

Bill No. HB 1917, 1st Eng.

Barcode 741866

CHAMBER ACTION

Senate

House

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Senator Crist moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 985.03, Florida Statutes, is

amended to read:

985.03 Definitions.--~~As when~~ used in this chapter, the

term:

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

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

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

(4) "Arbitration" means a process whereby a neutral third person or panel, called an arbitrator or an arbitration panel, considers the facts and arguments presented by the

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1 parties and renders a decision which may be binding or
2 nonbinding.

3 (5) "Authorized agent" or "designee" of the department
4 means a person or agency assigned or designated by the
5 department ~~of Juvenile Justice~~ or the Department of Children
6 and Family Services, as appropriate, to perform duties or
7 exercise powers under ~~pursuant to~~ this chapter and includes
8 contract providers and their employees for purposes of
9 providing services to and managing cases of children in need
10 of services and families in need of services.

11 (6) "Child" or "juvenile" or "youth" means any
12 unmarried person under the age of 18 who has not been
13 emancipated by order of the court and who has been found or
14 alleged to be dependent, in need of services, or from a family
15 in need of services; or any married or unmarried person who is
16 charged with a violation of law occurring prior to the time
17 that person reached the age of 18 years.

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

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

- 27 1. Arson;
- 28 2. Sexual battery;
- 29 3. Robbery;
- 30 4. Kidnapping;
- 31 5. Aggravated child abuse;

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- 1 6. Aggravated assault;
- 2 7. Aggravated stalking;
- 3 8. Murder;
- 4 9. Manslaughter;
- 5 10. Unlawful throwing, placing, or discharging of a
- 6 destructive device or bomb;
- 7 11. Armed burglary;
- 8 12. Aggravated battery;
- 9 13. Any lewd or lascivious offense committed upon or
- 10 in the presence of a person less than 16 years of age; or
- 11 14. Carrying, displaying, using, threatening, or
- 12 attempting to use a weapon or firearm during the commission of
- 13 a felony.

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

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

21 (8) "Child in need of services" means a child for whom
 22 there is no pending investigation into an allegation or
 23 suspicion of abuse, neglect, or abandonment; no pending
 24 referral alleging the child is delinquent; or no current
 25 supervision by the department ~~of Juvenile Justice~~ or the
 26 Department of Children and Family Services for an adjudication
 27 of dependency or delinquency. The child must also, under
 28 ~~pursuant to~~ this chapter, be found by the court:

29 (a) To have persistently run away from the child's
 30 parents or legal custodians despite reasonable efforts of the
 31 child, the parents or legal custodians, and appropriate

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1 agencies to remedy the conditions contributing to the
 2 behavior. Reasonable efforts shall include voluntary
 3 participation by the child's parents or legal custodians and
 4 the child in family mediation, services, and treatment offered
 5 by the department ~~of Juvenile Justice~~ or the Department of
 6 Children and Family Services;

7 (b) To be habitually truant from school, while subject
 8 to compulsory school attendance, despite reasonable efforts to
 9 remedy the situation under ~~pursuant to~~ ss. 1003.26 and 1003.27
 10 and through voluntary participation by the child's parents or
 11 legal custodians and by the child in family mediation,
 12 services, and treatment offered by the Department of Juvenile
 13 Justice or the Department of Children and Family Services; or

14 (c) To have persistently disobeyed the reasonable and
 15 lawful demands of the child's parents or legal custodians, and
 16 to be beyond their control despite efforts by the child's
 17 parents or legal custodians and appropriate agencies to remedy
 18 the conditions contributing to the behavior. Reasonable
 19 efforts may include such things as good faith participation in
 20 family or individual counseling.

21 (9) "Child who has been found to have committed a
 22 delinquent act" means a child who, under ~~pursuant to the~~
 23 ~~provisions of~~ this chapter, is found by a court to have
 24 committed a violation of law or to be in direct or indirect
 25 contempt of court, except that this definition does ~~shall~~ not
 26 include an act constituting contempt of court arising out of a
 27 dependency proceeding or a proceeding under ~~pursuant to~~ part
 28 III of this chapter.

29 (10) "Child support" means a court-ordered obligation,
 30 enforced under chapter 61 and ss. 409.2551-409.2597, for
 31 monetary support for the care, maintenance, training, and

1 education of a child.

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

4 (12) "Comprehensive assessment" or "assessment" means
5 the gathering of information for the evaluation of a juvenile
6 offender's or a child's physical, psychological, educational,
7 vocational, and social condition and family environment as
8 they relate to the child's need for rehabilitative and
9 treatment services, including substance abuse treatment
10 services, mental health services, developmental services,
11 literacy services, medical services, family services, and
12 other specialized services, as appropriate.

13 (13) "Conditional release" means the care, treatment,
14 help, and supervision provided to a juvenile released from a
15 residential commitment program which is intended to promote
16 rehabilitation and prevent recidivism. The purpose of
17 conditional release is to protect the public, reduce
18 recidivism, increase responsible productive behavior, and
19 provide for a successful transition of the youth from the
20 department to the family. Conditional release includes, but is
21 not limited to, nonresidential community-based programs.

22 (14) "Court," unless otherwise expressly stated, means
23 the circuit court assigned to exercise jurisdiction under this
24 chapter.

25 (15) "Day treatment" means a nonresidential,
26 community-based program designed to provide therapeutic
27 intervention to youth who are placed on probation or
28 conditional release or are committed to the minimum-risk
29 nonresidential level. A day treatment program may provide
30 educational and vocational services and shall provide
31 case-management services; individual, group, and family

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1 counseling; training designed to address delinquency risk
 2 factors; and monitoring of a youth's compliance with, and
 3 facilitation of a youth's completion of, sanctions if ordered
 4 by the court. Program types may include, but are not limited
 5 to, career programs, marine programs, juvenile justice
 6 alternative schools, training and rehabilitation programs, and
 7 gender-specific programs.

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

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

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

28 ~~(17)(16)~~ "Department" means the Department of Juvenile
 29 Justice.

30 ~~(18)(17)~~ "Designated facility" or "designated
 31 treatment facility" means any facility designated by the

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1 department ~~of Juvenile Justice~~ to provide treatment to
2 juvenile offenders.

3 (19)(18) "Detention care" means the temporary care of
4 a child in secure, nonsecure, or home detention, pending a
5 court adjudication or disposition or execution of a court
6 order. There are three types of detention care, as follows:

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

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

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

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

30 (21)(20) "Detention hearing" means a hearing for the
31 court to determine if a child should be placed in temporary

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1 custody, as provided for under ss. 985.213 and 985.215 in
2 delinquency cases.

3 ~~(22)(21)~~ "Disposition hearing" means a hearing in
4 which the court determines the most appropriate dispositional
5 services in the least restrictive available setting provided
6 for under s. 985.231, in delinquency cases.

7 ~~(23)(22)~~ "Family" means a collective of persons,
8 consisting of a child and a parent, guardian, adult custodian,
9 or adult relative, in which:

10 (a) The persons reside in the same house or living
11 unit; or

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

15 ~~(24)(23)~~ "Family in need of services" means a family
16 that has a child for whom there is no pending investigation
17 into an allegation of abuse, neglect, or abandonment or no
18 current supervision by the department ~~of Juvenile Justice~~ or
19 the Department of Children and Family Services for an
20 adjudication of dependency or delinquency. The child must also
21 have been referred to a law enforcement agency or the
22 department ~~of Juvenile Justice~~ for:

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

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

27 (c) Habitual truancy from school.

28 ~~(25)(24)~~ "Foster care" means care provided a child in
29 a foster family or boarding home, group home, agency boarding
30 home, child care institution, or any combination thereof.

31 ~~(26)(25)~~ "Habitually truant" means that:

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

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

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

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

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1 such services were determined to be needed, the persons who
 2 performed the investigations met jointly with the family and
 3 child to discuss any referral to appropriate community
 4 agencies for economic services, family or individual
 5 counseling, or other services required to remedy the
 6 conditions that are contributing to the truant behavior.

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

17 ~~(27)~~~~(26)~~ "Halfway house" means a community-based
 18 residential program for 10 or more committed delinquents at
 19 the moderate-risk commitment level which is operated or
 20 contracted by the department of ~~Juvenile Justice~~.

21 ~~(28)~~~~(27)~~ "Intake" means the initial acceptance and
 22 screening by the department of ~~Juvenile Justice~~ of a complaint
 23 or a law enforcement report or probable cause affidavit of
 24 delinquency, family in need of services, or child in need of
 25 services to determine the recommendation to be taken in the
 26 best interests of the child, the family, and the community.
 27 The emphasis of intake is on diversion and the least
 28 restrictive available services. Consequently, intake includes
 29 such alternatives as:

30 (a) The disposition of the complaint, report, or
 31 probable cause affidavit without court or public agency action

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1 or judicial handling when appropriate.

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

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

6 ~~(29)(28)~~ "Judge" means the circuit judge exercising
7 jurisdiction pursuant to this chapter.

8 ~~(30)(29)~~ "Juvenile justice continuum" includes, but is
9 not limited to, delinquency prevention programs and services
10 designed for the purpose of preventing or reducing delinquent
11 acts, including criminal activity by youth gangs, and juvenile
12 arrests, as well as programs and services targeted at children
13 who have committed delinquent acts, and children who have
14 previously been committed to residential treatment programs
15 for delinquents. The term includes
16 children-in-need-of-services and families-in-need-of-services
17 programs; conditional release; substance abuse and mental
18 health programs; educational and career programs; recreational
19 programs; community services programs; community service work
20 programs; and alternative dispute resolution programs serving
21 children at risk of delinquency and their families, whether
22 offered or delivered by state or local governmental entities,
23 public or private for-profit or not-for-profit organizations,
24 or religious or charitable organizations.

25 ~~(31)(30)~~ "Juvenile probation officer" means the
26 authorized agent of the department ~~of Juvenile Justice~~ who
27 performs the intake, case management, or supervision
28 functions.

29 ~~(32)(31)~~ "Juvenile sexual offender" means:

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

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

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

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

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

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

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

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

21 c. Awareness of potential consequences and
22 alternatives.

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

25 e. Voluntary decision.

26 f. Mental competence.

27

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

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

3 ~~(33)(32)~~ "Legal custody or guardian" means a legal
4 status created by court order or letter of guardianship which
5 vests in a custodian of the person or guardian, whether an
6 agency or an individual, the right to have physical custody of
7 the child and the right and duty to protect, train, and
8 discipline the child and to provide him or her with food,
9 shelter, education, and ordinary medical, dental, psychiatric,
10 and psychological care.

11 ~~(34)(33)~~ "Licensed child-caring agency" means a
12 person, society, association, or agency licensed by the
13 Department of Children and Family Services to care for,
14 receive, and board children.

15 ~~(35)(34)~~ "Licensed health care professional" means a
16 physician licensed under chapter 458, an osteopathic physician
17 licensed under chapter 459, a nurse licensed under part I of
18 chapter 464, a physician assistant licensed under chapter 458
19 or chapter 459, or a dentist licensed under chapter 466.

20 ~~(36)(35)~~ "Likely to injure oneself" means that, as
21 evidenced by violent or other actively self-destructive
22 behavior, it is more likely than not that within a 24-hour
23 period the child will attempt to commit suicide or inflict
24 serious bodily harm on himself or herself.

25 ~~(37)(36)~~ "Likely to injure others" means that it is
26 more likely than not that within a 24-hour period the child
27 will inflict serious and unjustified bodily harm on another
28 person.

29 ~~(38)(37)~~ "Mediation" means a process whereby a neutral
30 third person called a mediator acts to encourage and
31 facilitate the resolution of a dispute between two or more

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

8 ~~(39)~~~~(38)~~ "Necessary medical treatment" means care
9 which is necessary within a reasonable degree of medical
10 certainty to prevent the deterioration of a child's condition
11 or to alleviate immediate pain of a child.

12 ~~(40)~~~~(39)~~ "Next of kin" means an adult relative of a
13 child who is the child's brother, sister, grandparent, aunt,
14 uncle, or first cousin.

15 ~~(41)~~~~(40)~~ "Parent" means a woman who gives birth to a
16 child and a man whose consent to the adoption of the child
17 would be required under s. 63.062(1). If a child has been
18 legally adopted, the term "parent" means the adoptive mother
19 or father of the child. The term does not include an
20 individual whose parental relationship to the child has been
21 legally terminated, or an alleged or prospective parent,
22 unless the parental status falls within the terms of either s.
23 39.503(1) or s. 63.062(1).

24 ~~(42)~~~~(41)~~ "Preliminary screening" means the gathering
25 of preliminary information to be used in determining a child's
26 need for further evaluation or assessment or for referral for
27 other substance abuse services through means such as
28 psychosocial interviews; urine and breathalyzer screenings;
29 and reviews of available educational, delinquency, and
30 dependency records of the child.

31 ~~(43)~~~~(42)~~ "Preventive services" means social services

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

11 ~~(44)(43)~~ "Probation" means the legal status of
 12 probation created by law and court order in cases involving a
 13 child who has been found to have committed a delinquent act.
 14 Probation is an individualized program in which the freedom of
 15 the child is limited and the child is restricted to
 16 noninstitutional quarters or restricted to the child's home in
 17 lieu of commitment to the custody of the department ~~of~~
 18 ~~Juvenile Justice~~. Youth on probation may be assessed and
 19 classified for placement in day-treatment probation programs
 20 designed for youth who represent a minimum risk to themselves
 21 and public safety and do not require placement and services in
 22 a residential setting. ~~Program types in this more intensive~~
 23 ~~and structured day-treatment probation option include career~~
 24 ~~programs, marine programs, juvenile justice alternative~~
 25 ~~schools, training and rehabilitation programs, and~~
 26 ~~gender-specific programs.~~

27 ~~(45)(44)~~ "Relative" means a grandparent,
 28 great-grandparent, sibling, first cousin, aunt, uncle,
 29 great-aunt, great-uncle, niece, or nephew, whether related by
 30 the whole or half blood, by affinity, or by adoption. The term
 31 does not include a stepparent.

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1 ~~(46)(45)~~ "Restrictiveness Residential Commitment
 2 level" means the level of programming and security provided by
 3 programs that service the supervision, custody, care, and
 4 treatment needs of committed children. Sections 985.3141 and
 5 985.404(11) apply to children placed in programs at any
 6 residential commitment level. The restrictiveness levels of
 7 ~~residential~~ commitment are as follows:

8 (a) Minimum-risk nonresidential.--Programs or program
 9 models at this commitment level work with youth who remain in
 10 the community and participate at least 5 days per week in a
 11 day treatment program. Youth assessed and classified for
 12 programs at this commitment level represent a minimum risk to
 13 themselves and public safety and do not require placement and
 14 services in residential settings. Youth in this level have
 15 full access to, and reside in, the community. Youth who have
 16 been found to have committed delinquent acts that involve
 17 firearms, that are sexual offenses, or that would be life
 18 felonies or first-degree felonies if committed by an adult may
 19 not be committed to a program at this level.

20 (b)(a) Low-risk residential.--Programs or program
 21 models at this commitment level are residential but may allow
 22 youth to have unsupervised access to the community. Youth
 23 assessed and classified for placement in programs at this
 24 commitment level represent a low risk to themselves and public
 25 safety but do require placement and services in residential
 26 settings. Children who have been found to have committed
 27 delinquent acts that involve firearms, delinquent acts that
 28 are sexual offenses, or delinquent acts that would be life
 29 felonies or first degree felonies if committed by an adult
 30 shall not be committed to a program at this level.

31 (c)(b) Moderate-risk residential.--Programs or program

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1 models at this commitment level are residential but may allow
 2 youth to have supervised access to the community. Facilities
 3 are either environmentally secure, staff secure, or are
 4 hardware-secure with walls, fencing, or locking doors.
 5 Facilities shall provide 24-hour awake supervision, custody,
 6 care, and treatment of residents. Youth assessed and
 7 classified for placement in programs at this commitment level
 8 represent a moderate risk to public safety and require close
 9 supervision. The staff at a facility at this commitment level
 10 may seclude a child who is a physical threat to himself or
 11 herself or others. Mechanical restraint may also be used when
 12 necessary.

13 (d)(c) High-risk residential.--Programs or program
 14 models at this commitment level are residential and do shall
 15 not allow youth to have access to the community except that,
 16 temporary release providing community access for up to 72
 17 continuous hours may be approved by a court for a youth who
 18 has made successful progress in his or her program in order
 19 for the youth to attend a family emergency or, during the
 20 final 60 days of his or her placement, to visit his or her
 21 home, enroll in school or a vocational program, complete a job
 22 interview, or participate in a community service project.

23 High-risk residential facilities are hardware-secure with
 24 perimeter fencing and locking doors. Facilities shall provide
 25 24-hour awake supervision, custody, care, and treatment of
 26 residents. Youth assessed and classified for this level of
 27 placement require close supervision in a structured
 28 residential setting. Placement in programs at this level is
 29 prompted by a concern for public safety that outweighs
 30 placement in programs at lower commitment levels. The staff at
 31 a facility at this commitment level may seclude a child who is

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1 a physical threat to himself or herself or others. Mechanical
2 restraint may also be used when necessary. The facility may
3 provide for single cell occupancy.

4 ~~(e)(d)~~ Maximum-risk residential.--Programs or program
5 models at this commitment level include juvenile correctional
6 facilities and juvenile prisons. The programs are long-term
7 residential and do ~~shall~~ not allow youth to have access to the
8 community. Facilities are maximum-custody hardware-secure
9 with perimeter security fencing and locking doors. Facilities
10 shall provide 24-hour awake supervision, custody, care, and
11 treatment of residents. The staff at a facility at this
12 commitment level may seclude a child who is a physical threat
13 to himself or herself or others. Mechanical restraint may
14 also be used when necessary. The facility shall provide for
15 single cell occupancy, except that youth may be housed
16 together during prerelease transition. Youth assessed and
17 classified for this level of placement require close
18 supervision in a maximum security residential setting.
19 Placement in a program at this level is prompted by a
20 demonstrated need to protect the public.

21 ~~(47)(46)~~ "Respite" means a placement that is available
22 for the care, custody, and placement of a youth charged with
23 domestic violence as an alternative to secure detention or for
24 placement of a youth when a shelter bed for a child in need of
25 services or a family in need of services is unavailable.

26 ~~(48)(47)~~ "Secure detention center or facility" means a
27 physically restricting facility for the temporary care of
28 children, pending adjudication, disposition, or placement.

29 ~~(49)(48)~~ "Serious or habitual juvenile offender," for
30 purposes of commitment to a residential facility and for
31 purposes of records retention, means a child who has been

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

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

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

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

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

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1 ~~(50)(49)~~ "Serious or habitual juvenile offender
2 program" means the program established in s. 985.31.

3 ~~(51)(50)~~ "Shelter" means a place for the temporary
4 care of a child who is alleged to be or who has been found to
5 be delinquent.

6 ~~(52)(51)~~ "Shelter hearing" means a hearing provided
7 for under s. 984.14 in family-in-need-of-services cases or
8 child-in-need-of-services cases.

9 ~~(53)(52)~~ "Staff-secure shelter" means a facility in
10 which a child is supervised 24 hours a day by staff members
11 who are awake while on duty. The facility is for the temporary
12 care and assessment of a child who has been found to be
13 dependent, who has violated a court order and been found in
14 contempt of court, or whom the Department of Children and
15 Family Services is unable to properly assess or place for
16 assistance within the continuum of services provided for
17 dependent children.

18 ~~(54)(53)~~ "Substance abuse" means using, without
19 medical reason, any psychoactive or mood-altering drug,
20 including alcohol, in such a manner as to induce impairment
21 resulting in dysfunctional social behavior.

22 ~~(55)(54)~~ "Taken into custody" means the status of a
23 child immediately when temporary physical control over the
24 child is attained by a person authorized by law, pending the
25 child's release, detention, placement, or other disposition as
26 authorized by law.

27 ~~(56)(55)~~ "Temporary legal custody" means the
28 relationship that a juvenile court creates between a child and
29 an adult relative of the child, adult nonrelative approved by
30 the court, or other person until a more permanent arrangement
31 is ordered. Temporary legal custody confers upon the custodian

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1 the right to have temporary physical custody of the child and
 2 the right and duty to protect, train, and discipline the child
 3 and to provide the child with food, shelter, and education,
 4 and ordinary medical, dental, psychiatric, and psychological
 5 care, unless these rights and duties are otherwise enlarged or
 6 limited by the court order establishing the temporary legal
 7 custody relationship.

8 ~~(57)~~(56) "Temporary release" means the terms and
 9 conditions under which a child is temporarily released from a
 10 residential commitment facility or allowed home visits. If the
 11 temporary release is from a moderate-risk residential
 12 facility, a high-risk residential facility, or a maximum-risk
 13 residential facility, the terms and conditions of the
 14 temporary release must be approved by the child, the court,
 15 and the facility. The term includes periods during which the
 16 child is supervised pursuant to a conditional release program
 17 or a period during which the child is supervised by a juvenile
 18 probation officer or other nonresidential staff of the
 19 department or staff employed by an entity under contract with
 20 the department.

21 ~~(58)~~(57) "Training school" means one of the following
 22 facilities: the Arthur G. Dozier School or the Eckerd Youth
 23 Development Center.

24 ~~(59)~~(58) "Violation of law" or "delinquent act" means
 25 a violation of any law of this state, the United States, or
 26 any other state which is a misdemeanor or a felony or a
 27 violation of a county or municipal ordinance which would be
 28 punishable by incarceration if the violation were committed by
 29 an adult.

30 ~~(60)~~(59) "Waiver hearing" means a hearing provided for
 31 under s. 985.226(3).

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1 Section 2. Paragraph (d) of subsection (1) of section
2 985.207, Florida Statutes, is amended to read:

3 985.207 Taking a child into custody.--

4 (1) A child may be taken into custody under the
5 following circumstances:

6 (d) By a law enforcement officer who has probable
7 cause to believe that the child is in violation of the
8 conditions of the child's probation, home detention,
9 postcommitment probation, or conditional release supervision,
10 has absconded from nonresidential commitment, or has escaped
11 from residential commitment.

12
13 Nothing in this subsection shall be construed to allow the
14 detention of a child who does not meet the detention criteria
15 in s. 985.215.

16 Section 3. Section 985.208, Florida Statutes, is
17 amended to read:

18 985.208 Detention of escapee or absconder on authority
19 of the department.--

20 (1) If an authorized agent of the department has
21 reasonable grounds to believe that any delinquent child
22 committed to the department has escaped from a residential
23 commitment facility ~~of the department~~ or from being lawfully
24 transported thereto or therefrom, or has absconded from a
25 nonresidential commitment facility, the agent may take the
26 child into active custody and may deliver the child to the
27 facility or, if it is closer, to a detention center for return
28 to the facility. However, a child may not be held in detention
29 longer than 24 hours, excluding Saturdays, Sundays, and legal
30 holidays, unless a special order so directing is made by the
31 judge after a detention hearing resulting in a finding that

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1 detention is required based on the criteria in s. 985.215(2).
 2 The order shall state the reasons for such finding. The
 3 reasons shall be reviewable by appeal or in habeas corpus
 4 proceedings in the district court of appeal.

5 (2) Any sheriff or other law enforcement officer, upon
 6 the request of the secretary of the department or duly
 7 authorized agent, shall take a child who has escaped ~~or~~
 8 ~~absconded~~ from a residential commitment ~~department~~ facility
 9 ~~for committed delinquent children,~~ or from being lawfully
 10 transported thereto or therefrom, or has absconded from a
 11 nonresidential commitment facility, into custody and deliver
 12 the child to the appropriate juvenile probation officer ~~of the~~
 13 ~~department.~~

14 Section 4. Subsections (2) and (10) of section
 15 985.215, Florida Statutes, are amended to read:

16 985.215 Detention.--

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

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

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

29 (c) The child is charged with a delinquent act or
 30 violation of law and requests in writing through legal counsel
 31 to be detained for protection from an imminent physical threat

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1 to his or her personal safety.

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

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

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

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

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

21 2. Has a record of law violations prior to court
22 hearings;

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

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

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

28 (h) The child is alleged to have violated the
29 conditions of the child's probation or conditional release
30 supervision. However, a child detained under this paragraph
31 may be held only in a consequence unit as provided in s.

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1 985.231(1)(a)1.c. If a consequence unit is not available, the
2 child shall be placed on home detention with electronic
3 monitoring.

4 (i) The child is detained on a judicial order for
5 failure to appear and has previously willfully failed to
6 appear, after proper notice, for an adjudicatory hearing on
7 the same case regardless of the results of the risk assessment
8 instrument. A child may be held in secure detention for up to
9 72 hours in advance of the next scheduled court hearing
10 pursuant to this paragraph. The child's failure to keep the
11 clerk of court and defense counsel informed of a current and
12 valid mailing address where the child will receive notice to
13 appear at court proceedings does not provide an adequate
14 ground for excusal of the child's nonappearance at the
15 hearings.

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

28
29 A child who meets any of these criteria and who is ordered to
30 be detained pursuant to this subsection shall be given a
31 hearing within 24 hours after being taken into custody. The

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1 purpose of the detention hearing is to determine the existence
 2 of probable cause that the child has committed the delinquent
 3 act or violation of law with which he or she is charged and
 4 the need for continued detention, except when the child is
 5 alleged to have absconded from a nonresidential commitment
 6 program, in which case the court, at the detention hearing,
 7 shall order that the child be released from detention and
 8 returned to his or her nonresidential commitment program.

9 Unless a child is detained under paragraph (d) or paragraph
 10 (e), the court shall use ~~utilize~~ the results of the risk
 11 assessment performed by the juvenile probation officer and,
 12 based on the criteria in this subsection, shall determine the
 13 need for continued detention. A child placed into secure,
 14 nonsecure, or home detention care may continue to be so
 15 detained by the court pursuant to this subsection. If the
 16 court orders a placement more restrictive than indicated by
 17 the results of the risk assessment instrument, the court shall
 18 state, in writing, clear and convincing reasons for such
 19 placement. Except as provided in s. 790.22(8) or in
 20 subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c),
 21 or paragraph (10)(d), when a child is placed into secure or
 22 nonsecure detention care, or into a respite home or other
 23 placement pursuant to a court order following a hearing, the
 24 court order must include specific instructions that direct the
 25 release of the child from such placement no later than 5 p.m.
 26 on the last day of the detention period specified in paragraph
 27 (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1.,
 28 whichever is applicable, unless the requirements of such
 29 applicable provision have been met or an order of continuance
 30 has been granted pursuant to paragraph (5)(f).

31 (10)(a)1. When a child is committed to the department

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1 ~~of Juvenile Justice~~ awaiting dispositional placement, removal
 2 of the child from detention care shall occur within 5 days,
 3 excluding Saturdays, Sundays, and legal holidays. Any child
 4 held in secure detention during the 5 days must meet detention
 5 admission criteria pursuant to this section. If the child is
 6 committed to a moderate-risk residential program, the
 7 department may seek an order from the court authorizing
 8 continued detention for a specific period of time necessary
 9 for the appropriate residential placement of the child.
 10 However, such continued detention in secure detention care may
 11 not exceed 15 days after commitment, excluding Saturdays,
 12 Sundays, and legal holidays, and except as otherwise provided
 13 in this subsection.

14 2. The court must place all children who are
 15 adjudicated and awaiting placement in a ~~residential~~ commitment
 16 program in detention care. Children who are in home detention
 17 care or nonsecure detention care may be placed on electronic
 18 monitoring.

19 (b) A child who is placed in home detention care,
 20 nonsecure detention care, or home or nonsecure detention care
 21 with electronic monitoring, while awaiting placement in a
 22 minimum-risk, low-risk, or moderate-risk program, may be held
 23 in secure detention care for 5 days, if the child violates the
 24 conditions of the home detention care, the nonsecure detention
 25 care, or the electronic monitoring agreement. For any
 26 subsequent violation, the court may impose an additional 5
 27 days in secure detention care.

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

31 (d) If the child is committed to a maximum-risk

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1 residential program, the child must be held in detention care
2 until placement or commitment is accomplished.

3 (e) Upon specific appropriation, the department may
4 obtain comprehensive evaluations, including, but not limited
5 to, medical, academic, psychological, behavioral,
6 sociological, and vocational needs of a youth with multiple
7 arrests for all level criminal acts or a youth committed to a
8 minimum-risk or low-risk commitment program.

9 (f) Regardless of detention status, a child being
10 transported by the department to a residential commitment
11 facility of the department may be placed in secure detention
12 overnight, not to exceed a 24-hour period, for the specific
13 purpose of ensuring the safe delivery of the child to his or
14 her residential commitment program, court, appointment,
15 transfer, or release.

16 Section 5. Paragraph (b) of subsection (2) of section
17 985.2155, Florida Statutes, is amended to read:

18 985.2155 Shared county and state responsibility for
19 juvenile detention.--

20 (2) As used in this section, the term:

21 (b) "Fiscally constrained county" means a county
22 ~~designated as a rural area of critical economic concern under~~
23 ~~s. 288.0656~~ for which the value of a mill in the county is no
24 more than ~~\$453~~ million, based on the property valuations and
25 tax data annually published by the Department of Revenue under
26 s. 195.052.

27 Section 6. Paragraphs (a) and (d) of subsection (1)
28 and subsection (2) of section 985.231, Florida Statutes, are
29 amended to read:

30 985.231 Powers of disposition in delinquency cases.--

31 (1)(a) The court that has jurisdiction of an

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1 adjudicated delinquent child may, by an order stating the
2 facts upon which a determination of a sanction and
3 rehabilitative program was made at the disposition hearing:

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

30 a. A ~~restrictiveness level~~ classification scale for
31 levels of supervision shall be provided by the department,

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1 taking into account the child's needs and risks relative to
2 probation supervision requirements to reasonably ensure the
3 public safety. Probation programs for children shall be
4 supervised by the department or by any other person or agency
5 specifically authorized by the court. These programs must
6 include, but are not limited to, structured or restricted
7 activities as described in this subparagraph, and shall be
8 designed to encourage the child toward acceptable and
9 functional social behavior. If supervision or a program of
10 community service is ordered by the court, the duration of
11 such supervision or program must be consistent with any
12 treatment and rehabilitation needs identified for the child
13 and may not exceed the term for which sentence could be
14 imposed if the child were committed for the offense, except
15 that the duration of such supervision or program for an
16 offense that is a misdemeanor of the second degree, or is
17 equivalent to a misdemeanor of the second degree, may be for a
18 period not to exceed 6 months. When restitution is ordered by
19 the court, the amount of restitution may not exceed an amount
20 the child and the parent or guardian could reasonably be
21 expected to pay or make. A child who participates in any work
22 program under this part is considered an employee of the state
23 for purposes of liability, unless otherwise provided by law.

24 b. The court may conduct judicial review hearings for
25 a child placed on probation for the purpose of fostering
26 accountability to the judge and compliance with other
27 requirements, such as restitution and community service. The
28 court may allow early termination of probation for a child who
29 has substantially complied with the terms and conditions of
30 probation.

31 c. If the conditions of the probation program or the

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

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1 disposition order and, in addition to the sanctions set forth
2 in this paragraph, may impose any sanction the court could
3 have imposed at the original disposition hearing. If the child
4 is found to have violated the conditions of probation or
5 postcommitment probation, the court may:

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

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

13 (III) Modify or continue the child's probation program
14 or postcommitment probation program.

15 (IV) Revoke probation or postcommitment probation and
16 commit the child to the department.

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

22 2. Commit the child to a licensed child-caring agency
23 willing to receive the child, but the court may not commit the
24 child to a jail or to a facility used primarily as a detention
25 center or facility or shelter.

26 3. Commit the child to the department of ~~Juvenile~~
27 ~~Justice~~ at a restrictiveness ~~residential commitment~~ level
28 defined in s. 985.03. Such commitment must be for the purpose
29 of exercising active control over the child, including, but
30 not limited to, custody, care, training, urine monitoring, and
31 treatment of the child and release of the child from

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1 residential commitment into the community in a postcommitment
2 nonresidential conditional release program. If the child is
3 eligible to attend public school following ~~residential~~
4 commitment and the court finds that the victim or a sibling of
5 the victim in the case is or may be attending the same school
6 as the child, the commitment order shall include a finding
7 pursuant to the proceedings described in s. 985.23(1)(d). If
8 the child is not successful in the conditional release
9 program, the department may use the transfer procedure under
10 s. 985.404. Notwithstanding s. 743.07 and paragraph (d), and
11 except as provided in s. 985.31, the term of the commitment
12 must be until the child is discharged by the department or
13 until he or she reaches the age of 21.

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

16 5. Require the child and, if the court finds it
17 appropriate, the child's parent or guardian together with the
18 child, to render community service in a public service
19 program.

20 6. As part of the probation program to be implemented
21 by the Department of Juvenile Justice, or, in the case of a
22 committed child, as part of the community-based sanctions
23 ordered by the court at the disposition hearing or before the
24 child's release from commitment, order the child to make
25 restitution in money, through a promissory note cosigned by
26 the child's parent or guardian, or in kind for any damage or
27 loss caused by the child's offense in a reasonable amount or
28 manner to be determined by the court. The clerk of the circuit
29 court shall be the receiving and dispensing agent. In such
30 case, the court shall order the child or the child's parent or
31 guardian to pay to the office of the clerk of the circuit

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1 court an amount not to exceed the actual cost incurred by the
 2 clerk as a result of receiving and dispensing restitution
 3 payments. The clerk shall notify the court if restitution is
 4 not made, and the court shall take any further action that is
 5 necessary against the child or the child's parent or guardian.
 6 A finding by the court, after a hearing, that the parent or
 7 guardian has made diligent and good faith efforts to prevent
 8 the child from engaging in delinquent acts absolves the parent
 9 or guardian of liability for restitution under this
 10 subparagraph.

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

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

26 9. In addition to the sanctions imposed on the child,
 27 order the parent or guardian of the child to perform community
 28 service if the court finds that the parent or guardian did not
 29 make a diligent and good faith effort to prevent the child
 30 from engaging in delinquent acts. The court may also order the
 31 parent or guardian to make restitution in money or in kind for

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1 any damage or loss caused by the child's offense. The court
 2 shall determine a reasonable amount or manner of restitution,
 3 and payment shall be made to the clerk of the circuit court as
 4 provided in subparagraph 6.

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

16 (d) Any commitment of a delinquent child to the
 17 Department of Juvenile Justice must be for an indeterminate
 18 period of time, which may include periods of temporary
 19 release; however, but the period of time may not exceed the
 20 maximum term of imprisonment that an adult may serve for the
 21 same offense, except that the duration of a minimum-risk,
 22 nonresidential commitment for an offense that is a misdemeanor
 23 of the second degree, or is equivalent to a misdemeanor of the
 24 second degree, may be for a period not to exceed 6 months. The
 25 duration of the child's placement in a ~~residential~~ commitment
 26 program of any restrictiveness level shall be based on
 27 objective performance-based treatment planning. The child's
 28 treatment plan progress and adjustment-related issues shall be
 29 reported to the court quarterly, unless the court requests
 30 monthly reports ~~each month~~. The child's length of stay in a
 31 ~~residential~~ commitment program may be extended if the child

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1 fails to comply with or participate in treatment activities.
 2 The child's length of stay in such program shall not be
 3 extended for purposes of sanction or punishment. Any temporary
 4 release from such program must be approved by the court. Any
 5 child so committed may be discharged from institutional
 6 confinement or a program upon the direction of the department
 7 with the concurrence of the court. The child's treatment plan
 8 progress and adjustment-related issues must be communicated to
 9 the court at the time the department requests the court to
 10 consider releasing the child from the ~~residential~~ commitment
 11 program. Notwithstanding s. 743.07 and this subsection, and
 12 except as provided in ss. 985.201 and 985.31, a child may not
 13 be held under a commitment from a court under ~~pursuant to~~ this
 14 section after becoming 21 years of age. The department shall
 15 give the court that committed the child to the department
 16 reasonable notice, in writing, of its desire to discharge the
 17 child from a commitment facility. The court that committed the
 18 child may thereafter accept or reject the request. If the
 19 court does not respond within 10 days after receipt of the
 20 notice, the request of the department shall be deemed granted.
 21 This section does not limit the department's authority to
 22 revoke a child's temporary release status and return the child
 23 to a commitment facility for any violation of the terms and
 24 conditions of the temporary release.

25 (2) Following a delinquency adjudicatory hearing
 26 pursuant to s. 985.228 and a delinquency disposition hearing
 27 pursuant to s. 985.23 which results in a commitment
 28 determination, the court shall, on its own or upon request by
 29 the state or the department, determine whether the protection
 30 of the public requires that the child be placed in a program
 31 for serious or habitual juvenile offenders and whether the

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1 particular needs of the child would be best served by a
 2 program for serious or habitual juvenile offenders as provided
 3 in s. 985.31. The determination shall be made pursuant to ss.
 4 985.03(49) ~~ss. 985.03(48)~~ and 985.23(3).

5 Section 7. Paragraph (a) of subsection (1) of section
 6 985.2311, Florida Statutes, is amended to read:

7 985.2311 Cost of supervision; cost of care.--

8 (1) Except as provided in subsection (3) or subsection
 9 (4):

10 (a) When any child is placed into home detention,
 11 probation, or other supervision status with the Department of
 12 Juvenile Justice, or is committed to the minimum-risk,
 13 nonresidential restrictiveness level, the court shall order
 14 the parent of such child to pay to the department a fee for
 15 the cost of the supervision of such child in the amount of \$1
 16 per day for each day that the child is in such ~~supervision~~
 17 status.

18 Section 8. Subsection (4) of section 985.407, Florida
 19 Statutes, is amended to read:

20 985.407 Departmental contracting powers; personnel
 21 standards and screening.--

22 (4)(a) For any person employed by the department, or
 23 by a provider under contract with the department, in
 24 delinquency facilities, services, or programs, the department
 25 shall require:

26 1. A level 2 employment screening pursuant to chapter
 27 435 prior to employment; and, using the level 1 standards for
 28 screening set forth in that chapter, for personnel in
 29 delinquency facilities, services, or programs.

30 2. A federal criminal records check by the Federal
 31 Bureau of Investigation every 5 years following the date of

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1 the person's employment.

2 (b) Except for law enforcement, correctional, and
3 correctional probation officers, to whom s. 943.13(5) applies,
4 the department shall electronically submit to the Department
5 of Law Enforcement:

6 1. Fingerprint information obtained during the
7 employment screening required by subparagraph (a)1.; and

8 2. Beginning December 15, 2005, fingerprint
9 information for all persons employed by the department, or by
10 a provider under contract with the department, in delinquency
11 facilities, services, or programs if such fingerprint
12 information has not previously been electronically submitted
13 to the Department of Law Enforcement under this paragraph.

14 (c) All fingerprint information electronically
15 submitted to the Department of Law Enforcement under paragraph
16 (b) shall be retained by the Department of Law Enforcement and
17 entered into the statewide automated fingerprint
18 identification system authorized by s. 943.05(2)(b) and shall
19 thereafter be available for all purposes and uses authorized
20 for arrest fingerprint information entered into the statewide
21 automated fingerprint identification system pursuant to s.
22 943.051 until the fingerprint information is removed pursuant
23 to paragraph (e). The Department of Law Enforcement shall
24 search all arrest fingerprint information received pursuant to
25 s. 943.051 against the fingerprint information entered into
26 the statewide automated fingerprint system pursuant to this
27 subsection. Any arrest records identified as a result of the
28 search shall be reported to the department in the manner and
29 timeframe established by rule of the Department of Law
30 Enforcement.

31 (d) The department shall pay an annual fee to the

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1 Department of Law Enforcement for its costs resulting from the
 2 fingerprint-information-retention services required by this
 3 subsection. The amount of the annual fee and procedures for
 4 the submission and retention of fingerprint information and
 5 for the dissemination of search results shall be established
 6 by rule of the Department of Law Enforcement which is
 7 applicable to the department individually pursuant to this
 8 subsection or is applicable to the department and other
 9 employing agencies pursuant to rulemaking authority otherwise
 10 provided by law.

11 (e) The department shall notify the Department of Law
 12 Enforcement when a person whose fingerprint information is
 13 retained by the Department of Law Enforcement under this
 14 subsection is no longer employed by the department, or by a
 15 provider under contract with the department, in a delinquency
 16 facility, service, or program. This notice shall be provided
 17 by the department to the Department of Law Enforcement no
 18 later than 6 months after the date of the change in the
 19 person's employment status. Fingerprint information for
 20 persons identified by the department in the notice shall be
 21 removed from the statewide automated fingerprint system.

22 Section 9. The sums of \$36,834 in recurring funds and
 23 \$86,407 in nonrecurring funds are appropriated from the
 24 General Revenue Fund to the Department of Juvenile Justice for
 25 expenses for the 2005-2006 fiscal year. The sum of \$133,335 in
 26 recurring funds is appropriated from the Administrative Trust
 27 Fund to the Department of Juvenile Justice for expenses for
 28 the 2005-2006 fiscal year.

29 Section 10. Subsection (3) of section 985.316, Florida
 30 Statutes, is amended to read:

31 985.316 Conditional release.--

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1 (3) For juveniles referred or committed to the
2 department, the function of the department may include, but
3 shall not be limited to, assessing each ~~committed~~ juvenile
4 placed in a residential commitment program to determine the
5 need for conditional release services upon release from the ~~a~~
6 ~~commitment~~ program, supervising the juvenile when released
7 into the community from a residential commitment facility of
8 the department, providing such counseling and other services
9 as may be necessary for the families and assisting their
10 preparations for the return of the child. Subject to specific
11 appropriation, the department shall provide for outpatient
12 sexual offender counseling for any juvenile sexual offender
13 released from a commitment program as a component of
14 conditional release.

15 Section 11. Section 985.403, Florida Statutes, is
16 repealed.

17 Section 12. Task force on juvenile sexual offenders
18 and their victims.--

19 (1) On or before August 1, 2005, the Department of
20 Juvenile Justice shall create a task force to review and
21 evaluate the state's laws that address juvenile sex offenders
22 and the department's practices and procedures for serving
23 these offenders and their victims. The task force shall make
24 findings that include, but are not limited to, a profile of
25 this state's juvenile sex offenders and of dispositions
26 received by those offenders, identification of statutes that
27 address these offenders, identification of community-based and
28 commitment programming available for these offenders and of
29 such programming's effectiveness, the appropriateness and
30 rehabilitative efficacy of placing these offenders in
31 residential commitment programs, and identification of

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1 qualifications required for staff who serve these offenders.

2 Based on its findings, the task force shall make

3 recommendations for how the state's laws, policies, programs,

4 and funding for juvenile sexual offenders may be improved.

5 (2) The Secretary of Juvenile Justice, or his or her

6 designee, shall appoint up to 12 members to the task force.

7 The task force shall be composed of representatives who shall

8 include, but are not limited to, the following: a circuit

9 court judge with at least 1 year's experience in the juvenile

10 division, a state attorney with at least 1 year's experience

11 in the juvenile division, a public defender with at least 1

12 year's experience in the juvenile division, one representative

13 of the Department of Juvenile Justice, two representatives of

14 providers of juvenile sexual offender services, one member of

15 the Florida Juvenile Justice Association, one member of the

16 Florida Association for the Treatment of Sexual Abusers, and

17 one victim of a juvenile sexual offense.

18 (3) The task force shall submit a written report of

19 its findings and recommendations to the Governor, the

20 President of the Senate, and the Speaker of the House of

21 Representatives by December 1, 2005.

22 (4) Administrative support for the task force shall be

23 provided by the Department of Juvenile Justice. Members of the

24 task force shall receive no salary from the state beyond the

25 salary already received from their sponsoring agency, if any,

26 and are not entitled to reimbursement for travel and per diem

27 expenses.

28 (5) The task force shall be dissolved upon the

29 submission of its report.

30 Section 13. Task Force to study certification for

31 juvenile justice provider staff.--

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1 (1) On or before August 1, 2005, the Department of
2 Juvenile Justice shall create a task force to study the
3 feasibility of establishing a certification process for staff
4 employed by a provider under contract with the Department of
5 Juvenile Justice to provide juvenile justice services to
6 youth.

7 (2) The Secretary of Juvenile Justice, or his or her
8 designee, shall appoint up to 12 members to the task force.
9 The task force shall be composed of representatives who shall
10 include, but are not limited to, the following: two
11 representatives of the Department of Juvenile Justice, two
12 representatives of providers of juvenile justice services, two
13 members of the Florida Juvenile Justice Association, two
14 provider employees who provide direct care services, and two
15 representatives of the Florida Certification Board.

16 (3) The task force shall consider the feasibility of
17 implementing and operating a certification system for staff
18 who work in juvenile justice facilities, services, or
19 programs. At a minimum, the task force shall consider, and
20 make recommendations concerning, the occupational levels of
21 staff subject to certification, the criteria that may be used
22 to certify staff, the levels of certification, and a process
23 for testing and validating the effectiveness of any
24 recommended staff certification system. In making its
25 recommendations, the task force shall make findings regarding
26 the benefits of a staff certification system for this state's
27 juvenile justice programming and the cost to implement such a
28 system.

29 (4) The task force shall submit a written report of
30 its findings and recommendations to the Governor, the
31 President of the Senate, and the Speaker of the House of

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1 Representatives by January 1, 2006.

2 (5) Administrative support for the task force shall be
3 provided by the Department of Juvenile Justice. Members of the
4 task force shall receive no salary from the state beyond the
5 salary already received from their sponsoring agency, if any,
6 and are not entitled to reimbursement for travel and per diem
7 expenses.

8 (6) The task force shall be dissolved upon the
9 submission of its report.

10 Section 14. Subsection (10) of section 985.4135,
11 Florida Statutes, is amended to read:

12 985.4135 Juvenile justice circuit boards and juvenile
13 justice county councils.--

14 (10) Membership of the juvenile justice county
15 councils, or juvenile justice circuit boards established under
16 subsection (9), ~~may~~ ~~must~~ include representatives from the
17 following entities:

18 (a) Representatives from the school district, which
19 may include elected school board officials, the school
20 superintendent, school or district administrators, teachers,
21 and counselors.

22 (b) Representatives of the board of county
23 commissioners.

24 (c) Representatives of the governing bodies of local
25 municipalities within the county.

26 (d) A representative of the corresponding circuit or
27 regional entity of the Department of Children and Family
28 Services.

29 (e) Representatives of local law enforcement agencies,
30 including the sheriff or the sheriff's designee.

31 (f) Representatives of the judicial system.

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1 (g) Representatives of the business community.

2 (h) Representatives of other interested officials,
3 groups, or entities, including, but not limited to, a
4 children's services council, public or private providers of
5 juvenile justice programs and services, students, parents, and
6 advocates. Private providers of juvenile justice programs may
7 not exceed one-third of the voting membership.

8 (i) Representatives of the faith community.

9 (j) Representatives of victim-service programs and
10 victims of crimes.

11 (k) Representatives of the Department of Corrections.

12 Section 15. Section 784.075, Florida Statutes, is
13 amended to read:

14 784.075 Battery on detention or commitment facility
15 staff or a juvenile probation officer.--A person who commits a
16 battery on a juvenile probation officer, as defined in s.
17 984.03 or s. 985.03, on other staff of a detention center or
18 facility as defined in s. 984.03(19) or s. 985.03(20) ~~s.~~
19 ~~985.03(19)~~, or on a staff member of a commitment facility as
20 defined in s. 985.03(46) ~~s. 985.03(45)~~, commits a felony of
21 the third degree, punishable as provided in s. 775.082, s.
22 775.083, or s. 775.084. For purposes of this section, a staff
23 member of the facilities listed includes persons employed by
24 the Department of Juvenile Justice, persons employed at
25 facilities licensed by the Department of Juvenile Justice, and
26 persons employed at facilities operated under a contract with
27 the Department of Juvenile Justice.

28 Section 16. Subsection (2) of section 985.231, Florida
29 Statutes, is amended to read:

30 985.231 Powers of disposition in delinquency cases.--

31 (2) Following a delinquency adjudicatory hearing

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1 pursuant to s. 985.228 and a delinquency disposition hearing
 2 pursuant to s. 985.23 which results in a commitment
 3 determination, the court shall, on its own or upon request by
 4 the state or the department, determine whether the protection
 5 of the public requires that the child be placed in a program
 6 for serious or habitual juvenile offenders and whether the
 7 particular needs of the child would be best served by a
 8 program for serious or habitual juvenile offenders as provided
 9 in s. 985.31. The determination shall be made pursuant to ss.
 10 985.03(49) ~~ss. 985.03(48)~~ and 985.23(3).

11 Section 17. Paragraph (e) of subsection (3) and
 12 paragraph (a) of subsection (4) of section 985.31, Florida
 13 Statutes, are amended to read:

14 985.31 Serious or habitual juvenile offender.--

15 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
 16 TREATMENT.--

17 (e) After a child has been adjudicated delinquent
 18 pursuant to s. 985.228, the court shall determine whether the
 19 child meets the criteria for a serious or habitual juvenile
 20 offender pursuant to s. 985.03(49) ~~s. 985.03(48)~~. If the court
 21 determines that the child does not meet such criteria, the
 22 provisions of s. 985.231(1) shall apply.

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

24 (a) Pursuant to the provisions of this section, the
 25 department shall implement the comprehensive assessment
 26 instrument for the treatment needs of serious or habitual
 27 juvenile offenders and for the assessment, which assessment
 28 shall include the criteria under s. 985.03(49) ~~s. 985.03(48)~~
 29 and shall also include, but not be limited to, evaluation of
 30 the child's:

31 1. Amenability to treatment.

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- 1 2. Proclivity toward violence.
- 2 3. Tendency toward gang involvement.
- 3 4. Substance abuse or addiction and the level thereof.
- 4 5. History of being a victim of child abuse or sexual
- 5 abuse, or indication of sexual behavior dysfunction.
- 6 6. Number and type of previous adjudications, findings
- 7 of guilt, and convictions.
- 8 7. Potential for rehabilitation.

9 Section 18. Section 985.3141, Florida Statutes, is
10 amended to read:

11 985.3141 Escapes from secure detention or residential
12 commitment facility.--An escape from:

13 (1) Any secure detention facility maintained for the
14 temporary detention of children, pending adjudication,
15 disposition, or placement;

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

20 (3) Lawful transportation to or from any such secure
21 detention facility or residential commitment facility,
22
23 constitutes escape within the intent and meaning of s. 944.40
24 and is a felony of the third degree, punishable as provided in
25 s. 775.082, s. 775.083, or s. 775.084.

26 Section 19. This act shall take effect July 1, 2005.

27
28

29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 Delete everything before the enacting clause

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1 and insert:

2 A bill to be entitled

3 An act relating to juvenile justice; amending

4 s. 985.03, F.S.; redefining terms relating to

5 juvenile justice; redefining the terms "day

6 treatment" and "restrictiveness level";

7 amending s. 985.207, F.S.; clarifying when a

8 child who escapes from a residential commitment

9 or absconds from a nonresidential commitment

10 may be taken into custody; amending s. 985.208,

11 F.S.; providing that a child may be taken into

12 custody for absconding from a nonresidential

13 commitment facility; amending s. 985.215, F.S.;

14 providing for release from detention for a

15 child who has absconded; providing for

16 detention for committed children awaiting

17 placement; providing secure detention for

18 children awaiting minimum-risk placement who

19 violate home or nonsecure detention or

20 electronic monitoring; providing for secure

21 detention for children being transported to

22 residential commitment programs; amending s.

23 985.2155, F.S.; defining the term "fiscally

24 constrained county"; amending s. 985.231, F.S.;

25 incorporating newly defined terms to clarify

26 the terms of a child's commitment; providing

27 for the maximum length of a minimum-risk,

28 nonresidential commitment for a child who

29 commits a second-degree misdemeanor; providing

30 that the department or a provider report

31 quarterly to the court the child's progress

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1 with his or her treatment plan; conforming a
2 cross-reference; amending s. 985.2311, F.S.;
3 requiring parents to pay the costs of
4 supervision related to minimum-risk,
5 nonresidential commitment to the department;
6 amending s. 985.316, F.S.; providing for
7 assessment by the department of the need of
8 juveniles in residential commitment for
9 conditional release services; amending s.
10 985.407, F.S.; revising employee-screening
11 procedures of the Department of Juvenile
12 Justice; requiring the department to provide
13 fingerprint information to the Department of
14 Law Enforcement and pay an annual fee;
15 providing appropriations; repealing s. 985.403,
16 F.S., relating to the Task Force on Juvenile
17 Sexual Offenders and their Victims; requiring
18 the department to create a task force on
19 juvenile sexual offenders and their victims;
20 providing for membership, powers, duties, and
21 dissolution of the task force; requiring a
22 written report; directing the Department of
23 Juvenile Justice to provide administrative
24 support; prohibiting certain compensation or
25 reimbursement of task force members; requiring
26 the Department of Juvenile Justice to create a
27 task force to study certification for juvenile
28 justice provider staff; providing for
29 membership, powers, duties and dissolution of
30 the task force; requiring a written report;
31 directing the department to provide

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1 administrative support; prohibiting certain
2 compensation or reimbursement of task force
3 members; amending s. 985.4135, F.S.; providing
4 that membership of juvenile justice county
5 councils or circuit boards may, rather than
6 must, include certain entities; amending ss.
7 784.075, 985.231, 985.31, and 985.3141, F.S.;
8 conforming cross-references; providing an
9 effective date.

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