

CHAMBER ACTION

1 The Justice Appropriations Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to juvenile justice; amending s. 943.0515,
7 F.S.; deleting references to the term "juvenile prison";
8 amending s. 985.03, F.S.; revising definitions relating to
9 juvenile justice; defining the term "day treatment";
10 creating the minimum-risk nonresidential restrictiveness
11 level; permitting temporary release of youth committed to
12 the high-risk residential restrictiveness level under
13 specified conditions; providing an additional way that
14 high-risk residential facilities may be secured; removing
15 juvenile prisons from the maximum-risk residential level;
16 providing for temporary release from residential
17 commitment facilities; amending s. 985.201, F.S.;
18 conforming to definition changes; amending s. 985.207,
19 F.S.; providing that a child may be taken into custody for
20 absconding from a nonresidential commitment facility;
21 providing for a child to be taken into custody upon
22 specified court findings; amending s. 985.208, F.S.;
23 providing that a child may be taken into custody for

24 | absconding from a nonresidential commitment facility;
 25 | amending s. 985.213, F.S.; providing that permissible
 26 | detention findings include specified criteria for taking a
 27 | child into custody; amending s. 985.215, F.S.; providing
 28 | that a child may be placed in detention for absconding
 29 | from a nonresidential commitment facility; providing
 30 | procedures and time limits for detention for absconding
 31 | from a nonresidential commitment facility; providing
 32 | exceptions; providing for detention for committed
 33 | children; providing secure detention for children awaiting
 34 | minimum-risk placement who violate home or nonsecure
 35 | detention or electronic monitoring; providing for limited
 36 | secure detention for children being transported to
 37 | residential commitment programs; amending s. 985.228,
 38 | F.S.; requiring the court to include specified conditions
 39 | in an order of adjudication that are applicable to a youth
 40 | for the postadjudication and predisposition period;
 41 | amending s. 985.231, F.S.; conforming provisions to
 42 | changes in definitions; providing the maximum length for a
 43 | minimum-risk nonresidential commitment for a second degree
 44 | misdemeanor; providing that the Department of Juvenile
 45 | Justice or a provider report quarterly to the court the
 46 | child's treatment plan progress; amending s. 985.2311,
 47 | F.S.; providing that parents shall pay fees for costs of
 48 | supervision related to minimum-risk nonresidential
 49 | commitment; amending s. 985.313, F.S.; conforming to
 50 | definitions changes; amending s. 985.316, F.S.; providing
 51 | for assessment of residentially committed youth for

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52 conditional release services; repealing s. 985.403, F.S.,
53 relating to the Task Force on Juvenile Sexual Offenders
54 and their Victims; requiring the Department of Juvenile
55 Justice to create a new task force on juvenile sexual
56 offenders and their victims; providing powers and duties;
57 providing membership; requiring a report; providing for
58 administrative support; providing for dissolution of the
59 task force; requiring the department to establish a task
60 force to study the certification of professional staff
61 working for a provider of juvenile justice services;
62 providing for membership; requiring the task force to
63 consider the feasibility of implementing and operating a
64 certification system for professional staff; requiring the
65 task force to consider certain specified issues; directing
66 the task force to recommend a process for testing and
67 validating the effectiveness of the recommended staff
68 development system; requiring the task force to prepare a
69 report of its deliberations and recommendations and to
70 submit the report by a specified date; providing for
71 administrative support; providing for dissolution of the
72 task force; amending s. 985.404, F.S.; requiring written
73 orders granting or denying specified department-requested
74 transfers for committed youth; permitting the court to
75 conduct a hearing; prohibiting specified department-
76 requested transfers prior to department receipt of a
77 written court order granting the transfer; amending s.
78 985.4135, F.S.; requiring juvenile justice county councils
79 to develop criteria for law enforcement referrals to

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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80 juvenile assessment centers; providing for permissible
 81 representation on juvenile justice county councils or
 82 circuit boards; amending ss. 784.075, 984.05, 985.31, and
 83 985.3141, F.S.; conforming cross references; reenacting
 84 ss. 985.201(4)(a), 985.233(4)(b), 985.31(3)(k), and
 85 985.311(3)(e), F.S., relating to jurisdiction, sentencing
 86 alternatives, commitment of serious or habitual juvenile
 87 offenders, and eligibility for an intensive residential
 88 treatment program for offenders less than 13 years of age,
 89 respectively, to incorporate the amendment to s. 985.231,
 90 F.S., in references thereto; providing an effective date.

91

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

93

94 Section 1. Subsection (1) of section 943.0515, Florida
 95 Statutes, is amended to read:

96 943.0515 Retention of criminal history records of
 97 minors.--

98 (1)(a) The Criminal Justice Information Program shall
 99 retain the criminal history record of a minor who is classified
 100 as a serious or habitual juvenile offender or committed to a
 101 juvenile correctional facility ~~or juvenile prison~~ under chapter
 102 985 for 5 years after the date the offender reaches 21 years of
 103 age, at which time the record shall be expunged unless it meets
 104 the criteria of paragraph (2)(a) or paragraph (2)(b).

105 (b) If the minor is not classified as a serious or
 106 habitual juvenile offender or committed to a juvenile
 107 correctional facility ~~or juvenile prison~~ under chapter 985, the

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108 program shall retain the minor's criminal history record for 5
 109 years after the date the minor reaches 19 years of age, at which
 110 time the record shall be expunged unless it meets the criteria
 111 of paragraph (2)(a) or paragraph (2)(b).

112 Section 2. Section 985.03, Florida Statutes, is amended to
 113 read:

114 985.03 Definitions.--As ~~When~~ used in this chapter, the
 115 term:

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

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

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

123 (4) "Arbitration" means a process whereby a neutral third
 124 person or panel, called an arbitrator or an arbitration panel,
 125 considers the facts and arguments presented by the parties and
 126 renders a decision which may be binding or nonbinding.

127 (5) "Authorized agent" or "designee" of the department
 128 means a person or agency assigned or designated by the
 129 department ~~of Juvenile Justice~~ or the Department of Children and
 130 Family Services, as appropriate, to perform duties or exercise
 131 powers under ~~pursuant to~~ this chapter and includes contract
 132 providers and their employees for purposes of providing services
 133 to and managing cases of children in need of services and
 134 families in need of services.

135 (6) "Child" or "juvenile" or "youth" means any unmarried
 136 person under the age of 18 who has not been emancipated by order
 137 of the court and who has been found or alleged to be dependent,
 138 in need of services, or from a family in need of services; or
 139 any married or unmarried person who is charged with a violation
 140 of law occurring prior to the time that person reached the age
 141 of 18 years.

142 (7) "Child eligible for an intensive residential treatment
 143 program for offenders less than 13 years of age" means a child
 144 who has been found to have committed a delinquent act or a
 145 violation of law in the case currently before the court and who
 146 meets at least one of the following criteria:

147 (a) The child is less than 13 years of age at the time of
 148 the disposition for the current offense and has been adjudicated
 149 on the current offense for:

- 150 1. Arson;
- 151 2. Sexual battery;
- 152 3. Robbery;
- 153 4. Kidnapping;
- 154 5. Aggravated child abuse;
- 155 6. Aggravated assault;
- 156 7. Aggravated stalking;
- 157 8. Murder;
- 158 9. Manslaughter;
- 159 10. Unlawful throwing, placing, or discharging of a
 160 destructive device or bomb;
- 161 11. Armed burglary;
- 162 12. Aggravated battery;

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163 13. Any lewd or lascivious offense committed upon or in
164 the presence of a person less than 16 years of age; or

165 14. Carrying, displaying, using, threatening, or
166 attempting to use a weapon or firearm during the commission of a
167 felony.

168 (b) The child is less than 13 years of age at the time of
169 the disposition, the current offense is a felony, and the child
170 has previously been committed at least once to a delinquency
171 commitment program.

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

175 (8) "Child in need of services" means a child for whom
176 there is no pending investigation into an allegation or
177 suspicion of abuse, neglect, or abandonment; no pending referral
178 alleging the child is delinquent; or no current supervision by
179 the department ~~of Juvenile Justice~~ or the Department of Children
180 and Family Services for an adjudication of dependency or
181 delinquency. The child must also, under ~~pursuant to~~ this
182 chapter, be found by the court:

183 (a) To have persistently run away from the child's parents
184 or legal custodians despite reasonable efforts of the child, the
185 parents or legal custodians, and appropriate agencies to remedy
186 the conditions contributing to the behavior. Reasonable efforts
187 shall include voluntary participation by the child's parents or
188 legal custodians and the child in family mediation, services,
189 and treatment offered by the department ~~of Juvenile Justice~~ or
190 the Department of Children and Family Services;

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191 (b) To be habitually truant from school, while subject to
 192 compulsory school attendance, despite reasonable efforts to
 193 remedy the situation under ~~pursuant to~~ ss. 1003.26 and 1003.27
 194 and through voluntary participation by the child's parents or
 195 legal custodians and by the child in family mediation, services,
 196 and treatment offered by the department ~~of Juvenile Justice~~ or
 197 the Department of Children and Family Services; or

198 (c) To have persistently disobeyed the reasonable and
 199 lawful demands of the child's parents or legal custodians, and
 200 to be beyond their control despite efforts by the child's
 201 parents or legal custodians and appropriate agencies to remedy
 202 the conditions contributing to the behavior. Reasonable efforts
 203 may include such things as good faith participation in family or
 204 individual counseling.

205 (9) "Child who has been found to have committed a
 206 delinquent act" means a child who, under ~~pursuant to~~ the
 207 provisions of this chapter, is found by a court to have
 208 committed a violation of law or to be in direct or indirect
 209 contempt of court, except that this definition shall not include
 210 an act constituting contempt of court arising out of a
 211 dependency proceeding or a proceeding under ~~pursuant to~~ part III
 212 ~~of this chapter~~.

213 (10) "Child support" means a court-ordered obligation,
 214 enforced under chapter 61 and ss. 409.2551-409.2597, for
 215 monetary support for the care, maintenance, training, and
 216 education of a child.

217 (11) "Circuit" means any of the 20 judicial circuits as
 218 set forth in s. 26.021.

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219 (12) "Comprehensive assessment" or "assessment" means the
 220 gathering of information for the evaluation of a juvenile
 221 offender's or a child's physical, psychological, educational,
 222 vocational, and social condition and family environment as they
 223 relate to the child's need for rehabilitative and treatment
 224 services, including substance abuse treatment services, mental
 225 health services, developmental services, literacy services,
 226 medical services, family services, and other specialized
 227 services, as appropriate.

228 (13) "Conditional release" means the care, treatment,
 229 help, and supervision provided to a juvenile released from a
 230 residential commitment program which is intended to promote
 231 rehabilitation and prevent recidivism. The purpose of
 232 conditional release is to protect the public, reduce recidivism,
 233 increase responsible productive behavior, and provide for a
 234 successful transition of the youth from the department to the
 235 family. Conditional release includes, but is not limited to,
 236 nonresidential community-based programs.

237 (14) "Court," unless otherwise expressly stated, means the
 238 circuit court assigned to exercise jurisdiction under this
 239 chapter.

240 (15) "Day treatment" means a nonresidential, community-
 241 based program designed to provide therapeutic intervention to
 242 youth who are placed on probation or conditional release or are
 243 committed to the minimum-risk nonresidential level. A day
 244 treatment program may provide educational and vocational
 245 services and shall provide case management services; individual,
 246 group, and family counseling; training designed to address

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247 delinquency risk factors; and monitoring of a youth's compliance
 248 with, and facilitation of a youth's completion of, sanctions if
 249 ordered by the court. Program types may include, but are not
 250 limited to, career programs, marine programs, juvenile justice
 251 alternative schools, training and rehabilitation programs, and
 252 gender-specific programs.

253 (16)~~(15)~~(a) "Delinquency program" means any intake,
 254 probation, or similar program; regional detention center or
 255 facility; or community-based program, whether owned and operated
 256 by or contracted by the department ~~of Juvenile Justice~~, or
 257 institution owned and operated by or contracted by the
 258 department ~~of Juvenile Justice~~, which provides intake,
 259 supervision, or custody and care of children who are alleged to
 260 be or who have been found to be delinquent under ~~pursuant to~~
 261 part II.

262 (b) "Delinquency program staff" means supervisory and
 263 direct care staff of a delinquency program as well as support
 264 staff who have direct contact with children in a delinquency
 265 program.

266 (c) "Delinquency prevention programs" means programs
 267 designed for the purpose of reducing the occurrence of
 268 delinquency, including youth and street gang activity, and
 269 juvenile arrests. The term excludes arbitration, diversionary or
 270 mediation programs, and community service work or other
 271 treatment available subsequent to a child committing a
 272 delinquent act.

273 (17)~~(16)~~ "Department" means the Department of Juvenile
 274 Justice.

275 | (18)~~(17)~~ "Designated facility" or "designated treatment
276 | facility" means any facility designated by the department ~~of~~
277 | ~~Juvenile Justice~~ to provide treatment to juvenile offenders.

278 | (19)~~(18)~~ "Detention care" means the temporary care of a
279 | child in secure, nonsecure, or home detention, pending a court
280 | adjudication or disposition or execution of a court order. There
281 | are three types of detention care, as follows:

282 | (a) "Secure detention" means temporary custody of the
283 | child while the child is under the physical restriction of a
284 | detention center or facility pending adjudication, disposition,
285 | or placement.

286 | (b) "Nonsecure detention" means temporary custody of the
287 | child while the child is in a residential home in the community
288 | in a physically nonrestrictive environment under the supervision
289 | of the department ~~of Juvenile Justice~~ pending adjudication,
290 | disposition, or placement.

291 | (c) "Home detention" means temporary custody of the child
292 | while the child is released to the custody of the parent,
293 | guardian, or custodian in a physically nonrestrictive
294 | environment under the supervision of the department ~~of Juvenile~~
295 | ~~Justice~~ staff pending adjudication, disposition, or placement.

296 | (20)~~(19)~~ "Detention center or facility" means a facility
297 | used pending court adjudication or disposition or execution of
298 | court order for the temporary care of a child alleged or found
299 | to have committed a violation of law. A detention center or
300 | facility may provide secure or nonsecure custody. A facility
301 | used for the commitment of adjudicated delinquents shall not be
302 | considered a detention center or facility.

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303 (21)~~(20)~~ "Detention hearing" means a hearing for the court
 304 to determine if a child should be placed in temporary custody,
 305 as provided for under ss. 985.213 and 985.215 in delinquency
 306 cases.

307 (22)~~(21)~~ "Disposition hearing" means a hearing in which
 308 the court determines the most appropriate dispositional services
 309 in the least restrictive available setting provided for under s.
 310 985.231, in delinquency cases.

311 (23)~~(22)~~ "Family" means a collective of persons,
 312 consisting of a child and a parent, guardian, adult custodian,
 313 or adult relative, in which:

314 (a) The persons reside in the same house or living unit;
 315 or

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

319 (24)~~(23)~~ "Family in need of services" means a family that
 320 has a child for whom there is no pending investigation into an
 321 allegation of abuse, neglect, or abandonment or no current
 322 supervision by the department ~~of Juvenile Justice~~ or the
 323 Department of Children and Family Services for an adjudication
 324 of dependency or delinquency. The child must also have been
 325 referred to a law enforcement agency or the department ~~of~~
 326 ~~Juvenile Justice~~ for:

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

328 (b) Persistently disobeying reasonable and lawful demands
 329 of parents or legal custodians, and being beyond their control;
 330 or

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331 (c) Habitual truancy from school.

332 ~~(25)~~(24) "Foster care" means care provided a child in a
333 foster family or boarding home, group home, agency boarding
334 home, child care institution, or any combination thereof.

335 ~~(26)~~(25) "Habitually truant" means that:

336 (a) The child has 15 unexcused absences within 90 calendar
337 days with or without the knowledge or justifiable consent of the
338 child's parent or legal guardian, is subject to compulsory
339 school attendance under s. 1003.21(1) and (2)(a), and is not
340 exempt under s. 1003.21(3), s. 1003.24, or any other exemptions
341 specified by law or the rules of the State Board of Education.

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

345
346 If a child who is subject to compulsory school attendance is
347 responsive to the interventions described in ss. 1003.26 and
348 1003.27 and has completed the necessary requirements to pass the
349 current grade as indicated in the district pupil progression
350 plan, the child shall not be determined to be habitually truant
351 and shall be passed. If a child within the compulsory school
352 attendance age has 15 unexcused absences within 90 calendar days
353 or fails to enroll in school, the state attorney may file a
354 child-in-need-of-services petition. Before ~~Prior to~~ filing a
355 petition, the child must be referred to the appropriate agency
356 for evaluation. After consulting with the evaluating agency, the
357 state attorney may elect to file a child-in-need-of-services
358 petition.

359 (c) A school representative, designated according to
 360 school board policy, and a juvenile probation officer of the
 361 department ~~of Juvenile Justice~~ have jointly investigated the
 362 truancy problem or, if that was not feasible, have performed
 363 separate investigations to identify conditions that could be
 364 contributing to the truant behavior; and if, after a joint
 365 staffing of the case to determine the necessity for services,
 366 such services were determined to be needed, the persons who
 367 performed the investigations met jointly with the family and
 368 child to discuss any referral to appropriate community agencies
 369 for economic services, family or individual counseling, or other
 370 services required to remedy the conditions that are contributing
 371 to the truant behavior.

372 (d) The failure or refusal of the parent or legal guardian
 373 or the child to participate, or make a good faith effort to
 374 participate, in the activities prescribed to remedy the truant
 375 behavior, or the failure or refusal of the child to return to
 376 school after participation in activities required by this
 377 subsection, or the failure of the child to stop the truant
 378 behavior after the school administration and the department ~~of~~
 379 ~~Juvenile Justice~~ have worked with the child as described in s.
 380 1003.27(3) shall be handled as prescribed in s. 1003.27.

381 (27)~~(26)~~ "Halfway house" means a community-based
 382 residential program for 10 or more committed delinquents at the
 383 moderate-risk commitment level which is operated or contracted
 384 by the department ~~of Juvenile Justice~~.

385 (28)~~(27)~~ "Intake" means the initial acceptance and
 386 screening by the department ~~of Juvenile Justice~~ of a complaint

387 | or a law enforcement report or probable cause affidavit of
 388 | delinquency, family in need of services, or child in need of
 389 | services to determine the recommendation to be taken in the best
 390 | interests of the child, the family, and the community. The
 391 | emphasis of intake is on diversion and the least restrictive
 392 | available services. Consequently, intake includes such
 393 | alternatives as:

394 | (a) The disposition of the complaint, report, or probable
 395 | cause affidavit without court or public agency action or
 396 | judicial handling when appropriate.

397 | (b) The referral of the child to another public or private
 398 | agency when appropriate.

399 | (c) The recommendation by the juvenile probation officer
 400 | of judicial handling when appropriate and warranted.

401 | (29)~~(28)~~ "Judge" means the circuit judge exercising
 402 | jurisdiction pursuant to this chapter.

403 | (30)~~(29)~~ "Juvenile justice continuum" includes, but is not
 404 | limited to, delinquency prevention programs and services
 405 | designed for the purpose of preventing or reducing delinquent
 406 | acts, including criminal activity by youth gangs, and juvenile
 407 | arrests, as well as programs and services targeted at children
 408 | who have committed delinquent acts, and children who have
 409 | previously been committed to residential treatment programs for
 410 | delinquents. The term includes children-in-need-of-services and
 411 | families-in-need-of-services programs; conditional release;
 412 | substance abuse and mental health programs; educational and
 413 | career programs; recreational programs; community services
 414 | programs; community service work programs; and alternative

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415 | dispute resolution programs serving children at risk of
 416 | delinquency and their families, whether offered or delivered by
 417 | state or local governmental entities, public or private for-
 418 | profit or not-for-profit organizations, or religious or
 419 | charitable organizations.

420 | ~~(31)~~~~(30)~~ "Juvenile probation officer" means the authorized
 421 | agent of the department ~~of Juvenile Justice~~ who performs the
 422 | intake, case management, or supervision functions.

423 | ~~(32)~~~~(31)~~ "Juvenile sexual offender" means:

424 | (a) A juvenile who has been found by the court under
 425 | ~~pursuant to~~ s. 985.228 to have committed a violation of chapter
 426 | 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;

427 | (b) A juvenile found to have committed any felony
 428 | violation of law or delinquent act involving juvenile sexual
 429 | abuse. "Juvenile sexual abuse" means any sexual behavior which
 430 | occurs without consent, without equality, or as a result of
 431 | coercion. For purposes of this subsection, the following
 432 | definitions apply:

433 | 1. "Coercion" means the exploitation of authority, use of
 434 | bribes, threats of force, or intimidation to gain cooperation or
 435 | compliance.

436 | 2. "Equality" means two participants operating with the
 437 | same level of power in a relationship, neither being controlled
 438 | nor coerced by the other.

439 | 3. "Consent" means an agreement including all of the
 440 | following:

441 | a. Understanding what is proposed based on age, maturity,
 442 | developmental level, functioning, and experience.

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443 b. Knowledge of societal standards for what is being
444 proposed.

445 c. Awareness of potential consequences and alternatives.

446 d. Assumption that agreement or disagreement will be
447 accepted equally.

448 e. Voluntary decision.

449 f. Mental competence.

450

451 Juvenile sexual offender behavior ranges from noncontact sexual
452 behavior such as making obscene phone calls, exhibitionism,
453 voyeurism, and the showing or taking of lewd photographs to
454 varying degrees of direct sexual contact, such as frottage,
455 fondling, digital penetration, rape, fellatio, sodomy, and
456 various other sexually aggressive acts.

457 (33)~~(32)~~ "Legal custody or guardian" means a legal status
458 created by court order or letter of guardianship which vests in
459 a custodian of the person or guardian, whether an agency or an
460 individual, the right to have physical custody of the child and
461 the right and duty to protect, train, and discipline the child
462 and to provide him or her with food, shelter, education, and
463 ordinary medical, dental, psychiatric, and psychological care.

464 (34)~~(33)~~ "Licensed child-caring agency" means a person,
465 society, association, or agency licensed by the Department of
466 Children and Family Services to care for, receive, and board
467 children.

468 (35)~~(34)~~ "Licensed health care professional" means a
469 physician licensed under chapter 458, an osteopathic physician
470 licensed under chapter 459, a nurse licensed under part I of

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471 chapter 464, a physician assistant licensed under chapter 458 or
472 chapter 459, or a dentist licensed under chapter 466.

473 ~~(36)~~(35) "Likely to injure oneself" means that, as
474 evidenced by violent or other actively self-destructive
475 behavior, it is more likely than not that within a 24-hour
476 period the child will attempt to commit suicide or inflict
477 serious bodily harm on himself or herself.

478 ~~(37)~~(36) "Likely to injure others" means that it is more
479 likely than not that within a 24-hour period the child will
480 inflict serious and unjustified bodily harm on another person.

481 ~~(38)~~(37) "Mediation" means a process whereby a neutral
482 third person called a mediator acts to encourage and facilitate
483 the resolution of a dispute between two or more parties. It is
484 an informal and nonadversarial process with the objective of
485 helping the disputing parties reach a mutually acceptable and
486 voluntary agreement. In mediation, decisionmaking authority
487 rests with the parties. The role of the mediator includes, but
488 is not limited to, assisting the parties in identifying issues,
489 fostering joint problem solving, and exploring settlement
490 alternatives.

491 ~~(39)~~(38) "Necessary medical treatment" means care which is
492 necessary within a reasonable degree of medical certainty to
493 prevent the deterioration of a child's condition or to alleviate
494 immediate pain of a child.

495 ~~(40)~~(39) "Next of kin" means an adult relative of a child
496 who is the child's brother, sister, grandparent, aunt, uncle, or
497 first cousin.

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498 (41)~~(40)~~ "Parent" means a woman who gives birth to a child
 499 and a man whose consent to the adoption of the child would be
 500 required under s. 63.062(1). If a child has been legally
 501 adopted, the term "parent" means the adoptive mother or father
 502 of the child. The term does not include an individual whose
 503 parental relationship to the child has been legally terminated,
 504 or an alleged or prospective parent, unless the parental status
 505 falls within the terms of either s. 39.503(1) or s. 63.062(1).

506 (42)~~(41)~~ "Preliminary screening" means the gathering of
 507 preliminary information to be used in determining a child's need
 508 for further evaluation or assessment or for referral for other
 509 substance abuse services through means such as psychosocial
 510 interviews; urine and breathalyzer screenings; and reviews of
 511 available educational, delinquency, and dependency records of
 512 the child.

513 (43)~~(42)~~ "Preventive services" means social services and
 514 other supportive and rehabilitative services provided to the
 515 parent of the child, the legal guardian of the child, or the
 516 custodian of the child and to the child for the purpose of
 517 averting the removal of the child from the home or disruption of
 518 a family that ~~which~~ will or could result in the placement of a
 519 child in foster care. Social services and other supportive and
 520 rehabilitative services shall promote the child's need for a
 521 safe, continuous, stable living environment and shall promote
 522 family autonomy and shall strengthen family life as the first
 523 priority whenever possible.

524 (44)~~(43)~~ "Probation" means the legal status of probation
 525 created by law and court order in cases involving a child who

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526 | has been found to have committed a delinquent act. Probation is
 527 | an individualized program in which the freedom of the child is
 528 | limited and the child is restricted to noninstitutional quarters
 529 | or restricted to the child's home in lieu of commitment to the
 530 | custody of the department ~~of Juvenile Justice~~. Youth on
 531 | probation may be assessed and classified for placement in day-
 532 | treatment probation programs designed for youth who represent a
 533 | minimum risk to themselves and public safety and do not require
 534 | placement and services in a residential setting. ~~Program types~~
 535 | ~~in this more intensive and structured day-treatment probation~~
 536 | ~~option include career programs, marine programs, juvenile~~
 537 | ~~justice alternative schools, training and rehabilitation~~
 538 | ~~programs, and gender specific programs.~~

539 | ~~(45)~~~~(44)~~ "Relative" means a grandparent, great-
 540 | grandparent, sibling, first cousin, aunt, uncle, great-aunt,
 541 | great-uncle, niece, or nephew, whether related by the whole or
 542 | half blood, by affinity, or by adoption. The term does not
 543 | include a stepparent.

544 | ~~(46)~~~~(45)~~ "Restrictiveness Residential Commitment level"
 545 | means the level of programming and security provided by programs
 546 | that service the supervision, custody, care, and treatment needs
 547 | of committed children. Sections 985.3141 and 985.404(11) apply
 548 | to children placed in programs at any residential commitment
 549 | level. The restrictiveness levels of ~~residential~~ commitment are
 550 | as follows:

551 | (a) Minimum-risk nonresidential.--Programs or program
 552 | models at this commitment level work with youth who remain in
 553 | the community and participate at least 5 days per week in a day

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554 treatment program. Youth assessed and classified for programs at
555 this commitment level represent a minimum risk to themselves and
556 public safety and do not require placement and services in
557 residential settings. Youth in this level have full access to,
558 and reside in, the community. A youth who has been found to have
559 committed delinquent acts that involve firearms, delinquent acts
560 that are sexual offenses, or delinquent acts that would be life
561 felonies or first degree felonies if committed by an adult shall
562 not be committed to a program at this level.

563 (b)(a) Low-risk residential.--Programs or program models
564 at this commitment level are residential but may allow youth to
565 have unsupervised access to the community. Youth assessed and
566 classified for placement in programs at this commitment level
567 represent a low risk to themselves and public safety but do
568 require placement and services in residential settings. Children
569 who have been found to have committed delinquent acts that
570 involve firearms, delinquent acts that are sexual offenses, or
571 delinquent acts that would be life felonies or first degree
572 felonies if committed by an adult shall not be committed to a
573 program at this level.

574 (c)(b) Moderate-risk residential.--Programs or program
575 models at this commitment level are residential but may allow
576 youth to have supervised access to the community. Facilities are
577 either environmentally secure, staff secure, or are hardware-
578 secure with walls, fencing, or locking doors. Facilities shall
579 provide 24-hour awake supervision, custody, care, and treatment
580 of residents. Youth assessed and classified for placement in
581 programs at this commitment level represent a moderate risk to

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582 public safety and require close supervision. The staff at a
 583 facility at this commitment level may seclude a child who is a
 584 physical threat to himself or herself or others. Mechanical
 585 restraint may also be used when necessary.

586 (d)~~(e)~~ High-risk residential.--Programs or program models
 587 at this commitment level are residential and do ~~shall~~ not allow
 588 youth to have access to the community, except that temporary
 589 release providing community access for up to 72 continuous hours
 590 for a youth who has made successful progress in his or her
 591 program may be approved by a court in order to attend a family
 592 emergency or, during the final 60 days of his or her placement,
 593 to visit his or her home, enroll in school or in a vocational
 594 program, complete a job interview, or participate in a community
 595 service project. High-risk residential facilities are hardware-
 596 secure with perimeter fencing and locking doors or are
 597 environmentally secure. Facilities shall provide 24-hour awake
 598 supervision, custody, care, and treatment of residents. Youth
 599 assessed and classified for this level of placement require
 600 close supervision in a structured residential setting. Placement
 601 in programs at this level is prompted by a concern for public
 602 safety that outweighs placement in programs at lower commitment
 603 levels. The staff at a facility at this commitment level may
 604 seclude a child who is a physical threat to himself or herself
 605 or others. Mechanical restraint may also be used when necessary.
 606 The facility may provide for single cell occupancy.

607 (e)~~(d)~~ Maximum-risk residential.--Programs or program
 608 models at this commitment level include juvenile correctional
 609 facilities ~~and juvenile prisons~~. The programs are long-term

610 residential and shall not allow youth to have access to the
 611 community. Facilities are maximum-custody hardware-secure with
 612 perimeter security fencing and locking doors. Facilities shall
 613 provide 24-hour awake supervision, custody, care, and treatment
 614 of residents. The staff at a facility at this commitment level
 615 may seclude a child who is a physical threat to himself or
 616 herself or others. Mechanical restraint may also be used when
 617 necessary. The facility shall provide for single cell occupancy,
 618 except that youth may be housed together during prerelease
 619 transition. Youth assessed and classified for this level of
 620 placement require close supervision in a maximum security
 621 residential setting. Placement in a program at this level is
 622 prompted by a demonstrated need to protect the public.

623 (47)~~(46)~~ "Respite" means a placement that is available for
 624 the care, custody, and placement of a youth charged with
 625 domestic violence as an alternative to secure detention or for
 626 placement of a youth when a shelter bed for a child in need of
 627 services or a family in need of services is unavailable.

628 (48)~~(47)~~ "Secure detention center or facility" means a
 629 physically restricting facility for the temporary care of
 630 children, pending adjudication, disposition, or placement.

631 (49)~~(48)~~ "Serious or habitual juvenile offender," for
 632 purposes of commitment to a residential facility and for
 633 purposes of records retention, means a child who has been found
 634 to have committed a delinquent act or a violation of law, in the
 635 case currently before the court, and who meets at least one of
 636 the following criteria:

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637 (a) The youth is at least 13 years of age at the time of
638 the disposition for the current offense and has been adjudicated
639 on the current offense for:

- 640 1. Arson;
- 641 2. Sexual battery;
- 642 3. Robbery;
- 643 4. Kidnapping;
- 644 5. Aggravated child abuse;
- 645 6. Aggravated assault;
- 646 7. Aggravated stalking;
- 647 8. Murder;
- 648 9. Manslaughter;
- 649 10. Unlawful throwing, placing, or discharging of a
650 destructive device or bomb;
- 651 11. Armed burglary;
- 652 12. Aggravated battery;
- 653 13. Any lewd or lascivious offense committed upon or in
654 the presence of a person less than 16 years of age; or
- 655 14. Carrying, displaying, using, threatening, or
656 attempting to use a weapon or firearm during the commission of a
657 felony.

658 (b) The youth is at least 13 years of age at the time of
659 the disposition, the current offense is a felony, and the child
660 has previously been committed at least two times to a
661 delinquency commitment program.

662 (c) The youth is at least 13 years of age and is currently
663 committed for a felony offense and transferred from a moderate-
664 risk or high-risk residential commitment placement.

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665 (50)~~(49)~~ "Serious or habitual juvenile offender program"
666 means the program established in s. 985.31.

667 (51)~~(50)~~ "Shelter" means a place for the temporary care of
668 a child who is alleged to be or who has been found to be
669 delinquent.

670 (52)~~(51)~~ "Shelter hearing" means a hearing provided for
671 under s. 984.14 in family-in-need-of-services cases or child-in-
672 need-of-services cases.

673 (53)~~(52)~~ "Staff-secure shelter" means a facility in which
674 a child is supervised 24 hours a day by staff members who are
675 awake while on duty. The facility is for the temporary care and
676 assessment of a child who has been found to be dependent, who
677 has violated a court order and been found in contempt of court,
678 or whom the Department of Children and Family Services is unable
679 to properly assess or place for assistance within the continuum
680 of services provided for dependent children.

681 (54)~~(53)~~ "Substance abuse" means using, without medical
682 reason, any psychoactive or mood-altering drug, including
683 alcohol, in such a manner as to induce impairment resulting in
684 dysfunctional social behavior.

685 (55)~~(54)~~ "Taken into custody" means the status of a child
686 immediately when temporary physical control over the child is
687 attained by a person authorized by law, pending the child's
688 release, detention, placement, or other disposition as
689 authorized by law.

690 (56)~~(55)~~ "Temporary legal custody" means the relationship
691 that a juvenile court creates between a child and an adult
692 relative of the child, adult nonrelative approved by the court,

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693 or other person until a more permanent arrangement is ordered.
 694 Temporary legal custody confers upon the custodian the right to
 695 have temporary physical custody of the child and the right and
 696 duty to protect, train, and discipline the child and to provide
 697 the child with food, shelter, and education, and ordinary
 698 medical, dental, psychiatric, and psychological care, unless
 699 these rights and duties are otherwise enlarged or limited by the
 700 court order establishing the temporary legal custody
 701 relationship.

702 (57)~~(56)~~ "Temporary release" means the terms and
 703 conditions under which a child is temporarily released from a
 704 residential commitment facility or allowed home visits. If the
 705 temporary release is from a moderate-risk residential facility,
 706 a high-risk residential facility, or a maximum-risk residential
 707 facility, the terms and conditions of the temporary release must
 708 be approved by the child, the court, and the facility. The term
 709 includes periods during which the child is supervised pursuant
 710 to a conditional release program or a period during which the
 711 child is supervised by a juvenile probation officer or other
 712 nonresidential staff of the department or staff employed by an
 713 entity under contract with the department.

714 (58)~~(57)~~ "Training school" means one of the following
 715 facilities: the Arthur G. Dozier School or the Eckerd Youth
 716 Development Center.

717 (59)~~(58)~~ "Violation of law" or "delinquent act" means a
 718 violation of any law of this state, the United States, or any
 719 other state which is a misdemeanor or a felony or a violation of

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720 a county or municipal ordinance which would be punishable by
721 incarceration if the violation were committed by an adult.

722 (60)~~(59)~~ "Waiver hearing" means a hearing provided for
723 under s. 985.226(3).

724 Section 3. Paragraph (b) of subsection (4) of section
725 985.201, Florida Statutes, is amended to read:

726 985.201 Jurisdiction.--

727 (4)

728 (b)1. The court may retain jurisdiction over a child
729 committed to the department for placement in a juvenile
730 correctional facility ~~prison~~ or in a high-risk or maximum-risk
731 residential commitment program to allow the child to participate
732 in a juvenile conditional release program pursuant to s.
733 985.316. In no case shall the jurisdiction of the court be
734 retained beyond the child's 22nd birthday. However, if the child
735 is not successful in the conditional release program, the
736 department may use the transfer procedure under s. 985.404.

737 2. The court may retain jurisdiction over a child
738 committed to the department for placement in an intensive
739 residential treatment program for 10-year-old to 13-year-old
740 offenders, in the residential commitment program in a juvenile
741 correctional facility ~~prison~~, in a residential sex offender
742 program, or in a program for serious or habitual juvenile
743 offenders as provided in s. 985.311 or s. 985.31 until the child
744 reaches the age of 21. If the court exercises this jurisdiction
745 retention, it shall do so solely for the purpose of the child
746 completing the intensive residential treatment program for 10-
747 year-old to 13-year-old offenders, in the residential commitment

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748 program in a juvenile correctional facility ~~prison~~, in a
 749 residential sex offender program, or the program for serious or
 750 habitual juvenile offenders. Such jurisdiction retention does
 751 not apply for other programs, other purposes, or new offenses.

752 Section 4. Paragraph (d) of subsection (1) of section
 753 985.207, Florida Statutes, is amended, and paragraph (e) is
 754 added to said subsection to read:

755 985.207 Taking a child into custody.--

756 (1) A child may be taken into custody under the following
 757 circumstances:

758 (d) By a law enforcement officer who has probable cause to
 759 believe that the child is in violation of the conditions of the
 760 child's probation, home detention, postcommitment probation, or
 761 conditional release supervision, has absconded from
 762 nonresidential commitment, or has escaped from residential
 763 commitment.

764 (e) When a court finds that the child, who has been found
 765 to have committed a delinquent act or a violation of law and who
 766 is awaiting disposition for that delinquent act or violation of
 767 law:

768 1. Has a history of failing to appear for court
 769 proceedings;

770 2. Is presently ungovernable as evidenced by his or her
 771 recent behavior;

772 3. Presents a risk of failing to appear for future
 773 proceedings or of inflicting harm upon himself, herself, or
 774 others or the property of others because of his or her
 775 ungovernable behavior; or

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776 4. Has violated conditions imposed by the court in his or
777 her order of adjudication of delinquency.

778
779 Nothing in this subsection shall be construed to allow the
780 detention of a child who does not meet the detention criteria in
781 s. 985.215.

782 Section 5. Section 985.208, Florida Statutes, is amended
783 to read:

784 985.208 Detention of escapee or absconder on authority of
785 the department.--

786 (1) If an authorized agent of the department has
787 reasonable grounds to believe that any delinquent child
788 committed to the department has escaped from a residential
789 commitment facility ~~of the department~~ or from being lawfully
790 transported thereto or therefrom, or has absconded from a
791 nonresidential commitment facility, the agent may take the child
792 into active custody and may deliver the child to the facility
793 or, if it is closer, to a detention center for return to the
794 facility. However, a child may not be held in detention longer
795 than 24 hours, excluding Saturdays, Sundays, and legal holidays,
796 unless a special order so directing is made by the judge after a
797 detention hearing resulting in a finding that detention is
798 required based on the criteria in s. 985.215(2). The order shall
799 state the reasons for such finding. The reasons shall be
800 reviewable by appeal or in habeas corpus proceedings in the
801 district court of appeal.

802 (2) Any sheriff or other law enforcement officer, upon the
803 request of the secretary of the department or duly authorized

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804 agent, shall take a child who has escaped ~~or absconded~~ from a
 805 residential commitment department facility ~~for committed~~
 806 ~~delinquent children,~~ or from being lawfully transported thereto
 807 or therefrom, or has absconded from a nonresidential commitment
 808 facility, into custody and deliver the child to the appropriate
 809 juvenile probation officer ~~of the department.~~

810 Section 6. Paragraph (f) is added to subsection (1) of
 811 section 985.213, Florida Statutes, to read:

812 985.213 Use of detention.--

813 (1) All determinations and court orders regarding the use
 814 of secure, nonsecure, or home detention shall be based primarily
 815 upon findings that the child:

816 (f) Meets the criteria for taking a child into custody
 817 under s. 985.207(1)(e).

818 Section 7. Subsection (2), paragraphs (d) and (g) of
 819 subsection (5), and paragraphs (a), (b), and (f) of subsection
 820 (10) of section 985.215, Florida Statutes, are amended to read:

821 985.215 Detention.--

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

826 (a)1. The child is alleged to be an escapee from a
 827 residential commitment program, or an absconder from a
 828 nonresidential commitment program, a probation program, or
 829 conditional release supervision, or is alleged to have escaped
 830 while being lawfully transported to or from a residential
 831 commitment ~~such program or supervision.~~

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832 2.a. If the court finds during the detention hearing under
 833 this subsection that a child has absconded from a nonresidential
 834 commitment program, the court shall determine whether to place
 835 the child in detention care based on the results of the risk
 836 assessment by the juvenile probation officer. The risk
 837 assessment instrument provided for in s. 985.213 shall take the
 838 child's act of absconding from the nonresidential commitment
 839 program into consideration for purposes of detention care
 840 placement determinations and orders.

841 b. If the court places a child into detention care under
 842 this subparagraph, the child shall remain in detention care for
 843 21 days or until the department determines under s. 985.404(4)
 844 that transfer of the child is inappropriate or the court grants
 845 or denies the transfer, whichever period of time is shorter.

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

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

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

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

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

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860 felony of the third degree that is also a crime of violence,
861 including any such offense involving the use or possession of a
862 firearm.

863 (g) The child is charged with any second degree or third
864 degree felony involving a violation of chapter 893 or any third
865 degree felony that is not also a crime of violence, and the
866 child:

- 867 1. Has a record of failure to appear at court hearings
868 after being properly notified in accordance with the Rules of
869 Juvenile Procedure;
- 870 2. Has a record of law violations prior to court hearings;
- 871 3. Has already been detained or has been released and is
872 awaiting final disposition of the case;
- 873 4. Has a record of violent conduct resulting in physical
874 injury to others; or
- 875 5. Is found to have been in possession of a firearm.

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

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

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888 paragraph. The child's failure to keep the clerk of court and
889 defense counsel informed of a current and valid mailing address
890 where the child will receive notice to appear at court
891 proceedings does not provide an adequate ground for excusal of
892 the child's nonappearance at the hearings.

893 (j) The child is detained on a judicial order for failure
894 to appear and has previously willfully failed to appear, after
895 proper notice, at two or more court hearings of any nature on
896 the same case regardless of the results of the risk assessment
897 instrument. A child may be held in secure detention for up to 72
898 hours in advance of the next scheduled court hearing pursuant to
899 this paragraph. The child's failure to keep the clerk of court
900 and defense counsel informed of a current and valid mailing
901 address where the child will receive notice to appear at court
902 proceedings does not provide an adequate ground for excusal of
903 the child's nonappearance at the hearings.

904

905 A child who meets any of these criteria and who is ordered to be
906 detained pursuant to this subsection shall be given a hearing
907 within 24 hours after being taken into custody. The purpose of
908 the detention hearing is to determine the existence of probable
909 cause that the child has committed the delinquent act or
910 violation of law with which he or she is charged and the need
911 for continued detention, except where the child has absconded
912 from a nonresidential commitment program, in which case
913 subparagraph (a)2. applies. Unless a child is detained under
914 paragraph (d) or paragraph (e), the court shall utilize the
915 results of the risk assessment performed by the juvenile

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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916 | probation officer and, based on the criteria in this subsection,
 917 | shall determine the need for continued detention. A child placed
 918 | into secure, nonsecure, or home detention care may continue to
 919 | be so detained by the court pursuant to this subsection. If the
 920 | court orders a placement more restrictive than indicated by the
 921 | results of the risk assessment instrument, the court shall
 922 | state, in writing, clear and convincing reasons for such
 923 | placement. Except as provided in s. 790.22(8) or in subparagraph
 924 | (10)(a)2., paragraph (10)(b), paragraph (10)(c), or paragraph
 925 | (10)(d), when a child is placed into secure or nonsecure
 926 | detention care, or into a respite home or other placement
 927 | pursuant to a court order following a hearing, the court order
 928 | must include specific instructions that direct the release of
 929 | the child from such placement no later than 5 p.m. on the last
 930 | day of the detention period specified in paragraph (5)(b) or
 931 | paragraph (5)(c), or subparagraph (10)(a)1., whichever is
 932 | applicable, unless the requirements of such applicable provision
 933 | have been met or an order of continuance has been granted
 934 | pursuant to paragraph (5)(f).

935 | (5)

936 | (d)1. ~~Except as provided in paragraph (g),~~ A child may not
 937 | be held in secure, nonsecure, or home detention care for more
 938 | than 15 days following the entry of an order of adjudication,
 939 | except as provided in paragraph (g) or when the court finds that
 940 | the child:-

941 | a. Has a history of failing to appear for court
 942 | proceedings;

943 b. Is presently ungovernable as evidenced by his or her
 944 recent behavior;

945 c. Presents a risk of failing to appear for future
 946 proceedings or of inflicting harm upon himself, herself, or
 947 others or the property of others because of his or her
 948 ungovernable behavior; or

949 d. Has violated conditions imposed by the court in his or
 950 her order of adjudication of delinquency.

951 2. If the court makes a finding under subparagraph 1., the
 952 court shall order the placement of the child in secure detention
 953 or, at the discretion of the court and if available, on home
 954 detention with electronic monitoring until the disposition order
 955 is entered in the child's case.

956 (g) Upon good cause being shown that the nature of the
 957 charge requires additional time for the prosecution or defense
 958 of the case, the court may extend the time limits for detention
 959 specified in paragraph (c) or (d) an additional 9 days if the
 960 child is charged with an offense that would be, if committed by
 961 an adult, a capital felony, a life felony, a felony of the first
 962 degree, or a felony of the second degree involving violence
 963 against any individual.

964 (10)(a)1. When a child is committed to the Department of
 965 Juvenile Justice awaiting dispositional placement, removal of
 966 the child from detention care shall occur within 5 days,
 967 excluding Saturdays, Sundays, and legal holidays. Any child held
 968 in secure detention during the 5 days must meet detention
 969 admission criteria pursuant to this section. If the child is
 970 committed to a moderate-risk residential program, the department

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971 | may seek an order from the court authorizing continued detention
 972 | for a specific period of time necessary for the appropriate
 973 | residential placement of the child. However, such continued
 974 | detention in secure detention care may not exceed 15 days after
 975 | commitment, excluding Saturdays, Sundays, and legal holidays,
 976 | and except as otherwise provided in this subsection.

977 | 2. The court must place all children who are adjudicated
 978 | and awaiting placement in a ~~residential~~ commitment program in
 979 | detention care. Children who are in home detention care or
 980 | nonsecure detention care may be placed on electronic monitoring.

981 | (b) A child who is placed in home detention care,
 982 | nonsecure detention care, or home or nonsecure detention care
 983 | with electronic monitoring, while awaiting placement in a
 984 | minimum-risk, low-risk, or moderate-risk program, may be held in
 985 | secure detention care for 5 days, if the child violates the
 986 | conditions of the home detention care, the nonsecure detention
 987 | care, or the electronic monitoring agreement. For any subsequent
 988 | violation, the court may impose an additional 5 days in secure
 989 | detention care.

990 | (f) Regardless of detention status, a child being
 991 | transported by the department to a residential commitment
 992 | facility of the department may be placed in secure detention
 993 | overnight, not to exceed a 24-hour period, for the specific
 994 | purpose of ensuring the safe delivery of the child to his or her
 995 | residential commitment program, court, appointment, transfer, or
 996 | release.

997 | Section 8. Subsection (5) of section 985.228, Florida
 998 | Statutes, is amended to read:

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999 | 985.228 Adjudicatory hearings; withheld adjudications;
1000 | orders of adjudication.--

1001 | (5) If the court finds that the child named in a petition
1002 | has committed a delinquent act or violation of law, but elects
1003 | not to proceed under subsection (4), it shall incorporate that
1004 | finding in an order of adjudication of delinquency entered in
1005 | the case, briefly stating the facts upon which the finding is
1006 | made, and the court shall thereafter have full authority under
1007 | this chapter to deal with the child as adjudicated. The order of
1008 | adjudication of delinquency shall also include conditions that
1009 | must be followed by the child until a disposition order is
1010 | entered in his or her case. These conditions must include, but
1011 | are not limited to, requirements that the child, during any
1012 | period of time that he or she:

1013 | (a) Is not in secure detention, comply with a curfew;
1014 | attend school or another educational program, if eligible; and
1015 | obey the reasonable and lawful demands of his or her parents or
1016 | legal guardians and, if applicable, all persons responsible for
1017 | supervising him or her while he or she is in school or another
1018 | educational program.

1019 | (b) Is in secure detention, obey the reasonable and lawful
1020 | demands of all persons responsible for his or her supervision.

1021 | Section 9. Paragraphs (a) and (d) of subsection (1) and
1022 | subsection (2) of section 985.231, Florida Statutes, are amended
1023 | to read:

1024 | 985.231 Powers of disposition in delinquency cases.--

1025 | (1)(a) The court that has jurisdiction of an adjudicated
1026 | delinquent child may, by an order stating the facts upon which a

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1027 | determination of a sanction and rehabilitative program was made
 1028 | at the disposition hearing:
 1029 | 1. Place the child in a probation program or a
 1030 | postcommitment probation program under the supervision of an
 1031 | authorized agent of the department ~~of Juvenile Justice~~ or of any
 1032 | other person or agency specifically authorized and appointed by
 1033 | the court, whether in the child's own home, in the home of a
 1034 | relative of the child, or in some other suitable place under
 1035 | such reasonable conditions as the court may direct. A probation
 1036 | program for an adjudicated delinquent child must include a
 1037 | penalty component such as restitution in money or in kind,
 1038 | community service, a curfew, revocation or suspension of the
 1039 | driver's license of the child, or other nonresidential
 1040 | punishment appropriate to the offense and must also include a
 1041 | rehabilitative program component such as a requirement of
 1042 | participation in substance abuse treatment or in school or other
 1043 | educational program. If the child is attending or is eligible to
 1044 | attend public school and the court finds that the victim or a
 1045 | sibling of the victim in the case is attending or may attend the
 1046 | same school as the child, the court placement order shall
 1047 | include a finding pursuant to the proceedings described in s.
 1048 | 985.23(1)(d). Upon the recommendation of the department at the
 1049 | time of disposition, or subsequent to disposition pursuant to
 1050 | the filing of a petition alleging a violation of the child's
 1051 | conditions of postcommitment probation, the court may order the
 1052 | child to submit to random testing for the purpose of detecting
 1053 | and monitoring the use of alcohol or controlled substances.

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1054 a. A ~~restrictiveness level~~ classification scale for levels
 1055 of supervision shall be provided by the department, taking into
 1056 account the child's needs and risks relative to probation
 1057 supervision requirements to reasonably ensure the public safety.
 1058 Probation programs for children shall be supervised by the
 1059 department or by any other person or agency specifically
 1060 authorized by the court. These programs must include, but are
 1061 not limited to, structured or restricted activities as described
 1062 in this subparagraph, and shall be designed to encourage the
 1063 child toward acceptable and functional social behavior. If
 1064 supervision or a program of community service is ordered by the
 1065 court, the duration of such supervision or program must be
 1066 consistent with any treatment and rehabilitation needs
 1067 identified for the child and may not exceed the term for which
 1068 sentence could be imposed if the child were committed for the
 1069 offense, except that the duration of such supervision or program
 1070 for an offense that is a misdemeanor of the second degree, or is
 1071 equivalent to a misdemeanor of the second degree, may be for a
 1072 period not to exceed 6 months. When restitution is ordered by
 1073 the court, the amount of restitution may not exceed an amount
 1074 the child and the parent or guardian could reasonably be
 1075 expected to pay or make. A child who participates in any work
 1076 program under this part is considered an employee of the state
 1077 for purposes of liability, unless otherwise provided by law.

1078 b. The court may conduct judicial review hearings for a
 1079 child placed on probation for the purpose of fostering
 1080 accountability to the judge and compliance with other
 1081 requirements, such as restitution and community service. The

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1082 | court may allow early termination of probation for a child who
1083 | has substantially complied with the terms and conditions of
1084 | probation.

1085 | c. If the conditions of the probation program or the
1086 | postcommitment probation program are violated, the department or
1087 | the state attorney may bring the child before the court on a
1088 | petition alleging a violation of the program. Any child who
1089 | violates the conditions of probation or postcommitment probation
1090 | must be brought before the court if sanctions are sought. A
1091 | child taken into custody under s. 985.207 for violating the
1092 | conditions of probation or postcommitment probation shall be
1093 | held in a consequence unit if such a unit is available. The
1094 | child shall be afforded a hearing within 24 hours after being
1095 | taken into custody to determine the existence of probable cause
1096 | that the child violated the conditions of probation or
1097 | postcommitment probation. A consequence unit is a secure
1098 | facility specifically designated by the department for children
1099 | who are taken into custody under s. 985.207 for violating
1100 | probation or postcommitment probation, or who have been found by
1101 | the court to have violated the conditions of probation or
1102 | postcommitment probation. If the violation involves a new charge
1103 | of delinquency, the child may be detained under s. 985.215 in a
1104 | facility other than a consequence unit. If the child is not
1105 | eligible for detention for the new charge of delinquency, the
1106 | child may be held in the consequence unit pending a hearing and
1107 | is subject to the time limitations specified in s. 985.215. If
1108 | the child denies violating the conditions of probation or
1109 | postcommitment probation, the court shall appoint counsel to

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1110 represent the child at the child's request. Upon the child's
 1111 admission, or if the court finds after a hearing that the child
 1112 has violated the conditions of probation or postcommitment
 1113 probation, the court shall enter an order revoking, modifying,
 1114 or continuing probation or postcommitment probation. In each
 1115 such case, the court shall enter a new disposition order and, in
 1116 addition to the sanctions set forth in this paragraph, may
 1117 impose any sanction the court could have imposed at the original
 1118 disposition hearing. If the child is found to have violated the
 1119 conditions of probation or postcommitment probation, the court
 1120 may:

1121 (I) Place the child in a consequence unit in that judicial
 1122 circuit, if available, for up to 5 days for a first violation,
 1123 and up to 15 days for a second or subsequent violation.

1124 (II) Place the child on home detention with electronic
 1125 monitoring. However, this sanction may be used only if a
 1126 residential consequence unit is not available.

1127 (III) Modify or continue the child's probation program or
 1128 postcommitment probation program.

1129 (IV) Revoke probation or postcommitment probation and
 1130 commit the child to the department.

1131 d. Notwithstanding s. 743.07 and paragraph (d), and except
 1132 as provided in s. 985.31, the term of any order placing a child
 1133 in a probation program must be until the child's 19th birthday
 1134 unless he or she is released by the court, on the motion of an
 1135 interested party or on its own motion.

1136 2. Commit the child to a licensed child-caring agency
 1137 willing to receive the child, but the court may not commit the

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1138 child to a jail or to a facility used primarily as a detention
 1139 center or facility or shelter.

1140 3. Commit the child to the department ~~of Juvenile Justice~~
 1141 at a restrictiveness residential commitment level defined in s.
 1142 985.03. The court may specify a program or facility within the
 1143 restrictiveness level to which the child has been ordered. For a
 1144 child ordered committed to a specific high-risk residential or
 1145 maximum-risk residential program or facility, the department may
 1146 notify the dispositional judge of alternative placements at the
 1147 same risk level, as space becomes available, that could be
 1148 accomplished prior to entry of the child into the court-ordered
 1149 program or facility. With respect to any court-specified
 1150 placement, the court may not select a program or facility that
 1151 is not under contract with the department. If the court finds
 1152 that the planned vacancies at the program or facility specified
 1153 by the court are insufficient to allow for the placement of the
 1154 child within 45 days after the commitment order, the court must
 1155 select a program or facility at the same restrictiveness level
 1156 from at least three alternative placements provided by the
 1157 department. Such commitment must be for the purpose of
 1158 exercising active control over the child, including, but not
 1159 limited to, custody, care, training, urine monitoring, and
 1160 treatment of the child and release of the child from residential
 1161 commitment into the community in a postcommitment nonresidential
 1162 conditional release program. If the child is eligible to attend
 1163 public school following ~~residential~~ commitment and the court
 1164 finds that the victim or a sibling of the victim in the case is
 1165 or may be attending the same school as the child, the commitment

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1166 | order shall include a finding pursuant to the proceedings
 1167 | described in s. 985.23(1)(d). If the child is not successful in
 1168 | the conditional release program, the department may use the
 1169 | transfer procedure under s. 985.404. Notwithstanding s. 743.07
 1170 | and paragraph (d), and except as provided in s. 985.31, the term
 1171 | of the commitment must be until the child is discharged by the
 1172 | department or until he or she reaches the age of 21.

1173 | 4. Revoke or suspend the driver's license of the child.

1174 | 5. Require the child and, if the court finds it
 1175 | appropriate, the child's parent or guardian together with the
 1176 | child, to render community service in a public service program.

1177 | 6. As part of the probation program to be implemented by
 1178 | the department ~~of Juvenile Justice~~, or, in the case of a
 1179 | committed child, as part of the community-based sanctions
 1180 | ordered by the court at the disposition hearing or before the
 1181 | child's release from commitment, order the child to make
 1182 | restitution in money, through a promissory note cosigned by the
 1183 | child's parent or guardian, or in kind for any damage or loss
 1184 | caused by the child's offense in a reasonable amount or manner
 1185 | to be determined by the court. The clerk of the circuit court
 1186 | shall be the receiving and dispensing agent. In such case, the
 1187 | court shall order the child or the child's parent or guardian to
 1188 | pay to the office of the clerk of the circuit court an amount
 1189 | not to exceed the actual cost incurred by the clerk as a result
 1190 | of receiving and dispensing restitution payments. The clerk
 1191 | shall notify the court if restitution is not made, and the court
 1192 | shall take any further action that is necessary against the
 1193 | child or the child's parent or guardian. A finding by the court,

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1194 after a hearing, that the parent or guardian has made diligent
 1195 and good faith efforts to prevent the child from engaging in
 1196 delinquent acts absolves the parent or guardian of liability for
 1197 restitution under this subparagraph.

1198 7. Order the child and, if the court finds it appropriate,
 1199 the child's parent or guardian together with the child, to
 1200 participate in a community work project, either as an
 1201 alternative to monetary restitution or as part of the
 1202 rehabilitative or probation program.

1203 8. Commit the child to the department of ~~Juvenile Justice~~
 1204 for placement in a program or facility for serious or habitual
 1205 juvenile offenders in accordance with s. 985.31. Any commitment
 1206 of a child to a program or facility for serious or habitual
 1207 juvenile offenders must be for an indeterminate period of time,
 1208 but the time may not exceed the maximum term of imprisonment
 1209 that an adult may serve for the same offense. The court may
 1210 retain jurisdiction over such child until the child reaches the
 1211 age of 21, specifically for the purpose of the child completing
 1212 the program.

1213 9. In addition to the sanctions imposed on the child,
 1214 order the parent or guardian of the child to perform community
 1215 service if the court finds that the parent or guardian did not
 1216 make a diligent and good faith effort to prevent the child from
 1217 engaging in delinquent acts. The court may also order the parent
 1218 or guardian to make restitution in money or in kind for any
 1219 damage or loss caused by the child's offense. The court shall
 1220 determine a reasonable amount or manner of restitution, and

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1221 payment shall be made to the clerk of the circuit court as
1222 provided in subparagraph 6.

1223 10. Subject to specific appropriation, commit the juvenile
1224 sexual offender to the department ~~of Juvenile Justice~~ for
1225 placement in a program or facility for juvenile sexual offenders
1226 in accordance with s. 985.308. Any commitment of a juvenile
1227 sexual offender to a program or facility for juvenile sexual
1228 offenders must be for an indeterminate period of time, but the
1229 time may not exceed the maximum term of imprisonment that an
1230 adult may serve for the same offense. The court may retain
1231 jurisdiction over a juvenile sexual offender until the juvenile
1232 sexual offender reaches the age of 21, specifically for the
1233 purpose of completing the program.

1234 (d) Any commitment of a delinquent child to the department
1235 ~~of Juvenile Justice~~ must be for an indeterminate period of time,
1236 which may include periods of temporary release; however, but the
1237 period of time may not exceed the maximum term of imprisonment
1238 that an adult may serve for the same offense, except that the
1239 duration of a minimum-risk nonresidential commitment for an
1240 offense that is a misdemeanor of the second degree, or is
1241 equivalent to a misdemeanor of the second degree, may be for a
1242 period not to exceed 6 months. The duration of the child's
1243 placement in a ~~residential~~ commitment program of any
1244 restrictiveness level shall be based on objective performance-
1245 based treatment planning. The child's treatment plan progress
1246 and adjustment-related issues shall be reported to the court
1247 quarterly, unless the court requests monthly reports each month.
1248 The child's length of stay in a ~~residential~~ commitment program

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1249 | may be extended if the child fails to comply with or participate
 1250 | in treatment activities. The child's length of stay in the ~~such~~
 1251 | program shall not be extended for purposes of sanction or
 1252 | punishment. Any temporary release from such program must be
 1253 | approved by the court. Any child so committed may be discharged
 1254 | from institutional confinement or a program upon the direction
 1255 | of the department with the concurrence of the court. The child's
 1256 | treatment plan progress and adjustment-related issues must be
 1257 | communicated to the court at the time the department requests
 1258 | the court to consider releasing the child from the ~~residential~~
 1259 | commitment program. Notwithstanding s. 743.07 and this
 1260 | subsection, and except as provided in ss. 985.201 and 985.31, a
 1261 | child may not be held under a commitment from a court under
 1262 | ~~pursuant to~~ this section after becoming 21 years of age. The
 1263 | department shall give the court that committed the child to the
 1264 | department reasonable notice, in writing, of its desire to
 1265 | discharge the child from a commitment facility. The court that
 1266 | committed the child may thereafter accept or reject the request.
 1267 | If the court does not respond within 10 days after receipt of
 1268 | the notice, the request of the department shall be deemed
 1269 | granted. This section does not limit the department's authority
 1270 | to revoke a child's temporary release status and return the
 1271 | child to a commitment facility for any violation of the terms
 1272 | and conditions of the temporary release.

1273 | (2) Following a delinquency adjudicatory hearing pursuant
 1274 | to s. 985.228 and a delinquency disposition hearing pursuant to
 1275 | s. 985.23 which results in a commitment determination, the court
 1276 | shall, on its own or upon request by the state or the

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1277 department, determine whether the protection of the public
 1278 requires that the child be placed in a program for serious or
 1279 habitual juvenile offenders and whether the particular needs of
 1280 the child would be best served by a program for serious or
 1281 habitual juvenile offenders as provided in s. 985.31. The
 1282 determination shall be made pursuant to ss. 985.03~~(49)~~~~(48)~~ and
 1283 985.23(3).

1284 Section 10. Paragraph (a) of subsection (1) of section
 1285 985.2311, Florida Statutes, is amended to read:

1286 985.2311 Cost of supervision; cost of care.--

1287 (1) Except as provided in subsection (3) or subsection
 1288 (4):

1289 (a) When any child is placed into home detention,
 1290 probation, or other supervision status with the department, or
 1291 is committed to the minimum-risk nonresidential restrictiveness
 1292 level of Juvenile Justice, the court shall order the parent of
 1293 such child to pay to the department a fee for the cost of the
 1294 supervision of such child in the amount of \$1 per day for each
 1295 day that the child is in such ~~supervision~~ status.

1296 Section 11. Section 985.313, Florida Statutes, is amended
 1297 to read:

1298 985.313 Juvenile correctional facilities ~~or juvenile~~
 1299 ~~prison~~.--A juvenile correctional facility ~~or juvenile prison~~ is
 1300 a physically secure residential commitment program with a
 1301 designated length of stay from 18 months to 36 months, primarily
 1302 serving children 13 years of age to 19 years of age, or until
 1303 the jurisdiction of the court expires. The court may retain
 1304 jurisdiction over the child until the child reaches the age of

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1305 21, specifically for the purpose of the child completing the
1306 program. Each child committed to this level must meet one of the
1307 following criteria:

1308 (1) The youth is at least 13 years of age at the time of
1309 the disposition for the current offense and has been adjudicated
1310 on the current offense for:

1311 (a) Arson;

1312 (b) Sexual battery;

1313 (c) Robbery;

1314 (d) Kidnapping;

1315 (e) Aggravated child abuse;

1316 (f) Aggravated assault;

1317 (g) Aggravated stalking;

1318 (h) Murder;

1319 (i) Manslaughter;

1320 (j) Unlawful throwing, placing, or discharging of a
1321 destructive device or bomb;

1322 (k) Armed burglary;

1323 (l) Aggravated battery;

1324 (m) Carjacking;

1325 (n) Home-invasion robbery;

1326 (o) Burglary with an assault or battery;

1327 (p) Any lewd or lascivious offense committed upon or in
1328 the presence of a person less than 16 years of age; or

1329 (q) Carrying, displaying, using, threatening to use, or
1330 attempting to use a weapon or firearm during the commission of a
1331 felony.

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1332 (2) The youth is at least 13 years of age at the time of
1333 the disposition, the current offense is a felony, and the child
1334 has previously been committed three or more times to a
1335 delinquency commitment program.

1336 (3) The youth is at least 13 years of age and is currently
1337 committed for a felony offense and transferred from a moderate-
1338 risk or high-risk residential commitment placement.

1339 (4) The youth is at least 13 years of age at the time of
1340 the disposition for the current offense, the youth is eligible
1341 for prosecution as an adult for the current offense, and the
1342 current offense is ranked at level 7 or higher on the Criminal
1343 Punishment Code offense severity ranking chart pursuant to s.
1344 921.0022.

1345 Section 12. Subsection (3) of section 985.316, Florida
1346 Statutes, is amended to read:

1347 985.316 Conditional release.--

1348 (3) For juveniles referred or committed to the department,
1349 the function of the department may include, but shall not be
1350 limited to, assessing each ~~committed~~ juvenile placed in a
1351 residential commitment program to determine the need for
1352 conditional release services upon release from the a-~~commitment~~
1353 program, supervising the juvenile when released into the
1354 community from a residential commitment facility of the
1355 department, providing such counseling and other services as may
1356 be necessary for the families and assisting their preparations
1357 for the return of the child. Subject to specific appropriation,
1358 the department shall provide for outpatient sexual offender
1359 counseling for any juvenile sexual offender released from a

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1360 residential commitment program as a component of conditional
1361 release.

1362 Section 13. Section 985.403, Florida Statutes, is
1363 repealed.

1364 Section 14. Task Force on Juvenile Sexual Offenders and
1365 their Victims.--

1366 (1) On or before August 1, 2005, the Department of
1367 Juvenile Justice shall create a task force to review and
1368 evaluate the state's laws that address juvenile sex offenders
1369 and the department's practices and procedures for serving these
1370 offenders and their victims. The task force shall make findings
1371 that include, but are not limited to, a profile of this state's
1372 juvenile sex offenders and of dispositions received by those
1373 offenders, identification of statutes that address these
1374 offenders, identification of community-based and commitment
1375 programming available for these offenders and of such
1376 programming's effectiveness, the appropriateness and
1377 rehabilitative efficacy of placing these offenders in
1378 residential commitment programs, and identification of
1379 qualifications required for staff who serve these offenders.
1380 Based on its findings, the task force shall make recommendations
1381 for how the state's laws, policies, programs, and funding for
1382 juvenile sexual offenders may be improved.

1383 (2) The Secretary of Juvenile Justice, or his or her
1384 designee, shall appoint up to 12 members to the task force. The
1385 task force shall be composed of representatives who shall
1386 include, but are not limited to: a circuit court judge with at
1387 least 1 year's experience in the juvenile division, a state

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1388 attorney with at least 1 year's experience in the juvenile
 1389 division, a public defender with at least 1 year's experience in
 1390 the juvenile division, one representative of the Department of
 1391 Juvenile Justice, two representatives of providers of juvenile
 1392 sexual offender services, one member of the Florida Juvenile
 1393 Justice Association, one member of the Florida Association for
 1394 the Treatment of Sexual Abusers, and one victim of a juvenile
 1395 sexual offense.

1396 (3) The task force shall submit a written report of its
 1397 findings and recommendations to the Governor, the President of
 1398 the Senate, and the Speaker of the House of Representatives by
 1399 December 1, 2005.

1400 (4) Administrative support for the task force shall be
 1401 provided by the Department of Juvenile Justice. Members of the
 1402 task force shall receive no salary and are not entitled to
 1403 reimbursement for travel and per diem expenses.

1404 (5) The task force shall be dissolved upon submission of
 1405 its report.

1406 Section 15. Task force to study certification of juvenile
 1407 justice provider staff.--

1408 (1) On or before August 1, 2005, the Department of
 1409 Juvenile Justice shall create a task force to study the
 1410 feasibility of establishing a certification process for staff
 1411 employed by a provider under contract with the Department of
 1412 Juvenile Justice to provide juvenile justice services to youth.

1413 (2) The Secretary of Juvenile Justice, or his or her
 1414 designee, shall appoint up to 12 members to the task force. The
 1415 task force shall be composed of representatives who shall

1416 include, but are not limited to, the following: two
 1417 representatives of the Department of Juvenile Justice, two
 1418 representatives of providers of juvenile justice services, two
 1419 members of the Florida Juvenile Justice Association, two
 1420 provider employees who provide direct care services, and two
 1421 representatives of the Florida Certification Board.

1422 (3) The task force shall consider the feasibility of
 1423 implementing and operating a certification system for staff who
 1424 work in juvenile justice facilities, services, or programs. At a
 1425 minimum, the task force shall consider, and make recommendations
 1426 concerning, per diem levels, the occupational levels of staff
 1427 subject to certification, the criteria that may be used to
 1428 certify staff, the levels of certification, and a process for
 1429 testing and validating the effectiveness of any recommended
 1430 staff certification system. In making its recommendations, the
 1431 task force shall make findings regarding the benefits of a staff
 1432 certification system for the state's juvenile justice
 1433 programming and the cost to implement such a system.

1434 (4) The task force shall submit a written report of its
 1435 findings and recommendations to the Governor, the President of
 1436 the Senate, and the Speaker of the House of Representatives by
 1437 January 1, 2006.

1438 (5) Administrative support for the task force shall be
 1439 provided by the Department of Juvenile Justice. Members of the
 1440 task force shall receive no salary and are not entitled to
 1441 reimbursement for travel and per diem expenses.

1442 (6) The task force shall be dissolved upon submission of
 1443 its report.

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1444 Section 16. Subsection (4) of section 985.404, Florida
 1445 Statutes, is amended to read:
 1446 985.404 Administering the juvenile justice continuum.--
 1447 (4) The department may transfer a child, when necessary to
 1448 appropriately administer the child's commitment, from one
 1449 facility or program to another facility or program operated,
 1450 contracted, subcontracted, or designated by the department,
 1451 including a postcommitment nonresidential conditional release
 1452 program. The department shall notify the court that committed
 1453 the child to the department and any attorney of record, in
 1454 writing, of its intent to transfer the child from a commitment
 1455 facility or program to another facility or program of a higher
 1456 or lower restrictiveness level, or to another facility or
 1457 program that is different from a facility or program specified
 1458 by the court under s. 985.231(1)(a)3. After receipt of the
 1459 notice, the court that committed the child may ~~agree to the~~
 1460 ~~transfer or may~~ set a hearing to review the transfer, after
 1461 which the court shall issue a written order granting or denying
 1462 the transfer, or may, without setting a hearing, issue a written
 1463 order granting or denying the transfer. No child shall be
 1464 transferred by the department to a higher or lower
 1465 restrictiveness level or to a facility or program different from
 1466 that specified by the court under s. 985.231(1)(a)3. prior to
 1467 the department's receiving a written court order granting the
 1468 transfer. If the court does not respond within 10 days after
 1469 receipt of the notice, the transfer of the child shall be deemed
 1470 granted.

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1471 Section 17. Subsections (2) and (10) of section 985.4135,
1472 Florida Statutes, are amended to read:

1473 985.4135 Juvenile justice circuit boards and juvenile
1474 justice county councils.--

1475 (2) Each juvenile justice county council shall:

1476 (a) Develop a juvenile justice prevention and early
1477 intervention plan for the county and shall collaborate with the
1478 circuit board and other county councils assigned to that circuit
1479 in the development of a comprehensive plan for the circuit.

1480 (b) Develop, with the cooperation of county commissioners,
1481 school board officials, representatives of governing bodies for
1482 local municipalities, and representatives of local law
1483 enforcement agencies, criteria to be considered by law
1484 enforcement officers prior to referring youth to juvenile
1485 assessment centers.

1486 (10) Membership of the juvenile justice county councils,
1487 or juvenile justice circuit boards established under subsection
1488 (9), may ~~must~~ include representatives from the following
1489 entities:

1490 (a) Representatives from the school district, which may
1491 include elected school board officials, the school
1492 superintendent, school or district administrators, teachers, and
1493 counselors.

1494 (b) Representatives of the board of county commissioners.

1495 (c) Representatives of the governing bodies of local
1496 municipalities within the county.

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1497 (d) A representative of the corresponding circuit or
 1498 regional entity of the Department of Children and Family
 1499 Services.
 1500 (e) Representatives of local law enforcement agencies,
 1501 including the sheriff or the sheriff's designee.
 1502 (f) Representatives of the judicial system.
 1503 (g) Representatives of the business community.
 1504 (h) Representatives of other interested officials, groups,
 1505 or entities, including, but not limited to, a children's
 1506 services council, public or private providers of juvenile
 1507 justice programs and services, students, parents, and advocates.
 1508 Private providers of juvenile justice programs may not exceed
 1509 one-third of the voting membership.
 1510 (i) Representatives of the faith community.
 1511 (j) Representatives of victim-service programs and victims
 1512 of crimes.
 1513 (k) Representatives of the Department of Corrections.
 1514 Section 18. Section 784.075, Florida Statutes, is amended
 1515 to read:
 1516 784.075 Battery on detention or commitment facility staff
 1517 or a juvenile probation officer.--A person who commits a battery
 1518 on a juvenile probation officer, as defined in s. 984.03 or s.
 1519 985.03, on other staff of a detention center or facility as
 1520 defined in s. 984.03(19) or s. 985.03~~(19)~~, or on a staff member
 1521 of a commitment facility as defined in s. 985.03~~(45)~~, commits a
 1522 felony of the third degree, punishable as provided in s.
 1523 775.082, s. 775.083, or s. 775.084. For purposes of this
 1524 section, a staff member of the facilities listed includes

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1525 persons employed by the Department of Juvenile Justice, persons
 1526 employed at facilities licensed by the Department of Juvenile
 1527 Justice, and persons employed at facilities operated under a
 1528 contract with the Department of Juvenile Justice.

1529 Section 19. Section 984.05, Florida Statutes, is amended
 1530 to read:

1531 984.05 Rules relating to habitual truants; adoption by
 1532 State Board of Education and Department of Juvenile
 1533 Justice.--The Department of Juvenile Justice and the State Board
 1534 of Education shall work together on the development of, and
 1535 shall adopt, rules as necessary for the implementation of ss.
 1536 984.03(27), 985.03(26)~~(25)~~, and 1003.27.

1537 Section 20. Paragraph (e) of subsection (3) and paragraph
 1538 (a) of subsection (4) of section 985.31, Florida Statutes, are
 1539 amended, and for the purpose of incorporating the amendment to
 1540 section 985.231, Florida Statutes, in references thereto,
 1541 paragraph (k) of subsection (3) of said section is reenacted, to
 1542 read:

1543 985.31 Serious or habitual juvenile offender.--

1544 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
 1545 TREATMENT.--

1546 (e) After a child has been adjudicated delinquent pursuant
 1547 to s. 985.228, the court shall determine whether the child meets
 1548 the criteria for a serious or habitual juvenile offender
 1549 pursuant to s. 985.03(49)~~(48)~~. If the court determines that the
 1550 child does not meet such criteria, the provisions of s.
 1551 985.231(1) shall apply.

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1552 (k) Any commitment of a child to the department for
 1553 placement in a serious or habitual juvenile offender program or
 1554 facility shall be for an indeterminate period of time, but the
 1555 time shall not exceed the maximum term of imprisonment which an
 1556 adult may serve for the same offense. Notwithstanding the
 1557 provisions of ss. 743.07 and 985.231(1)(d), a serious or
 1558 habitual juvenile offender shall not be held under commitment
 1559 from a court pursuant to this section, s. 985.231, or s. 985.233
 1560 after becoming 21 years of age. This provision shall apply only
 1561 for the purpose of completing the serious or habitual juvenile
 1562 offender program pursuant to this chapter and shall be used
 1563 solely for the purpose of treatment.

1564 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

1565 (a) Pursuant to the provisions of this section, the
 1566 department shall implement the comprehensive assessment
 1567 instrument for the treatment needs of serious or habitual
 1568 juvenile offenders and for the assessment, which assessment
 1569 shall include the criteria under s. 985.03(49)(~~48~~) and shall
 1570 also include, but not be limited to, evaluation of the child's:

- 1571 1. Amenability to treatment.
- 1572 2. Proclivity toward violence.
- 1573 3. Tendency toward gang involvement.
- 1574 4. Substance abuse or addiction and the level thereof.
- 1575 5. History of being a victim of child abuse or sexual
 1576 abuse, or indication of sexual behavior dysfunction.
- 1577 6. Number and type of previous adjudications, findings of
 1578 guilt, and convictions.
- 1579 7. Potential for rehabilitation.

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1580 Section 21. Subsection (2) of section 985.3141, Florida
1581 Statutes, is amended to read:

1582 985.3141 Escapes from secure detention or residential
1583 commitment facility.--An escape from:

1584 (2) Any residential commitment facility described in s.
1585 985.03(46)(~~45~~), maintained for the custody, treatment,
1586 punishment, or rehabilitation of children found to have
1587 committed delinquent acts or violations of law; or

1588 Section 22. For the purpose of incorporating the amendment
1589 to section 985.231, Florida Statutes, in a reference thereto,
1590 paragraph (a) of subsection (4) of section 985.201, Florida
1591 Statutes, is reenacted to read:

1592 985.201 Jurisdiction.--

1593 (4)(a) Notwithstanding ss. 743.07, 985.229, 985.23, and
1594 985.231, and except as provided in ss. 985.31 and 985.313, when
1595 the jurisdiction of any child who is alleged to have committed a
1596 delinquent act or violation of law is obtained, the court shall
1597 retain jurisdiction, unless relinquished by its order, until the
1598 child reaches 19 years of age, with the same power over the
1599 child that the court had prior to the child becoming an adult.

1600 Section 23. For the purpose of incorporating the amendment
1601 to section 985.231, Florida Statutes, in a reference thereto,
1602 paragraph (b) of subsection (4) of section 985.233, Florida
1603 Statutes, is reenacted to read:

1604 985.233 Sentencing powers; procedures; alternatives for
1605 juveniles prosecuted as adults.--

1606 (4) SENTENCING ALTERNATIVES.--

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1607 (b) Sentencing to juvenile sanctions.--For juveniles
 1608 transferred to adult court but who do not qualify for such
 1609 transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or
 1610 (b), the court may impose juvenile sanctions under this
 1611 paragraph. If juvenile sentences are imposed, the court shall,
 1612 pursuant to this paragraph, adjudge the child to have committed
 1613 a delinquent act. Adjudication of delinquency shall not be
 1614 deemed a conviction, nor shall it operate to impose any of the
 1615 civil disabilities ordinarily resulting from a conviction. The
 1616 court shall impose an adult sanction or a juvenile sanction and
 1617 may not sentence the child to a combination of adult and
 1618 juvenile punishments. An adult sanction or a juvenile sanction
 1619 may include enforcement of an order of restitution or probation
 1620 previously ordered in any juvenile proceeding. However, if the
 1621 court imposes a juvenile sanction and the department determines
 1622 that the sanction is unsuitable for the child, the department
 1623 shall return custody of the child to the sentencing court for
 1624 further proceedings, including the imposition of adult
 1625 sanctions. Upon adjudicating a child delinquent under subsection
 1626 (1), the court may:

1627 1. Place the child in a probation program under the
 1628 supervision of the department for an indeterminate period of
 1629 time until the child reaches the age of 19 years or sooner if
 1630 discharged by order of the court.

1631 2. Commit the child to the department for treatment in an
 1632 appropriate program for children for an indeterminate period of
 1633 time until the child is 21 or sooner if discharged by the
 1634 department. The department shall notify the court of its intent

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1635 to discharge no later than 14 days prior to discharge. Failure
1636 of the court to timely respond to the department's notice shall
1637 be considered approval for discharge.

1638 3. Order disposition pursuant to s. 985.231 as an
1639 alternative to youthful offender or adult sentencing if the
1640 court determines not to impose youthful offender or adult
1641 sanctions.

1642
1643 It is the intent of the Legislature that the criteria and
1644 guidelines in this subsection are mandatory and that a
1645 determination of disposition under this subsection is subject to
1646 the right of the child to appellate review under s. 985.234.

1647 Section 24. For the purpose of incorporating the amendment
1648 to section 985.231, Florida Statutes, in a reference thereto,
1649 paragraph (e) of subsection (3) of section 985.311, Florida
1650 Statutes, is reenacted to read:

1651 985.311 Intensive residential treatment program for
1652 offenders less than 13 years of age.--

1653 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
1654 TREATMENT.--

1655 (e) After a child has been adjudicated delinquent pursuant
1656 to s. 985.228(5), the court shall determine whether the child is
1657 eligible for an intensive residential treatment program for
1658 offenders less than 13 years of age pursuant to s. 985.03(7). If
1659 the court determines that the child does not meet the criteria,
1660 the provisions of s. 985.231(1) shall apply.

1661 Section 25. This act shall take effect July 1, 2005.