

1 (c) "Home detention" means a temporary status when the
2 child has been released to his or her parent, guardian, or
3 custodian before a dispositional hearing or while the child is
4 awaiting placement after a dispositional hearing. During the
5 time the child is on home detention status, the child shall
6 live in the community under the supervision of the parent,
7 guardian, or custodian. The parent, guardian, or custodian
8 shall notify the court whenever the child violates any
9 provision of the home detention order ~~custody of the child~~
10 ~~while the child is released to the custody of the parent,~~
11 ~~guardian, or custodian in a physically nonrestrictive~~
12 ~~environment under the supervision of the Department of~~
13 ~~Juvenile Justice staff pending adjudication, disposition, or~~
14 ~~placement.~~

15 Section 2. Subsections (2) and (10) of section
16 985.215, Florida Statutes, are amended to read:

17 985.215 Detention.--

18 (2) Subject to the provisions of subsection (1), a
19 child taken into custody and placed into nonsecure or home
20 detention care or detained in secure detention care before
21 ~~prior to~~ a detention hearing may continue to be detained by
22 the court if:

23 (a) The child is alleged to be an escapee or an
24 absconder from a commitment program, a probation program, or
25 conditional release supervision, or is alleged to have escaped
26 while being lawfully transported to or from the ~~such~~ program
27 or supervision.

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

30 (c) The child is charged with a delinquent act or
31 violation of law and requests in writing through legal counsel

1 to be detained for protection from an imminent physical threat
2 to his or her personal safety.

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

6 (e) The child is charged with possession or
7 discharging a firearm on school property in violation of s.
8 790.115.

9 (f) The child is charged with a capital felony, a life
10 felony, a felony of the first degree, a felony of the second
11 degree that does not involve a violation of chapter 893, or a
12 felony of the third degree that is also a crime of violence,
13 including any ~~such~~ offense involving the use or possession of
14 a firearm.

15 (g) The child is charged with any second degree or
16 third degree felony involving a violation of chapter 893 or
17 any third degree felony that is not also a crime of violence,
18 and the child:

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

22 2. Has a record of law violations before ~~prior to~~
23 court hearings;

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

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

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

29 (h) Regardless of the results of the risk assessment
30 instrument, the child may be held in secure detention if the
31 child:

1 1. Has previously been before the court on two
2 separate arrests for felony delinquent acts;

3 2. Is before the court charged with aggravated battery
4 on a school district employee; or

5 3. Is found to have endangered the public in the act
6 of fleeing from lawful arrest.

7 ~~(i)(h)~~ The child is alleged to have violated the
8 conditions of the child's probation or conditional release
9 supervision. However, a child detained under this paragraph
10 may be held only in a consequence unit as provided in s.
11 985.231(1)(a)1.c. If a consequence unit is not available, the
12 child shall be placed on home detention with or without
13 electronic monitoring.

14 ~~(j)(i)~~ The child is detained on a judicial order for
15 failure to appear and has previously willfully failed to
16 appear, after proper notice, for a court ~~an adjudicatory~~
17 hearing on the same case regardless of the results of the risk
18 assessment instrument. A child may be held in secure detention
19 for up to 72 hours in advance of the next scheduled court
20 hearing under ~~pursuant to~~ this paragraph. The child's failure
21 to keep the clerk of court and defense counsel informed of a
22 current and valid mailing address where the child will receive
23 notice to appear at court proceedings does not provide an
24 adequate ground for excusal of the child's nonappearance at
25 the hearings.

26 ~~(j)~~ ~~The child is detained on a judicial order for~~
27 ~~failure to appear and has previously willfully failed to~~
28 ~~appear, after proper notice, at two or more court hearings of~~
29 ~~any nature on the same case regardless of the results of the~~
30 ~~risk assessment instrument. A child may be held in secure~~
31 ~~detention for up to 72 hours in advance of the next scheduled~~

1 ~~court hearing pursuant to this paragraph. The child's failure~~
2 ~~to keep the clerk of court and defense counsel informed of a~~
3 ~~current and valid mailing address where the child will receive~~
4 ~~notice to appear at court proceedings does not provide an~~
5 ~~adequate ground for excusal of the child's nonappearance at~~
6 ~~the hearings.~~

7
8 A child who meets any of these criteria and who is ordered to
9 be detained under ~~pursuant to~~ this subsection shall be given a
10 hearing within 24 hours after being taken into custody. The
11 purpose of the detention hearing is to determine the existence
12 of probable cause that the child has committed the delinquent
13 act or violation of law with which he or she is charged and
14 the need for continued detention. Unless a child is detained
15 under paragraph (d) or paragraph (e), the court shall utilize
16 the results of the risk assessment performed by the juvenile
17 probation officer and, based on the criteria in this
18 subsection, shall determine the need for continued detention.
19 A child placed into secure, nonsecure, or home detention care
20 may continue to be so detained by the court under ~~pursuant to~~
21 this subsection. If the court orders a placement more
22 restrictive than indicated by the results of the risk
23 assessment instrument, the court shall state, in writing,
24 clear and convincing reasons for the such placement. Except as
25 provided in s. 790.22(8) or in subparagraph (10)(a)2.,
26 paragraph (10)(b), paragraph (10)(c), or paragraph (10)(d),
27 when a child is placed into secure or nonsecure detention
28 care, or into a respite home or other placement under ~~pursuant~~
29 ~~to~~ a court order following a hearing, the court order must
30 include specific instructions that direct the release of the
31 child from the such placement no later than 5 p.m. on the last

1 day of the detention period specified in paragraph (5)(b) or
2 paragraph (5)(c), or subparagraph (10)(a)1., whichever is
3 applicable, unless the requirements of the such applicable
4 provision have been met or an order of continuance has been
5 granted under ~~pursuant to~~ paragraph (5)(f).

6 (10)(a)1. When a child is committed to the Department
7 of Juvenile Justice awaiting dispositional placement, removal
8 of the child from detention care shall occur within 5 days,
9 excluding Saturdays, Sundays, and legal holidays. Any child
10 held in secure detention during the 5 days must meet detention
11 admission criteria pursuant to this section. If the child is
12 committed to a moderate-risk residential program, the
13 department may seek an order from the court authorizing, or
14 the court, on its own motion, may authorize, continued
15 detention for a specific period of time necessary for the
16 appropriate residential placement of the child. However, such
17 continued detention in secure detention care may not exceed 60
18 ~~45~~ days after commitment, excluding Saturdays, Sundays, and
19 legal holidays, and except as otherwise provided in this
20 subsection.

21 2. The court must place all children who are
22 adjudicated and awaiting placement in a residential commitment
23 program in detention care. Children who are in home detention
24 care or nonsecure detention care may be placed on electronic
25 monitoring.

26 (b) A child who is placed in home detention care,
27 nonsecure detention care, or home or nonsecure detention care
28 with or without electronic monitoring, while awaiting
29 placement in a low-risk or moderate-risk program, may be held
30 in secure detention care for 5 days, if the child violates the
31 conditions of the home detention care, the nonsecure detention

1 care, or the electronic monitoring agreement. For any
2 subsequent violation, the court may impose an additional 5
3 days in secure detention care.

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

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

10 (e) Upon specific appropriation, the department may
11 obtain comprehensive evaluations, including, but not limited
12 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 (f) Regardless of detention status, a child being
17 transported by the department to a commitment facility of the
18 department may be placed in secure detention overnight, not to
19 exceed a 24-hour period, for the specific purpose of ensuring
20 the safe delivery of the child to his or her commitment
21 program, court, appointment, transfer, or release.

22 Section 3. Paragraph (a) of subsection (1) of section
23 985.231, Florida Statutes, is amended to read:

24 985.231 Powers of disposition in delinquency cases.--

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

29 1. Place the child in a probation program or a
30 postcommitment probation program under the supervision of an
31 authorized agent of the Department of Juvenile Justice or of

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

24 a. A restrictiveness level classification scale for
25 levels of supervision shall be provided by the department,
26 taking into account the child's needs and risks relative to
27 probation supervision requirements to reasonably ensure the
28 public safety. Probation programs for children shall be
29 supervised by the department or by any other person or agency
30 specifically authorized by the court. These programs must
31 include, but are not limited to, structured or restricted

1 activities as described in this subparagraph, and shall be
2 designed to encourage the child toward acceptable and
3 functional social behavior. If supervision or a program of
4 community service is ordered by the court, the duration of the
5 ~~such~~ supervision or program must be consistent with any
6 treatment and rehabilitation needs identified for the child
7 and may not exceed the term for which sentence could be
8 imposed if the child were committed for the offense, except
9 that the duration of the ~~such~~ supervision or program for an
10 offense that is a misdemeanor of the second degree, or is
11 equivalent to a misdemeanor of the second degree, may be for a
12 period not to exceed 6 months. When restitution is ordered by
13 the court, the amount of restitution may not exceed an amount
14 the child and the parent or guardian could reasonably be
15 expected to pay or make. A child who participates in any work
16 program under this part is considered an employee of the state
17 for purposes of liability, unless otherwise provided by law.

18 b. The court may conduct judicial review hearings for
19 a child placed on probation for the purpose of fostering
20 accountability to the judge and compliance with other
21 requirements, such as restitution and community service. The
22 court may allow early termination of probation for a child who
23 has substantially complied with the terms and conditions of
24 probation.

25 c. If the conditions of the probation program or the
26 postcommitment probation program are violated, the department
27 or the state attorney may bring the child before the court on
28 a petition alleging a violation of the program. Any child who
29 violates the conditions of probation or postcommitment
30 probation must be brought before the court if sanctions are
31 sought. A child taken into custody under s. 985.207 for

1 | violating the conditions of probation or postcommitment
2 | probation shall be held in a consequence unit if such a unit
3 | is available. The child shall be afforded a hearing within 24
4 | hours after being taken into custody to determine the
5 | existence of probable cause that the child violated the
6 | conditions of probation or postcommitment probation. A
7 | consequence unit is a secure facility specifically designated
8 | by the department for children who are taken into custody
9 | under s. 985.207 for violating probation or postcommitment
10 | probation, or who have been found by the court to have
11 | violated the conditions of probation or postcommitment
12 | probation. If the violation involves a new charge of
13 | delinquency, the child may be detained under s. 985.215 in a
14 | facility other than a consequence unit. If the child is not
15 | eligible for detention for the new charge of delinquency, the
16 | child may be held in the consequence unit pending a hearing
17 | and is subject to the time limitations specified in s.
18 | 985.215. If the child denies violating the conditions of
19 | probation or postcommitment probation, the court shall appoint
20 | counsel to represent the child at the child's request. Upon
21 | the child's admission, or if the court finds after a hearing
22 | that the child has violated the conditions of probation or
23 | postcommitment probation, the court shall enter an order
24 | revoking, modifying, or continuing probation or postcommitment
25 | probation. In each ~~such~~ case, the court shall enter a new
26 | disposition order and, in addition to the sanctions set forth
27 | in this paragraph, may impose any sanction the court could
28 | have imposed at the original disposition hearing. If the child
29 | is found to have violated the conditions of probation or
30 | postcommitment probation, the court may:

31 |

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

5 (II) Place the child on home detention with or without
6 electronic monitoring. However, this sanction may be used only
7 if a residential consequence unit is not available.

8 (III) Modify or continue the child's probation program
9 or postcommitment probation program.

10 (IV) Revoke probation or postcommitment probation and
11 commit the child to the department.

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

17 2. Commit the child to a licensed child-caring agency
18 willing to receive the child, but the court may not commit the
19 child to a jail or to a facility used primarily as a detention
20 center or facility or shelter.

21 3. Commit the child to the Department of Juvenile
22 Justice at a residential commitment level defined in s.
23 985.03. ~~The Such~~ commitment must be for the purpose of
24 exercising active control over the child, including, but not
25 limited to, custody, care, training, urine monitoring, and
26 treatment of the child and release of the child into the
27 community in a postcommitment nonresidential conditional
28 release program. If the child is eligible to attend public
29 school following residential commitment and the court finds
30 that the victim or a sibling of the victim in the case is or
31 may be attending the same school as the child, the commitment

1 order shall include a finding under ~~pursuant to~~ the
2 proceedings described in s. 985.23(1)(d). If the child is not
3 successful in the conditional release program, the department
4 may use the transfer procedure under s. 985.404.
5 Notwithstanding s. 743.07 and paragraph (d), and except as
6 provided in s. 985.31, the term of the commitment must be
7 until the child is discharged by the department or until he or
8 she reaches the age of 21.

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

11 5. Require the child and, if the court finds it
12 appropriate, the child's parent or guardian together with the
13 child, to render community service in a public service
14 program.

15 6. As part of the probation program to be implemented
16 by the Department of Juvenile Justice, or, in the case of a
17 committed child, as part of the community-based sanctions
18 ordered by the court at the disposition hearing or before the
19 child's release from commitment, order the child to make
20 restitution in money, through a promissory note cosigned by
21 the child's parent or guardian, or in kind for any damage or
22 loss caused by the child's offense in a reasonable amount or
23 manner to be determined by the court. The clerk of the circuit
24 court shall be the receiving and dispensing agent. In such
25 case, the court shall order the child or the child's parent or
26 guardian to pay to the office of the clerk of the circuit
27 court an amount not to exceed the actual cost incurred by the
28 clerk as a result of receiving and dispensing restitution
29 payments. The clerk shall notify the court if restitution is
30 not made, and the court shall take any further action that is
31 necessary against the child or the child's parent or guardian.

1 A finding by the court, after a hearing, that the parent or
2 guardian has made diligent and good faith efforts to prevent
3 the child from engaging in delinquent acts absolves the parent
4 or guardian of liability for restitution under this
5 subparagraph.

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

11 8. Commit the child to the Department of Juvenile
12 Justice for placement in a program or facility for serious or
13 habitual juvenile offenders in accordance with s. 985.31. Any
14 commitment of a child to a program or facility for serious or
15 habitual juvenile offenders must be for an indeterminate
16 period of time, but the time may not exceed the maximum term
17 of imprisonment that an adult may serve for the same offense.
18 The court may retain jurisdiction over the ~~such~~ child until
19 the child reaches the age of 21, specifically for the purpose
20 of the child completing the program.

21 9. In addition to the sanctions imposed on the child,
22 order the parent or guardian of the child to perform community
23 service if the court finds that the parent or guardian did not
24 make a diligent and good faith effort to prevent the child
25 from engaging in delinquent acts. The court may also order the
26 parent or guardian to make restitution in money or in kind for
27 any damage or loss caused by the child's offense. The court
28 shall determine a reasonable amount or manner of restitution,
29 and payment shall be made to the clerk of the circuit court as
30 provided in subparagraph 6.

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1 10. Subject to specific appropriation, commit the
2 juvenile sexual offender to the Department of Juvenile Justice
3 for placement in a program or facility for juvenile sexual
4 offenders in accordance with s. 985.308. Any commitment of a
5 juvenile sexual offender to a program or facility for juvenile
6 sexual offenders must be for an indeterminate period of time,
7 but the time may not exceed the maximum term of imprisonment
8 that an adult may serve for the same offense. The court may
9 retain jurisdiction over a juvenile sexual offender until the
10 juvenile sexual offender reaches the age of 21, specifically
11 for the purpose of completing the program.

12 Section 4. Paragraph (a) of subsection (1) of section
13 985.2311, Florida Statutes, is amended to read:

14 985.2311 Cost of supervision; cost of care.--

15 (1) Except as provided in subsection (3) or subsection
16 (4):

17 (a) When any child is placed into postdisposition ~~home~~
18 ~~detention~~, probation, or other supervision status with the
19 Department of Juvenile Justice, the court shall order the
20 parent of the ~~such~~ child to pay to the department a fee for
21 the cost of the supervision of such child in the amount of \$1
22 per day for each day that the child is in supervision status.

23 Section 5. This act shall take effect October 1, 2005.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1738

- A child may be detained by the court, regardless of the results of the risk assessment, under certain enumerated conditions.
- Allows the court, upon its own motion, to hold a child awaiting dispositional placement in secure detention for up to 60 days.
- Clarifies that parents do not have to pay the DJJ fee for a child placed into home detention.