

CHAMBER ACTION

1 The Committee on Public Safety & Crime Prevention recommends the
2 following:

3
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to juvenile justice; amending s. 287.012,
8 F.S.; revising the definition of the term "eligible user";
9 allowing contract providers of juvenile justice services
10 to purchase off of state contracts; amending s. 790.22,
11 F.S.; eliminating a requirement that the department
12 provide nonidentifying information concerning certain
13 juvenile offenders to the Office of Economic Development
14 and Demographic Research; amending s. 984.06, F.S.;
15 revising provisions limiting public inspection of court
16 records pertaining to children and families in need of
17 services; authorizing a guardian ad litem to inspect such
18 records under certain circumstances; amending s. 985.201,
19 F.S.; clarifying circumstances in which the court may
20 retain jurisdiction beyond the 19th birthday of certain
21 juvenile offenders; amending ss. 985.213 and 985.215,
22 F.S.; authorizing the use of video teleconference to
23 facilitate the appearance of a child at detention

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24 | hearings; amending s. 985.231, F.S.; authorizing the
 25 | department or the state attorney to file an affidavit
 26 | alleging violation of a probation of postcommitment
 27 | probation program; requiring the state attorney to
 28 | represent the state in any hearing on such alleged
 29 | violation; providing for quarterly, rather than monthly,
 30 | treatment reports; authorizing the use of video
 31 | teleconference to facilitate the appearance of a child at
 32 | certain hearings; conforming provisions relating to
 33 | jurisdiction; providing an effective date.

34 |
 35 | Be It Enacted by the Legislature of the State of Florida:

36 |
 37 | Section 1. Subsection (12) of section 287.012, Florida
 38 | Statutes, is amended to read:

39 | 287.012 Definitions.--As used in this part, the term:

40 | (12) "Eligible user" means any contracted provider
 41 | organization acting as an agent for the Department of Juvenile
 42 | Justice while conducting business related solely to the
 43 | provision of services to juveniles under chapters 984 and 985 or
 44 | any person or entity authorized by the department pursuant to
 45 | rule to purchase from state term contracts or to use the on-line
 46 | procurement system.

47 | Section 2. Subsection (8) of section 790.22, Florida
 48 | Statutes, is amended to read:

49 | 790.22 Use of BB guns, air or gas-operated guns, or
 50 | electric weapons or devices by minor under 16; limitation;

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51 possession of firearms by minor under 18 prohibited;
52 penalties.--

53 (8) Notwithstanding s. 985.213 or s. 985.215(1), if a
54 minor under 18 years of age is charged with an offense that
55 involves the use or possession of a firearm, as defined in s.
56 790.001, including a violation of subsection (3), or is charged
57 for any offense during the commission of which the minor
58 possessed a firearm, the minor shall be detained in secure
59 detention, unless the state attorney authorizes the release of
60 the minor, and shall be given a hearing within 24 hours after
61 being taken into custody. At the hearing, the court may order
62 that the minor continue to be held in secure detention in
63 accordance with the applicable time periods specified in s.
64 985.215(5), if the court finds that the minor meets the criteria
65 specified in s. 985.215(2), or if the court finds by clear and
66 convincing evidence that the minor is a clear and present danger
67 to himself or herself or the community. The Department of
68 Juvenile Justice shall prepare a form for all minors charged
69 under this subsection that states the period of detention and
70 the relevant demographic information, including, but not limited
71 to, the sex, age, and race of the minor; whether or not the
72 minor was represented by private counsel or a public defender;
73 the current offense; and the minor's complete prior record,
74 including any pending cases. The form shall be provided to the
75 judge to be considered when determining whether the minor should
76 be continued in secure detention under this subsection. An order
77 placing a minor in secure detention because the minor is a clear
78 and present danger to himself or herself or the community must

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79 | be in writing, must specify the need for detention and the
 80 | benefits derived by the minor or the community by placing the
 81 | minor in secure detention, and must include a copy of the form
 82 | provided by the department. ~~The Department of Juvenile Justice~~
 83 | ~~must send the form, including a copy of any order, without~~
 84 | ~~elient-identifying information, to the Office of Economic and~~
 85 | ~~Demographic Research.~~

86 | Section 3. Subsection (3) of section 984.06, Florida
 87 | Statutes, is amended to read:

88 | 984.06 Oaths, records, and confidential information.--

89 | (3) The clerk shall keep all court records required by
 90 | this chapter separate from other records of the circuit court.
 91 | All court records required by this chapter are not open to
 92 | inspection by the public. All ~~such~~ records shall ~~may~~ be
 93 | inspected only upon order of the court by persons ~~a person~~
 94 | deemed by the court to have a proper interest therein, except
 95 | that, subject to the provisions of s. 63.162, a child and the
 96 | parents or legal custodians of the child and their attorneys,
 97 | the guardian ad litem, if one has been appointed for the child,
 98 | law enforcement agencies, and the department and its designees
 99 | have the right to ~~may~~ inspect and copy any official record
 100 | pertaining to the child. The court may permit authorized
 101 | representatives of recognized organizations compiling statistics
 102 | for proper purposes to inspect and make abstracts from official
 103 | records, under whatever conditions upon their use and
 104 | disposition the court may deem ~~deems~~ proper, and may punish by
 105 | contempt proceedings any violation of those conditions.

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

108 985.201 Jurisdiction.--

109 (4)(a) Notwithstanding ss. 743.07, 985.229, 985.23, and
110 985.231, and except as provided in ss. 985.31 and 985.313, when
111 the jurisdiction of any child who is alleged to have committed a
112 delinquent act or violation of law is obtained, the court shall
113 retain jurisdiction, unless relinquished by its order, until the
114 child reaches 19 years of age, with the same power over the
115 child that the court had prior to the child becoming an adult.
116 The court may continue to retain jurisdiction of the child
117 beyond the child's 19th birthday in accordance with the
118 following:

119 ~~(b)~~1. The court may retain jurisdiction over a child
120 committed to the department for placement in a juvenile prison
121 or in a high-risk or maximum-risk residential commitment program
122 to allow the child to participate in a juvenile conditional
123 release program pursuant to s. 985.316. In no case shall the
124 jurisdiction of the court be retained beyond the child's 22nd
125 birthday. However, if the child is not successful in the
126 conditional release program, the department may use the transfer
127 procedure under s. 985.404.

128 2. The court may retain jurisdiction over a child
129 committed to the department for placement in an intensive
130 residential treatment program for offenders less than 13 years
131 of age ~~10-year-old to 13-year-old offenders~~, in the residential
132 commitment program in a juvenile prison, in a residential sex
133 offender program, or in a program for serious or habitual

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134 juvenile offenders as provided in s. 985.311 or s. 985.31 until
 135 the child reaches the age of 21. The court may retain such
 136 jurisdiction solely for the purpose of allowing the child to
 137 complete such program. ~~If the court exercises this jurisdiction~~
 138 ~~retention, it shall do so solely for the purpose of the child~~
 139 ~~completing the intensive residential treatment program for 10-~~
 140 ~~year-old to 13-year-old offenders, in the residential commitment~~
 141 ~~program in a juvenile prison, in a residential sex offender~~
 142 ~~program, or the program for serious or habitual juvenile~~
 143 ~~offenders.~~ Such jurisdiction retention does not apply for other
 144 programs, other purposes, or new offenses.

145 (b)(e) The court may retain jurisdiction over a child and
 146 the child's parent or legal guardian whom the court has ordered
 147 to pay restitution until the restitution order is satisfied or
 148 until the court orders otherwise. If the court retains such
 149 jurisdiction after the date upon which the court's jurisdiction
 150 would cease under this section, it shall do so solely for the
 151 purpose of enforcing the restitution order. The terms of the
 152 restitution order are subject to the provisions of s.
 153 775.089(5).

154 (c)(d) This subsection does not prevent the exercise of
 155 jurisdiction by any court having jurisdiction of the child if
 156 the child, after becoming an adult, commits a violation of law.

157 Section 5. Subsection (2) of section 985.213, Florida
 158 Statutes, is amended to read:

159 985.213 Use of detention.--

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

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162 requirements and criteria provided in this part and shall be
163 based on a risk assessment of the child, unless the child is
164 placed into detention care as provided in subparagraph (b)3.

165 (b)1. The risk assessment instrument for detention care
166 placement determinations and orders shall be developed by the
167 Department of Juvenile Justice in agreement with representatives
168 appointed by the following associations: the Conference of
169 Circuit Judges of Florida, the Prosecuting Attorneys
170 Association, the Public Defenders Association, the Florida
171 Sheriffs Association, and the Florida Association of Chiefs of
172 Police. Each association shall appoint two individuals, one
173 representing an urban area and one representing a rural area.
174 The parties involved shall evaluate and revise the risk
175 assessment instrument as is considered necessary using the
176 method for revision as agreed by the parties. The risk
177 assessment instrument shall take into consideration, but need
178 not be limited to, prior history of failure to appear, prior
179 offenses, offenses committed pending adjudication, any unlawful
180 possession of a firearm, theft of a motor vehicle or possession
181 of a stolen motor vehicle, and probation status at the time the
182 child is taken into custody. The risk assessment instrument
183 shall also take into consideration appropriate aggravating and
184 mitigating circumstances, and shall be designed to target a
185 narrower population of children than s. 985.215(2). The risk
186 assessment instrument shall also include any information
187 concerning the child's history of abuse and neglect. The risk
188 assessment shall indicate whether detention care is warranted,

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189 and, if detention care is warranted, whether the child should be
190 placed into secure, nonsecure, or home detention care.

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

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

- 198 a. Respite care for the child is not available; and
- 199 b. It is necessary to place the child in secure detention
200 in order to protect the victim from injury.

201
202 The child may not be held in secure detention under this
203 subparagraph for more than 48 hours unless ordered by the court.
204 After 48 hours, the court shall hold a hearing if the state
205 attorney or victim requests that secure detention be continued.
206 The child may continue to be held in detention care if the court
207 makes a specific, written finding that detention care is
208 necessary to protect the victim from injury. However, the child
209 may not be held in detention care beyond the time limits set
210 forth in s. 985.215. At the discretion of the court, the child
211 may appear by video teleconference at any court hearing required
212 by this subparagraph.

213 4. For a child who is under the supervision of the
214 department through probation, home detention, nonsecure
215 detention, conditional release, postcommitment probation, or
216 commitment and who is charged with committing a new offense, the

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217 risk assessment instrument may be completed and scored based on
 218 the underlying charge for which the child was placed under the
 219 supervision of the department and the new offense.

220 Section 6. Subsections (2) and (5) of section 985.215,
 221 Florida Statutes, are amended to read:

222 985.215 Detention.--

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

227 (a) The child is alleged to be an escapee or an absconder
 228 from a commitment program, a probation program, or conditional
 229 release supervision, or is alleged to have escaped while being
 230 lawfully transported to or from such program or supervision.

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

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

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

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

242 (f) The child is charged with a capital felony, a life
 243 felony, a felony of the first degree, a felony of the second
 244 degree that does not involve a violation of chapter 893, or a

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245 felony of the third degree that is also a crime of violence,
246 including any such offense involving the use or possession of a
247 firearm.

248 (g) The child is charged with any second degree or third
249 degree felony involving a violation of chapter 893 or any third
250 degree felony that is not also a crime of violence, and the
251 child:

- 252 1. Has a record of failure to appear at court hearings
253 after being properly notified in accordance with the Rules of
254 Juvenile Procedure;
- 255 2. Has a record of law violations prior to court hearings;
- 256 3. Has already been detained or has been released and is
257 awaiting final disposition of the case;
- 258 4. Has a record of violent conduct resulting in physical
259 injury to others; or
- 260 5. Is found to have been in possession of a firearm.

261 (h) The child is alleged to have violated the conditions
262 of the child's probation or conditional release supervision.
263 However, a child detained under this paragraph may be held only
264 in a consequence unit as provided in s. 985.231(1)(a)1.c. If a
265 consequence unit is not available, the child shall be placed on
266 home detention with electronic monitoring.

267 (i) The child is detained on a judicial order for failure
268 to appear and has previously willfully failed to appear, after
269 proper notice, for an adjudicatory hearing on the same case
270 regardless of the results of the risk assessment instrument. A
271 child may be held in secure detention for up to 72 hours in
272 advance of the next scheduled court hearing pursuant to this

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273 paragraph. The child's failure to keep the clerk of court and
274 defense counsel informed of a current and valid mailing address
275 where the child will receive notice to appear at court
276 proceedings does not provide an adequate ground for excusal of
277 the child's nonappearance at the hearings.

278 (j) The child is detained on a judicial order for failure
279 to appear and has previously willfully failed to appear, after
280 proper notice, at two or more court hearings of any nature on
281 the same case regardless of the results of the risk assessment
282 instrument. A child may be held in secure detention for up to 72
283 hours in advance of the next scheduled court hearing pursuant to
284 this paragraph. The child's failure to keep the clerk of court
285 and defense counsel informed of a current and valid mailing
286 address where the child will receive notice to appear at court
287 proceedings does not provide an adequate ground for excusal of
288 the child's nonappearance at the hearings.

289
290 A child who meets any of these criteria and who is ordered to be
291 detained pursuant to this subsection shall be given a hearing
292 within 24 hours after being taken into custody. The purpose of
293 the detention hearing is to determine the existence of probable
294 cause that the child has committed the delinquent act or
295 violation of law with which he or she is charged and the need
296 for continued detention. At the discretion of the court, the
297 child may appear by video teleconference at this 24-hour review
298 hearing. Unless a child is detained under paragraph (d) or
299 paragraph (e), the court shall utilize the results of the risk
300 assessment performed by the juvenile probation officer and,

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301 based on the criteria in this subsection, shall determine the
302 need for continued detention. A child placed into secure,
303 nonsecure, or home detention care may continue to be so detained
304 by the court pursuant to this subsection. If the court orders a
305 placement more restrictive than indicated by the results of the
306 risk assessment instrument, the court shall state, in writing,
307 clear and convincing reasons for such placement. Except as
308 provided in s. 790.22(8) or in subparagraph (10)(a)2., paragraph
309 (10)(b), paragraph (10)(c), or paragraph (10)(d), when a child
310 is placed into secure or nonsecure detention care, or into a
311 respite home or other placement pursuant to a court order
312 following a hearing, the court order must include specific
313 instructions that direct the release of the child from such
314 placement no later than 5 p.m. on the last day of the detention
315 period specified in paragraph (5)(b) or paragraph (5)(c), or
316 subparagraph (10)(a)1., whichever is applicable, unless the
317 requirements of such applicable provision have been met or an
318 order of continuance has been granted pursuant to paragraph
319 (5)(f).

320 (5)(a) A child may not be placed into or held in secure,
321 nonsecure, or home detention care for longer than 24 hours
322 unless the court orders such detention care, and the order
323 includes specific instructions that direct the release of the
324 child from such detention care, in accordance with subsection
325 (2). The order shall be a final order, reviewable by appeal
326 pursuant to s. 985.234 and the Florida Rules of Appellate
327 Procedure. Appeals of such orders shall take precedence over
328 other appeals and other pending matters.

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329 (b) The arresting law enforcement agency shall complete
330 and present its investigation of an offense under this
331 subsection to the appropriate state attorney's office within 8
332 days after placement of the child in secure detention. The
333 investigation shall include, but is not limited to, police
334 reports and supplemental police reports, witness statements, and
335 evidence collection documents. The failure of a law enforcement
336 agency to complete and present its investigation within 8 days
337 shall not entitle a juvenile to be released from secure
338 detention or to a dismissal of any charges.

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

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

347 (e) A child who was not in secure detention at the time of
348 the adjudicatory hearing, but for whom residential commitment is
349 anticipated or recommended, may be placed under a special
350 detention order for a period not to exceed 72 hours, excluding
351 weekends and legal holidays, for the purpose of conducting a
352 comprehensive evaluation as provided in s. 985.229(1). Motions
353 for the issuance of such special detention order may be made
354 subsequent to a finding of delinquency. Upon said motion, the
355 court shall conduct a hearing to determine the appropriateness
356 of such special detention order and shall order the least

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357 restrictive level of detention necessary to complete the
358 comprehensive evaluation process that is consistent with public
359 safety. Such special detention order may be extended for an
360 additional 72 hours upon further order of the court.

361 (f) The time limits in paragraphs (c) and (d) do not
362 include periods of delay resulting from a continuance granted by
363 the court for cause on motion of the child or his or her counsel
364 or of the state. Upon the issuance of an order granting a
365 continuance for cause on a motion by either the child, the
366 child's counsel, or the state, the court shall conduct a hearing
367 at the end of each 72-hour period, excluding Saturdays, Sundays,
368 and legal holidays, to determine the need for continued
369 detention of the child and the need for further continuance of
370 proceedings for the child or the state. At the discretion of the
371 court, the child may appear by video teleconference at any court
372 hearing required by this paragraph.

373 (g) Upon good cause being shown that the nature of the
374 charge requires additional time for the prosecution or defense
375 of the case, the court may extend the time limits for detention
376 specified in paragraph (c) an additional 9 days if the child is
377 charged with an offense that would be, if committed by an adult,
378 a capital felony, a life felony, a felony of the first degree,
379 or a felony of the second degree involving violence against any
380 individual.

381 Section 7. Section 985.231, Florida Statutes, as amended
382 by section 141 of chapter 2003-402, Laws of Florida, is amended
383 to read:

384 985.231 Powers of disposition in delinquency cases.--

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

389 1. Place the child in a probation program or a
390 postcommitment probation program under the supervision of an
391 authorized agent of the Department of Juvenile Justice or of any
392 other person or agency specifically authorized and appointed by
393 the court, whether in the child's own home, in the home of a
394 relative of the child, or in some other suitable place under
395 such reasonable conditions as the court may direct. A probation
396 program for an adjudicated delinquent child must include a
397 penalty component such as restitution in money or in kind,
398 community service, a curfew, revocation or suspension of the
399 driver's license of the child, or other nonresidential
400 punishment appropriate to the offense and must also include a
401 rehabilitative program component such as a requirement of
402 participation in substance abuse treatment or in school or other
403 educational program. If the child is attending or is eligible to
404 attend public school and the court finds that the victim or a
405 sibling of the victim in the case is attending or may attend the
406 same school as the child, the court placement order shall
407 include a finding pursuant to the proceedings described in s.
408 985.23(1)(d). Upon the recommendation of the department at the
409 time of disposition, or subsequent to disposition pursuant to
410 the filing of a petition alleging a violation of the child's
411 conditions of postcommitment probation, the court may order the

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412 child to submit to random testing for the purpose of detecting
413 and monitoring the use of alcohol or controlled substances.

414 a. A restrictiveness level classification scale for levels
415 of supervision shall be provided by the department, taking into
416 account the child's needs and risks relative to probation
417 supervision requirements to reasonably ensure the public safety.
418 Probation programs for children shall be supervised by the
419 department or by any other person or agency specifically
420 authorized by the court. These programs must include, but are
421 not limited to, structured or restricted activities as described
422 in this subparagraph, and shall be designed to encourage the
423 child toward acceptable and functional social behavior. If
424 supervision or a program of community service is ordered by the
425 court, the duration of such supervision or program must be
426 consistent with any treatment and rehabilitation needs
427 identified for the child and may not exceed the term for which
428 sentence could be imposed if the child were committed for the
429 offense, except that the duration of such supervision or program
430 for an offense that is a misdemeanor of the second degree, or is
431 equivalent to a misdemeanor of the second degree, may be for a
432 period not to exceed 6 months. When restitution is ordered by
433 the court, the amount of restitution may not exceed an amount
434 the child and the parent or guardian could reasonably be
435 expected to pay or make. A child who participates in any work
436 program under this part is considered an employee of the state
437 for purposes of liability, unless otherwise provided by law.

438 b. The court may conduct judicial review hearings for a
439 child placed on probation for the purpose of fostering

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440 accountability to the judge and compliance with other
441 requirements, such as restitution and community service. The
442 court may allow early termination of probation for a child who
443 has substantially complied with the terms and conditions of
444 probation.

445 c. If the conditions of the probation program or the
446 postcommitment probation program are violated, the department or
447 the state attorney may bring the child before the court on an
448 affidavit ~~a petition~~ alleging a violation of the program. The
449 state attorney shall represent the state in any hearing on the
450 violation. Any child who violates the conditions of probation or
451 postcommitment probation must be brought before the court if
452 sanctions are sought. A child taken into custody under s.
453 985.207 for violating the conditions of probation or
454 postcommitment probation shall be held in a consequence unit if
455 such a unit is available. The child shall be afforded a hearing
456 within 24 hours after being taken into custody to determine the
457 existence of probable cause that the child violated the
458 conditions of probation or postcommitment probation. A
459 consequence unit is a secure facility specifically designated by
460 the department for children who are taken into custody under s.
461 985.207 for violating probation or postcommitment probation, or
462 who have been found by the court to have violated the conditions
463 of probation or postcommitment probation. If the violation
464 involves a new charge of delinquency, the child may be detained
465 under s. 985.215 in a facility other than a consequence unit. If
466 the child is not eligible for detention for the new charge of
467 delinquency, the child may be held in the consequence unit

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468 pending a hearing and is subject to the time limitations
 469 specified in s. 985.215. If the child denies violating the
 470 conditions of probation or postcommitment probation, the court
 471 shall appoint counsel to represent the child at the child's
 472 request. Upon the child's admission, or if the court finds after
 473 a hearing that the child has violated the conditions of
 474 probation or postcommitment probation, the court shall enter an
 475 order revoking, modifying, or continuing probation or
 476 postcommitment probation. In each such case, the court shall
 477 enter a new disposition order and, in addition to the sanctions
 478 set forth in this paragraph, may impose any sanction the court
 479 could have imposed at the original disposition hearing. If the
 480 child is found to have violated the conditions of probation or
 481 postcommitment probation, the court may:

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

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

488 (III) Modify or continue the child's probation program or
 489 postcommitment probation program.

490 (IV) Revoke probation or postcommitment probation and
 491 commit the child to the department.

492 d. Notwithstanding s. 743.07 and paragraph (d), and except
 493 as provided in s. 985.31, the term of any order placing a child
 494 in a probation program must be until the child's 19th birthday

495 unless he or she is released by the court, on the motion of an
496 interested party or on its own motion.

497 2. Commit the child to a licensed child-caring agency
498 willing to receive the child, but the court may not commit the
499 child to a jail or to a facility used primarily as a detention
500 center or facility or shelter.

501 3. Commit the child to the Department of Juvenile Justice
502 at a residential commitment level defined in s. 985.03. Such
503 commitment must be for the purpose of exercising active control
504 over the child, including, but not limited to, custody, care,
505 training, urine monitoring, and treatment of the child and
506 release of the child into the community in a postcommitment
507 nonresidential conditional release program. If the child is
508 eligible to attend public school following residential
509 commitment and the court finds that the victim or a sibling of
510 the victim in the case is or may be attending the same school as
511 the child, the commitment order shall include a finding pursuant
512 to the proceedings described in s. 985.23(1)(d). If the child is
513 not successful in the conditional release program, the
514 department may use the transfer procedure under s. 985.404.
515 Notwithstanding s. 743.07 and paragraph (d), and except as
516 provided in s. 985.31, the term of the commitment must be until
517 the child is discharged by the department or until he or she
518 reaches the age of 19, except as provided in s. 985.201 ~~21~~.

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

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

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523 6. As part of the probation program to be implemented by
524 the Department of Juvenile Justice, or, in the case of a
525 committed child, as part of the community-based sanctions
526 ordered by the court at the disposition hearing or before the
527 child's release from commitment, order the child to make
528 restitution in money, through a promissory note cosigned by the
529 child's parent or guardian, or in kind for any damage or loss
530 caused by the child's offense in a reasonable amount or manner
531 to be determined by the court. The clerk of the circuit court
532 shall be the receiving and dispensing agent. In such case, the
533 court shall order the child or the child's parent or guardian to
534 pay to the office of the clerk of the circuit court an amount
535 not to exceed the actual cost incurred by the clerk as a result
536 of receiving and dispensing restitution payments. The clerk
537 shall notify the court if restitution is not made, and the court
538 shall take any further action that is necessary against the
539 child or the child's parent or guardian. A finding by the court,
540 after a hearing, that the parent or guardian has made diligent
541 and good faith efforts to prevent the child from engaging in
542 delinquent acts absolves the parent or guardian of liability for
543 restitution under this subparagraph.

544 7. Order the child and, if the court finds it appropriate,
545 the child's parent or guardian together with the child, to
546 participate in a community work project, either as an
547 alternative to monetary restitution or as part of the
548 rehabilitative or probation program.

549 8. Commit the child to the Department of Juvenile Justice
550 for placement in a program or facility for serious or habitual

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551 juvenile offenders in accordance with s. 985.31. Any commitment
552 of a child to a program or facility for serious or habitual
553 juvenile offenders must be for an indeterminate period of time,
554 but the time may not exceed the maximum term of imprisonment
555 that an adult may serve for the same offense. The court may
556 retain jurisdiction over such child until the child reaches the
557 age of 21, specifically for the purpose of the child completing
558 the program.

559 9. In addition to the sanctions imposed on the child,
560 order the parent or guardian of the child to perform community
561 service if the court finds that the parent or guardian did not
562 make a diligent and good faith effort to prevent the child from
563 engaging in delinquent acts. The court may also order the parent
564 or guardian to make restitution in money or in kind for any
565 damage or loss caused by the child's offense. The court shall
566 determine a reasonable amount or manner of restitution, and
567 payment shall be made to the clerk of the circuit court as
568 provided in subparagraph 6.

569 10. Subject to specific appropriation, commit the juvenile
570 sexual offender to the Department of Juvenile Justice for
571 placement in a program or facility for juvenile sexual offenders
572 in accordance with s. 985.308. Any commitment of a juvenile
573 sexual offender to a program or facility for juvenile sexual
574 offenders must be for an indeterminate period of time, but the
575 time may not exceed the maximum term of imprisonment that an
576 adult may serve for the same offense. The court may retain
577 jurisdiction over a juvenile sexual offender until the juvenile

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578 sexual offender reaches the age of 21, specifically for the
579 purpose of completing the program.

580 (b)1. When any child is adjudicated by the court to have
581 committed a delinquent act and temporary legal custody of the
582 child has been placed with a licensed child-caring agency or the
583 Department of Juvenile Justice, the court shall order the
584 parents of such child to pay fees to the department in the
585 amount of \$5 per day that the child is under the care or
586 supervision of the department in order to partially offset the
587 cost of the care, support, maintenance, and other usual and
588 ordinary obligations of parents to provide for the needs of
589 their children while in the recommended residential commitment
590 level, unless the court makes a finding on the record that the
591 parent or guardian of the child is indigent.

592 2. No later than the disposition hearing, the department
593 shall provide the court with information concerning the actual
594 cost of care, support, and maintenance of the child in the
595 recommended residential commitment level and concerning the
596 ability of the parent or guardian of the child to pay any fees.
597 If the court makes a finding of indigence, the parent or
598 guardianship shall pay to the department a nominal subsistence
599 fee of \$2 per day that the child is committed outside the home
600 or \$1 per day if the child is otherwise supervised in lieu of
601 other fees related to the parents' obligation for the child's
602 cost of care. The nominal subsistence fee may only be waived or
603 reduced if the court makes a finding that such payment would
604 constitute a significant financial hardship. Such finding shall
605 be in writing and shall contain a detailed description of the

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606 facts that led the court to make both the finding of indigence
607 and the finding of significant financial hardship.

608 3. In addition, the court may reduce the fees or waive the
609 fees as to each parent or guardian if the court makes a finding
610 on the record that the parent or guardian was the victim of the
611 delinquent act or violation of law for which the child is
612 subject to placement under this section and that the parent or
613 guardian has cooperated in the investigation and prosecution of
614 the offense.

615 4. All orders committing a child to a residential
616 commitment program shall include specific findings as to what
617 fees are ordered, reduced, or waived. If the court fails to
618 enter an order as required by this paragraph, it shall be
619 presumed that the court intended the parent or guardian to pay
620 fees to the department in an amount of \$5 per day related to the
621 care, support, and maintenance of the child. With regard to a
622 child who reaches the age of 18 prior to the disposition
623 hearing, the court may elect to direct an order required by this
624 paragraph to such child, rather than the parent or guardian.
625 With regard to a child who reaches the age of 18 while in the
626 custody of the department, the court may, upon proper motion of
627 any party, hold a hearing as to whether any party should be
628 further obligated respecting the payment of fees. When the order
629 affects the guardianship estate, a certified copy of the order
630 shall be delivered to the judge having jurisdiction of the
631 guardianship estate.

632 5. The clerk of the circuit court shall act as a
633 depository for these fees. Upon each payment received, the clerk

634 of the circuit court shall receive a fee from the total payment
 635 of 3 percent of any payment made except that no fee shall be
 636 less than \$1 nor more than \$5 per payment made. This fee shall
 637 serve as a service charge for the administration, management,
 638 and maintenance of each payment. At the end of each month, the
 639 clerk of the circuit court shall send all money collected under
 640 this section to the state Grants and Donations Trust Fund.

641 6. The parent or guardian shall provide to the department
 642 the parent or guardian's name, address, social security number,
 643 state of birth, and driver's license number or identification
 644 card number and sufficient financial information for the
 645 department to be able to determine the parent or guardian's
 646 ability to pay. If the parent or guardian refuses to provide the
 647 department with any identifying information or financial
 648 information, the court shall order the parent to comply and may
 649 pursue contempt of court sanctions for failure to comply.

650 7. The department may employ a collection agency for the
 651 purpose of receiving, collecting, and managing the payment of
 652 unpaid and delinquent fees. The collection agency must be
 653 registered and in good standing under chapter 559. The
 654 department may pay to the collection agency a fee from the
 655 amount collected under the claim or may authorize the agency to
 656 deduct the fee from the amount collected. The department may
 657 also pay for collection services from available authorized
 658 funds.

659 8. The department may enter into agreements with parents
 660 or guardians to establish a schedule of periodic payments if
 661 payment of the obligation in full presents an undue hardship.

662 Any such agreement may provide for payment of interests
663 consistent with prevailing loan rates.

664 9. The Department of Juvenile Justice shall provide to the
665 payor documentation of any amounts paid by the payor to the
666 Department of Juvenile Justice on behalf of the child. All
667 payments received by the department pursuant to this subsection
668 shall be deposited in the state Grants and Donations Trust Fund.

669 10. Neither the court nor the department may extend the
670 child's length of stay in placement care solely for the purpose
671 of collecting fees.

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

675 (d) Any commitment of a delinquent child to the Department
676 of Juvenile Justice must be for an indeterminate period of time,
677 which may include periods of temporary release, but the time may
678 not exceed the maximum term of imprisonment that an adult may
679 serve for the same offense. The duration of the child's
680 placement in a residential commitment program of any level shall
681 be based on objective performance-based treatment planning. The
682 child's treatment plan progress and adjustment-related issues
683 shall be reported to the court quarterly, unless the court
684 requests more frequent reports ~~each month~~. The child's length of
685 stay in a residential commitment program may be extended if the
686 child fails to comply with or participate in treatment
687 activities. The child's length of stay in such program shall not
688 be extended for purposes of sanction or punishment. Any
689 temporary release from such program must be approved by the

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690 court. Any child so committed may be discharged from
691 institutional confinement or a program upon the direction of the
692 department with the concurrence of the court. The child's
693 treatment plan progress and adjustment-related issues must be
694 communicated to the court at the time the department requests
695 the court to consider releasing the child from the residential
696 commitment program. Notwithstanding s. 743.07 and this
697 subsection, and except as provided in ss. 985.201 and 985.31, a
698 child may not be held under a commitment from a court pursuant
699 to this section after becoming 21 years of age. The department
700 shall give the court that committed the child to the department
701 reasonable notice, in writing, of its desire to discharge the
702 child from a commitment facility. The court that committed the
703 child may thereafter accept or reject the request. If the court
704 does not respond within 10 days after receipt of the notice, the
705 request of the department shall be deemed granted. This section
706 does not limit the department's authority to revoke a child's
707 temporary release status and return the child to a commitment
708 facility for any violation of the terms and conditions of the
709 temporary release.

710 (e) In carrying out the provisions of this part, the court
711 may order the natural parents or legal custodian or guardian of
712 a child who is found to have committed a delinquent act to
713 participate in family counseling and other professional
714 counseling activities deemed necessary for the rehabilitation of
715 the child or to enhance their ability to provide the child with
716 adequate support, guidance, and supervision. The court may also
717 order that the parent, custodian, or guardian support the child

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718 and participate with the child in fulfilling a court-imposed
719 sanction. In addition, the court may use its contempt powers to
720 enforce a court-imposed sanction.

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

723 (g) Whenever a child is required by the court to
724 participate in any work program under this part or whenever a
725 child volunteers to work in a specified state, county,
726 municipal, or community service organization supervised work
727 program or to work for the victim, either as an alternative to
728 monetary restitution or as a part of the rehabilitative or
729 probation program, the child is an employee of the state for the
730 purposes of liability. In determining the child's average weekly
731 wage unless otherwise determined by a specific funding program,
732 all remuneration received from the employer is a gratuity, and
733 the child is not entitled to any benefits otherwise payable
734 under s. 440.15, regardless of whether the child may be
735 receiving wages and remuneration from other employment with
736 another employer and regardless of the child's future wage-
737 earning capacity.

738 (h) The court may, upon motion of the child or upon its
739 own motion, within 60 days after imposition of a disposition of
740 commitment, suspend the further execution of the disposition and
741 place the child in a probation program upon such terms and
742 conditions as the court may require. The department shall
743 forward to the court all relevant material on the child's
744 progress while in custody not later than 3 working days prior to
745 the hearing on the motion to suspend the disposition.

746 (i) The nonconsent of the child to commitment or treatment
747 in a substance abuse treatment program in no way precludes the
748 court from ordering such commitment or treatment.

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

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

755 2. Upon a second adjudication for grand theft of a motor
756 vehicle which is separate and unrelated to the previous
757 adjudication, may place the youth in a boot camp, unless the
758 child is ineligible pursuant to s. 985.309, and shall order the
759 youth to complete a minimum of 100 hours of community service.

760 3. Upon a third adjudication for grand theft of a motor
761 vehicle which is separate and unrelated to the previous
762 adjudications, shall place the youth in a boot camp or other
763 treatment program, unless the child is ineligible pursuant to s.
764 985.309, and shall order the youth to complete a minimum of 250
765 hours of community service.

766 (2) Following a delinquency adjudicatory hearing pursuant
767 to s. 985.228 and a delinquency disposition hearing pursuant to
768 s. 985.23 which results in a commitment determination, the court
769 shall, on its own or upon request by the state or the
770 department, determine whether the protection of the public
771 requires that the child be placed in a program for serious or
772 habitual juvenile offenders and whether the particular needs of
773 the child would be best served by a program for serious or

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774 habitual juvenile offenders as provided in s. 985.31. The
775 determination shall be made pursuant to ss. 985.03(48) and
776 985.23(3).

777 (3) Following a delinquency adjudicatory hearing pursuant
778 to s. 985.228, the court may on its own or upon request by the
779 state or the department and subject to specific appropriation,
780 determine whether a juvenile sexual offender placement is
781 required for the protection of the public and what would be the
782 best approach to address the treatment needs of the juvenile
783 sexual offender. When the court determines that a juvenile has
784 no history of a recent comprehensive assessment focused on
785 sexually deviant behavior, the court may, subject to specific
786 appropriation, order the department to conduct or arrange for an
787 examination to determine whether the juvenile sexual offender is
788 amenable to community-based treatment.

789 (a) The report of the examination shall include, at a
790 minimum, the following:

791 1. The juvenile sexual offender's account of the incident
792 and the official report of the investigation.

793 2. The juvenile sexual offender's offense history.

794 3. A multidisciplinary assessment of the sexually deviant
795 behaviors, including an assessment by a certified psychologist,
796 therapist, or psychiatrist.

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

800 (b) The report shall assess the juvenile sexual offender's
801 amenability to treatment and relative risk to the victim and the
802 community.

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

805 1. The frequency and type of contact between the offender
806 and therapist.

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

809 3. Monitoring plans, including any requirements regarding
810 living conditions, school attendance and participation,
811 lifestyle, and monitoring by family members, legal guardians, or
812 others.

813 4. Anticipated length of treatment.

814 5. Recommended crime-related prohibitions and curfew.

815 6. Reasonable restrictions on the contact between the
816 juvenile sexual offender and either the victim or alleged
817 victim.

818 (d) After receipt of the report on the proposed plan of
819 treatment, the court shall consider whether the community and
820 the offender will benefit from use of juvenile sexual offender
821 community-based treatment alternative disposition and consider
822 the opinion of the victim or the victim's family as to whether
823 the offender should receive a community-based treatment
824 alternative disposition under this subsection.

825 (e) If the court determines that this juvenile sexual
826 offender community-based treatment alternative is appropriate,
827 the court may place the offender on community supervision for up

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828 to 3 years. As a condition of community treatment and
829 supervision, the court may order the offender to:

830 1. Undergo available outpatient juvenile sexual offender
831 treatment for up to 3 years. A program or provider may not be
832 used for such treatment unless it has an appropriate program
833 designed for sexual offender treatment. The department shall not
834 change the treatment provider without first notifying the state
835 attorney's office.

836 2. Remain within described geographical boundaries and
837 notify the court or the department counselor prior to any change
838 in the offender's address, educational program, or employment.

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

840 (f) The juvenile sexual offender treatment provider shall
841 submit quarterly reports on the respondent's progress in
842 treatment to the court and the parties to the proceedings. The
843 juvenile sexual offender reports shall reference the treatment
844 plan and include, at a minimum, the following:

845 1. Dates of attendance.

846 2. The juvenile sexual offender's compliance with the
847 requirements of treatment.

848 3. A description of the treatment activities.

849 4. The sexual offender's relative progress in treatment.

850 5. The offender's family support of the treatment
851 objectives.

852 6. Any other material specified by the court at the time
853 of the disposition.

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

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856 (h) If the juvenile sexual offender violates any condition
857 of the disposition or the court finds that the juvenile sexual
858 offender is failing to make satisfactory progress in treatment,
859 the court may revoke the community-based treatment alternative
860 and order commitment to the department pursuant to subsection
861 (1).

862 (i) If the court determines that the juvenile sexual
863 offender is not amenable to community-based treatment, the court
864 shall proceed with a juvenile sexual offender disposition
865 hearing pursuant to subsection (1).

866 (4) At the discretion of the court, the child may appear
867 by video teleconference at any court hearing related to
868 treatment progress in the commitment program, including
869 transfers under s. 985.404(4).

870 Section 8. This act shall take effect July 1, 2004.