may obtain comprehensive evaluations, including, but not
12 limited to, medical, academic, psychological, behavioral,
13 sociological, and vocational needs of a youth with multiple
14 arrests for all level criminal acts or a youth committed to a
15 minimum-risk or low-risk commitment program.

16 (7)~~(5)~~ A physician shall be immediately notified by
17 the person taking the child into custody or the person having
18 custody if there are indications of physical injury or
19 illness, or the child shall be taken to the nearest available
20 hospital for emergency care. A child may be provided mental
21 health, substance abuse, or retardation services, in emergency
22 situations, pursuant to chapter 393, chapter 394, or chapter
23 397, whichever is applicable. After a hearing, the court may
24 order the custodial parent or parents, guardian, or other
25 custodian, if found able to do so, to reimburse the county or
26 state for the expense involved in such emergency treatment or
27 care.

28 (8)~~(6)~~ Nothing in this section shall be deemed to
29 eliminate the right of the parents or the child to consent to
30 examination or treatment for the child, except that consent of
31 a parent shall not be required if the physician determines

1 | there is an injury or illness requiring immediate treatment
2 | and the child consents to such treatment or an ex parte court
3 | order is obtained authorizing treatment.

4 | (9)~~(7)~~ Nothing in this section shall be construed to
5 | authorize the permanent sterilization of any child unless such
6 | sterilization is the result of or incidental to medically
7 | necessary treatment to protect or preserve the life of the
8 | child.

9 | (10)~~(8)~~ Except as provided in this section, nothing in
10 | this section shall be deemed to preclude a court from ordering
11 | services or treatment to be provided to a child by a duly
12 | accredited practitioner who relies solely on spiritual means
13 | for healing in accordance with the tenets and practices of a
14 | church or religious organization, when requested by the child.

15 | Section 29. Subsections (1) and (2) of section
16 | 985.229, Florida Statutes, are amended and redesignated,
17 | respectively, as subsections (2) and (3) of section 985.4229,
18 | Florida Statutes, which is created to read:

19 | 985.4229 Evaluations for disposition.--

20 | (1) Information gathered through the intake and
21 | case-management system under s. 985.3321 may serve as the
22 | basis for further evaluation under this part.

23 | ~~(2)(1) Upon a finding that the child has committed a~~
24 | ~~delinquent act, the court may order a predisposition report~~
25 | ~~regarding the eligibility of the child for disposition other~~
26 | ~~than by adjudication and commitment to the department or for~~
27 | ~~disposition of adjudication, commitment to the department,~~
28 | ~~and, if appropriate, assignment of a residential commitment~~
29 | ~~level. The predisposition report shall be the result of the~~
30 | ~~multidisciplinary assessment when such assessment is needed,~~
31 | ~~and of the classification and placement process, and it shall~~

1 ~~indicate and report the child's priority needs,~~
2 ~~recommendations as to a classification of risk for the child~~
3 ~~in the context of his or her program and supervision needs,~~
4 ~~and a plan for treatment that recommends the most appropriate~~
5 ~~placement setting to meet the child's needs with the minimum~~
6 ~~program security that reasonably ensures public safety. A~~
7 ~~predisposition report shall be ordered for any child for whom~~
8 ~~a residential commitment disposition is anticipated or~~
9 ~~recommended by an officer of the court or by the department. A~~
10 comprehensive evaluation for physical health, mental health,
11 substance abuse, academic, educational, or vocational problems
12 shall be ordered for any child for whom a residential
13 commitment disposition is anticipated or recommended by an
14 officer of the court or by the department. ~~If a comprehensive~~
15 ~~evaluation is ordered, the predisposition report shall include~~
16 ~~a summary of the comprehensive evaluation. The predisposition~~
17 ~~report shall be submitted to the court upon completion of the~~
18 ~~report but no later than 48 hours prior to the disposition~~
19 ~~hearing. The predisposition report shall not be reviewed by~~
20 ~~the court without the consent of the child and his or her~~
21 ~~legal counsel until the child has been found to have committed~~
22 ~~a delinquent act.~~

23 (3)(2) ~~The court shall consider the child's entire~~
24 ~~assessment and predisposition report and shall review the~~
25 ~~records of earlier judicial proceedings~~ Prior to making a
26 final disposition of the case. The court may, by order,
27 require additional evaluations and studies to be performed by
28 the department, by the county school system, or by any social,
29 psychological, or psychiatric agencies of the state. ~~The court~~
30 ~~shall order the educational needs assessment completed~~

31

1 ~~pursuant to s. 985.224(2) to be included in the assessment and~~
2 ~~predisposition report.~~

3 Section 30. Sections 985.223 and 985.418, Florida
4 Statutes, are redesignated as sections 985.44223 and
5 985.44418, Florida Statutes, respectively.

6 Section 31. Except as otherwise provided herein, this
7 act shall take effect upon becoming a law.

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