

1 A bill to be entitled
2 An act relating to juvenile justice; amending s. 985.215,
3 F.S.; specifying time limits to hold a child in secure
4 detention while awaiting placement into a specific program
5 or facility ordered by the court; amending s. 985.2155,
6 F.S.; revising provisions relating to county
7 responsibility for juvenile detention; deleting references
8 to state responsibility; providing for state financial
9 assistance; providing criteria for assignment of county
10 costs and responsibility; requiring the Department of
11 Juvenile Justice to adopt rules establishing quality
12 assurance standards for county intake, detention
13 screening, and detention care operations; requiring that
14 each county shall submit an implementation plan for its
15 assumption of certain responsibilities; revising the
16 deadline for development of a methodology for determining
17 the amount of each fiscally constrained county's costs for
18 certain services; amending s. 943.0515, F.S.; deleting the
19 term "juvenile prison"; amending s. 985.03, F.S.; revising
20 definitions relating to juvenile justice; creating a
21 definition for the term "day treatment"; providing for
22 county detention care and intake responsibility; creating
23 the minimum-risk nonresidential restrictiveness level;
24 providing that high-risk residential facilities may be
25 environmentally secure; removing juvenile prisons from the
26 maximum-risk residential level; providing that temporary
27 release may be granted from residential commitment
28 facilities; amending s. 985.201 and 985.208 F.S.;

29 conforming to definitions changes; amending s. 985.207,
 30 F.S.; providing additional criteria for taking a child
 31 into custody; conforming cross references; amending s.
 32 985.213, F.S.; providing additional criteria for detaining
 33 youth; providing for secure detention or home detention;
 34 amending s. 985.231, F.S.; revising provisions relating to
 35 powers of disposition; permitting a court to specify the
 36 program or facility a youth shall be placed in when
 37 committed; providing procedures for a court's specific
 38 placement; providing the maximum length for a minimum-risk
 39 nonresidential commitment for a second degree misdemeanor;
 40 making conforming changes; providing for commitment of a
 41 child to a specific high-risk residential or maximum-risk
 42 residential program or facility; amending s. 985.2311,
 43 F.S.; providing that parents shall pay fees for costs of
 44 supervision related to minimum-risk nonresidential
 45 commitment; amending s. 985.313, F.S.; conforming to
 46 definitions changes; amending s. 985.316, F.S.; providing
 47 for assessment of residentially committed youth for
 48 conditional release services; amending ss. 784.075,
 49 984.05, 985.31, and 985.3141, F.S.; conforming cross
 50 references; reenacting ss. 985.201(4)(a), 985.233(4)(b),
 51 985.31(3)(k), and 985.311(3)(e), F.S., relating to
 52 jurisdiction, sentencing alternatives, commitment of
 53 serious or habitual juvenile offenders, and eligibility
 54 for an intensive residential treatment program for
 55 offenders less than 13 years of age, respectively, to
 56 incorporate the amendment to s. 985.231, F.S., in

57 | references thereto; providing an effective date.

58 |

59 | Be It Enacted by the Legislature of the State of Florida:

60 |

61 | Section 1. Paragraph (a) of subsection (10) of section
62 | 985.215, Florida Statutes, is amended to read:

63 | 985.215 Detention.--

64 | (10)(a)1. ~~When~~ A child ~~is~~ committed by the court pursuant
65 | to s. 985.231(1)(a)3. who is to the Department of Juvenile
66 | Justice awaiting dispositional placement, shall be removed
67 | ~~removal of the child~~ from secure detention care ~~shall occur~~
68 | within 5 days after the date of commitment, excluding Saturdays,
69 | Sundays, and legal holidays. Any child held in secure detention
70 | during the 5 days must meet detention admission criteria
71 | pursuant to this section. If the child is committed to a
72 | moderate-risk residential program, the department may seek an
73 | order from the court authorizing continued secure detention for
74 | a specific period of time necessary for the appropriate
75 | residential placement of the child. However, such continued
76 | detention in secure detention care may not exceed 15 days after
77 | commitment, excluding Saturdays, Sundays, and legal holidays,
78 | and except as otherwise provided in this subsection.

79 | 2. The court must place all children who are adjudicated
80 | and awaiting placement in a residential commitment program in
81 | detention care. Children who are in home detention care or
82 | nonsecure detention care may be placed on electronic monitoring.

83 | Section 2. Section 985.2155, Florida Statutes, is amended
84 | to read:

85 985.2155 ~~Shared County and state responsibility for~~
 86 ~~juvenile detention; state financial assistance.--~~

87 (1) It is the policy of this state that ~~the state and the~~
 88 ~~counties~~ be responsible for juvenile intake, detention
 89 screening, and detention care in the manner ~~have a joint~~
 90 ~~obligation, as provided in this section, to contribute to the~~
 91 ~~financial support of the detention care provided for juveniles.~~

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

93 (a) "Final court disposition" means the trial court's
 94 entry of a written disposition order for a juvenile under ss.
 95 985.23 and 985.231. ~~"Detention care" means secure detention.~~

96 (b) "Fiscally constrained county" means a county
 97 ~~designated as a rural area of critical economic concern under s.~~
 98 ~~288.0656~~ for which the value of a mill in the county is no more
 99 than \$4 million ~~\$3 million~~, based on the property valuations and
 100 tax data annually published by the Department of Revenue under
 101 s. 195.052.

102 (3)(a) As soon as possible, but, in any event, no later
 103 than January 1, 2007, each county shall be responsible for the
 104 operation of, and payment of all pay the costs associated with
 105 ~~of~~ providing detention care, exclusive of the costs of any
 106 preadjudicatory nonmedical educational or therapeutic services,
 107 for juveniles for the period of time prior to final court
 108 disposition. The department shall develop an accounts payable
 109 system to allocate costs that are payable by the counties.

110 (b) Each county may contract with public and private
 111 organizations, including the department and county or municipal
 112 governments, to carry out its responsibilities under this

113 section. In addition, the department may contract with counties
 114 for the costs of detention and other services provided to
 115 juveniles after final court disposition.

116 (c)(4) Notwithstanding subsection (3), The state shall,
 117 subject to specific appropriations, reimburse each fiscally
 118 constrained county for up to 100 percent of its costs under
 119 paragraph (a) pay all costs of detention care for juveniles for
 120 which a fiscally constrained county would otherwise be billed.
 121 In addition, the state shall, subject to specific
 122 appropriations, provide financial assistance to counties that
 123 are not fiscally constrained. Provision of state funds to a
 124 county pursuant to this paragraph shall be contingent upon the
 125 county maintaining facilities and services within specified
 126 standards established by the department under subsection (4) and
 127 in compliance with state and federal constitutional standards.

128 (d) Prior to county provision of services, the department
 129 shall continue to operate intake, detention screening, and
 130 detention care for juveniles, and each county shall reimburse
 131 the department for the cost of providing such services to
 132 juveniles arrested in the county prior to final court
 133 disposition. If a juvenile is arrested in a county other than
 134 his or her county of residence, the juvenile shall be
 135 transferred to his or her county of residence or to the juvenile
 136 detention facility that serves his or her county of residence as
 137 soon as practicable, and the county of residence shall become
 138 responsible for all costs upon transfer of the juvenile.

139 (e) The department shall make existing detention center
 140 facilities available to counties that wish to use these

141 facilities at no cost other than the costs of routine
 142 maintenance and the cost of maintaining adequate property and
 143 liability insurance as determined by the department. Any county
 144 using a facility serving multiple counties must agree to a
 145 cooperative agreement with other counties from the area that
 146 wish to use the facility. The agreement must specify how costs
 147 and operational responsibility will be shared among each of the
 148 counties.

149 (4) The department shall adopt rules establishing quality
 150 assurance standards for county intake, detention screening, and
 151 detention care operations that shall include the following
 152 provisions:

153 (a) Compliance with state and federal constitutional
 154 standards.

155 (b) Compliance with state and federal laws.

156 (c) Continuance of educational services to juveniles in
 157 secure detention facilities.

158 (d) Prohibition of the inappropriate use of detention.

159 (e) Authorization of county flexibility to develop
 160 innovative approaches to service delivery that will help
 161 counties contain costs and provide more appropriate services to
 162 youth. Such alternative strategies include, but are not limited
 163 to, diversion of status offenders and youth charged with local
 164 ordinance violations and nonviolent misdemeanors from
 165 traditional intake services; the use, with court approval, of
 166 electronic monitoring in lieu of secure detention; and the use,
 167 with court approval, of day treatment programs for youth who are
 168 awaiting placement in a residential commitment program in lieu

169 of secure detention. Any alternative program must demonstrate
170 that there is no adverse impact on public order or safety and
171 that provisions will be made to ensure that youth will attend
172 court proceedings.

173 (f) Transportation of youth to and from court. The
174 department shall be responsible for transporting youth to a
175 program of the department after final court disposition.

176 (g) Sight and sound separation of detained youth from
177 youthful and adult offenders.

178 (h) Staffing standards and minimum qualifications of staff
179 who work with youth and level 2 employment screening
180 requirements pursuant to chapter 435 for all personnel employed
181 or contracted by a county for work in any facility or program
182 under this section.

183 (i) Uniform standards, including uniform reporting
184 formats, for intake and screening activities.

185 (j) Minimum standards for detention facilities housing
186 youth.

187 (k) Uniform standards for medical care for youth,
188 including protocols for emergency services and hospitalization
189 when necessary.

190 (l) Uniform standards for mental health and substance
191 abuse assessment and treatment for youth, including measures
192 necessary to prevent suicide of detained youth.

193 (m) Requirement that any organization engaged by the
194 county to provide services pursuant to this section is subject
195 to all staffing standards and minimum staff qualifications
196 established under this subsection.

197 (n) Access by the department to all facilities and
 198 programs at any time to conduct quality assurance and program
 199 compliance reviews.

200 (o) Provision for the state to take any county program or
 201 facility into receivership upon a determination that a county
 202 program or facility is not in compliance with statewide quality
 203 assurance standards and, as such, places youth in imminent
 204 physical danger or violates constitutional standards regarding
 205 the care and confinement of juveniles. The department shall
 206 operate, either directly or under contract, any county program
 207 or facility taken into receivership pursuant to this paragraph.

208 (p) Requirement that if the state takes a facility or
 209 program under receivership, the county shall be liable for costs
 210 incurred by the department for operating the facility or program
 211 plus an administrative fee of 10 percent of the cost of
 212 operating the facility or program.

213 (q) A process for counties to appeal a department decision
 214 to place a facility or program under receivership.

215 (r) Regular, ongoing quality assurance monitoring by the
 216 department to ensure compliance with the quality assurance
 217 standards established pursuant to this subsection.

218 (5)(a) By July 1, 2006, each county shall submit to the
 219 department an implementation plan for its assumption of the
 220 intake, detention screening, and detention responsibilities set
 221 forth in paragraph (3)(a). This plan shall be in a format to be
 222 determined by the department and must include:

223 1. A detailed schedule for county assumption of
 224 responsibilities.

225 2. A complete description of program operations, including
 226 any private or public entity engaged by the county to provide
 227 services.

228 3. Any agreements reached with other counties to operate
 229 regional facilities or programs.

230 4. An attestation by the chair of the board of county
 231 commissioners and the county manager that the county will remain
 232 in compliance with all quality assurance standards established
 233 by the department pursuant to subsection (4).

234 5. Such other information as required by the department.

235 (b) The department shall review each county's
 236 implementation plan and shall provide notice to the county
 237 administrator of the department's approval or disapproval of
 238 such plan no later than October 1, 2006. The department's
 239 failure to provide such notice by October 1, 2006, shall
 240 constitute approval.

241 (6)(a) By October 1, 2006 ~~2004~~, the department shall
 242 develop a methodology for determining the amount of each
 243 fiscally constrained county's costs under paragraph (3)(a) for
 244 intake, detention screening, and ~~of~~ detention care for
 245 juveniles, during ~~for~~ the period of time prior to final court
 246 disposition that, ~~which~~ must be paid by the state. At a minimum,
 247 this methodology must consider the difference between the amount
 248 appropriated to the department for offsetting the costs
 249 associated with the assignment of juvenile intake, detention
 250 screening, and ~~pretrial~~ detention care expenses to the fiscally
 251 constrained county and the total estimated costs to the fiscally
 252 constrained county, for the fiscal year, of intake, detention

253 screening, and detention care for juveniles for the period of
 254 time prior to final court disposition.

255 (b) Subject to legislative appropriation and based on the
 256 methodology developed under paragraph (a), the department shall
 257 provide funding to offset the costs to fiscally constrained
 258 counties of intake, detention screening, and detention care for
 259 juveniles for the period of time prior to final court
 260 disposition. If county matching funds are required by the
 261 department to eliminate the difference calculated under
 262 paragraph (a) or the difference between the actual costs of the
 263 fiscally constrained counties and the amount appropriated in
 264 small county grants for use in mitigating such costs, that match
 265 amount must be allocated proportionately among all fiscally
 266 constrained counties.

267 ~~(7)(5)~~ Each county shall incorporate into its annual
 268 county budget sufficient funds to pay its estimated costs of
 269 intake, detention screening, and detention care for juveniles
 270 who are arrested or reside in that county for the period of time
 271 prior to final court disposition. This amount shall be estimated
 272 based upon the prior use of intake, detention screening, and
 273 secure detention for juveniles who are arrested in or are
 274 residents of that county, as calculated by the department. Each
 275 county that is required to make payment to the department shall
 276 pay the estimated costs at the beginning of each month. Any
 277 difference between the estimated costs and actual costs shall be
 278 reconciled at the end of the state fiscal year and the
 279 department shall promptly provide a credit against future
 280 obligations or a refund if there are no future obligations.

281 (8)(6) Court payment pursuant to subsection (7) shall be
 282 deposited ~~Each county shall pay to the department for deposit~~
 283 into the Juvenile Justice Grants and Donations Trust Fund or
 284 such other trust fund as may be designated by the Legislature
 285 ~~its share of the county's total costs for juvenile detention,~~
 286 ~~based upon calculations published by the department with input~~
 287 ~~from the counties.~~

288 (9)(7) The department ~~of Juvenile Justice~~ shall determine
 289 each quarter whether the counties of this state are remitting to
 290 the department their share of the costs of detention as required
 291 by this section.

292 (10)(8) The Department of Revenue and the counties shall
 293 provide technical assistance as necessary to the department ~~of~~
 294 ~~Juvenile Justice~~ in order to develop the most cost-effective
 295 means of collection.

296 (11)(9) Funds received from counties pursuant to this
 297 section are not subject to the service charges provided in s.
 298 215.20.

299 (12)(10) The department shall ~~may~~ adopt rules to
 300 administer this section.

301 Section 3. Subsection (1) of section 943.0515, Florida
 302 Statutes, is amended to read:

303 943.0515 Retention of criminal history records of
 304 minors.--

305 (1)(a) The Criminal Justice Information Program shall
 306 retain the criminal history record of a minor who is classified
 307 as a serious or habitual juvenile offender or committed to a
 308 juvenile correctional facility ~~or juvenile prison~~ under chapter

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309 985 for 5 years after the date the offender reaches 21 years of
 310 age, at which time the record shall be expunged unless it meets
 311 the criteria of paragraph (2)(a) or paragraph (2)(b).

312 (b) If the minor is not classified as a serious or
 313 habitual juvenile offender or committed to a juvenile
 314 correctional facility ~~or juvenile prison~~ under chapter 985, the
 315 program shall retain the minor's criminal history record for 5
 316 years after the date the minor reaches 19 years of age, at which
 317 time the record shall be expunged unless it meets the criteria
 318 of paragraph (2)(a) or paragraph (2)(b).

319 Section 4. Section 985.03, Florida Statutes, is amended to
 320 read:

321 985.03 Definitions. --As ~~When~~ used in this chapter, the
 322 term:

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

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

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

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

334 (5) "Authorized agent" or "designee" of the department
 335 means a person or agency assigned or designated by the
 336 Department of Juvenile Justice or the Department of Children and

337 Family Services, as appropriate, to perform duties or exercise
 338 powers pursuant to this chapter and includes contract providers
 339 and their employees for purposes of providing services to and
 340 managing cases of children in need of services and families in
 341 need of services.

342 (6) "Child" or "juvenile" or "youth" means any unmarried
 343 person under the age of 18 who has not been emancipated by order
 344 of the court and who has been found or alleged to be dependent,
 345 in need of services, or from a family in need of services; or
 346 any married or unmarried person who is charged with a violation
 347 of law occurring prior to the time that person reached the age
 348 of 18 years.

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

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

- 357 1. Arson;
- 358 2. Sexual battery;
- 359 3. Robbery;
- 360 4. Kidnapping;
- 361 5. Aggravated child abuse;
- 362 6. Aggravated assault;
- 363 7. Aggravated stalking;
- 364 8. Murder;

365 9. Manslaughter;

366 10. Unlawful throwing, placing, or discharging of a
 367 destructive device or bomb;

368 11. Armed burglary;

369 12. Aggravated battery;

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

372 14. Carrying, displaying, using, threatening, or
 373 attempting to use a weapon or firearm during the commission of a
 374 felony.

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

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

382 (8) "Child in need of services" means a child for whom
 383 there is no pending investigation into an allegation or
 384 suspicion of abuse, neglect, or abandonment; no pending referral
 385 alleging the child is delinquent; or no current supervision by
 386 the Department of Juvenile Justice or the Department of Children
 387 and Family Services for an adjudication of dependency or
 388 delinquency. The child must also, pursuant to this chapter, be
 389 found by the court:

390 (a) To have persistently run away from the child's parents
 391 or legal custodians despite reasonable efforts of the child, the
 392 parents or legal custodians, and appropriate agencies to remedy

393 the conditions contributing to the behavior. Reasonable efforts
 394 shall include voluntary participation by the child's parents or
 395 legal custodians and the child in family mediation, services,
 396 and treatment offered by the Department of Juvenile Justice or
 397 the Department of Children and Family Services;

398 (b) To be habitually truant from school, while subject to
 399 compulsory school attendance, despite reasonable efforts to
 400 remedy the situation pursuant to ss. 1003.26 and 1003.27 and
 401 through voluntary participation by the child's parents or legal
 402 custodians and by the child in family mediation, services, and
 403 treatment offered by the Department of Juvenile Justice or the
 404 Department of Children and Family Services; or

405 (c) To have persistently disobeyed the reasonable and
 406 lawful demands of the child's parents or legal custodians, and
 407 to be beyond their control despite efforts by the child's
 408 parents or legal custodians and appropriate agencies to remedy
 409 the conditions contributing to the behavior. Reasonable efforts
 410 may include such things as good faith participation in family or
 411 individual counseling.

412 (9) "Child who has been found to have committed a
 413 delinquent act" means a child who, pursuant to the provisions of
 414 this chapter, is found by a court to have committed a violation
 415 of law or to be in direct or indirect contempt of court, except
 416 that this definition shall not include an act constituting
 417 contempt of court arising out of a dependency proceeding or a
 418 proceeding pursuant to part III of this chapter.

419 (10) "Child support" means a court-ordered obligation,
 420 enforced under chapter 61 and ss. 409.2551-409.2597, for

421 monetary support for the care, maintenance, training, and
 422 education of a child.

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

425 (12) "Comprehensive assessment" or "assessment" means the
 426 gathering of information for the evaluation of a juvenile
 427 offender's or a child's physical, psychological, educational,
 428 vocational, and social condition and family environment as they
 429 relate to the child's need for rehabilitative and treatment
 430 services, including substance abuse treatment services, mental
 431 health services, developmental services, literacy services,
 432 medical services, family services, and other specialized
 433 services, as appropriate.

434 (13) "Conditional release" means the care, treatment,
 435 help, and supervision provided to a juvenile released from a
 436 residential commitment program which is intended to promote
 437 rehabilitation and prevent recidivism. The purpose of
 438 conditional release is to protect the public, reduce recidivism,
 439 increase responsible productive behavior, and provide for a
 440 successful transition of the youth from the department to the
 441 family. Conditional release includes, but is not limited to,
 442 nonresidential community-based programs.

443 (14) "Court," unless otherwise expressly stated, means the
 444 circuit court assigned to exercise jurisdiction under this
 445 chapter.

446 (15) "Day treatment" means a nonresidential, community-
 447 based program designed to provide therapeutic intervention to
 448 youth who are placed on probation or conditional release or are

449 committed to the minimum-risk nonresidential level. A day
 450 treatment program may provide educational and vocational
 451 services and shall provide case management services; individual,
 452 group, and family counseling; training designed to address
 453 delinquency risk factors; and monitoring of a youth's compliance
 454 with, and facilitation of a youth's completion of, sanctions if
 455 ordered by the court. Program types may include, but are not
 456 limited to, career programs, marine programs, juvenile justice
 457 alternative schools, training and rehabilitation programs, and
 458 gender-specific programs.

459 (16)~~(15)~~(a) "Delinquency program" means any intake,
 460 probation, or similar program; regional detention center or
 461 facility; or community-based program, whether owned and operated
 462 by or contracted by the Department of Juvenile Justice, or
 463 institution owned and operated by or contracted by the
 464 Department of Juvenile Justice, which provides intake,
 465 supervision, or custody and care of children who are alleged to
 466 be or who have been found to be delinquent under ~~pursuant to~~
 467 part II.

468 (b) "Delinquency program staff" means supervisory and
 469 direct care staff of a delinquency program as well as support
 470 staff who have direct contact with children in a delinquency
 471 program.

472 (c) "Delinquency prevention programs" means programs
 473 designed for the purpose of reducing the occurrence of
 474 delinquency, including youth and street gang activity, and
 475 juvenile arrests. The term excludes arbitration, diversionary or
 476 mediation programs, and community service work or other

477 treatment available subsequent to a child committing a
 478 delinquent act.

479 (17)~~(16)~~ "Department" means the Department of Juvenile
 480 Justice.

481 (18)~~(17)~~ "Designated facility" or "designated treatment
 482 facility" means any facility designated by the Department of
 483 Juvenile Justice to provide treatment to juvenile offenders.

484 (19)~~(18)~~ "Detention care" means the temporary care of a
 485 child in secure, nonsecure, or home detention, pending a court
 486 adjudication or disposition or execution of a court order. There
 487 are three types of detention care, as follows:

488 (a) "Secure detention" means temporary custody of the
 489 child while the child is under the physical restriction of a
 490 detention center or facility pending adjudication, disposition,
 491 or placement.

492 (b) "Nonsecure detention" means temporary custody of the
 493 child while the child is in a residential home in the community
 494 in a physically nonrestrictive environment under county ~~the~~
 495 ~~supervision of the Department of Juvenile Justice~~ pending
 496 adjudication, disposition, or placement.

497 (c) "Home detention" means temporary custody of the child
 498 while the child is released to the custody of the parent,
 499 guardian, or custodian in a physically nonrestrictive
 500 environment under the supervision of ~~the Department of Juvenile~~
 501 ~~Justice~~ staff employed by, or contracted with, the county
 502 pending adjudication, disposition, or placement.

503 (20)~~(19)~~ "Detention center or facility" means a facility
 504 used pending court adjudication or disposition or execution of

505 court order for the temporary care of a child alleged or found
 506 to have committed a violation of law. A detention center or
 507 facility may provide secure or nonsecure custody. A facility
 508 used for the commitment of adjudicated delinquents shall not be
 509 considered a detention center or facility.

510 (21)~~(20)~~ "Detention hearing" means a hearing for the court
 511 to determine if a child should be placed in temporary custody,
 512 as provided for under ss. 985.213 and 985.215 in delinquency
 513 cases.

514 (22)~~(21)~~ "Disposition hearing" means a hearing in which
 515 the court determines the most appropriate dispositional services
 516 in the least restrictive available setting provided for under s.
 517 985.231, in delinquency cases.

518 (23)~~(22)~~ "Family" means a collective of persons,
 519 consisting of a child and a parent, guardian, adult custodian,
 520 or adult relative, in which:

521 (a) The persons reside in the same house or living unit;
 522 or

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

526 (24)~~(23)~~ "Family in need of services" means a family that
 527 has a child for whom there is no pending investigation into an
 528 allegation of abuse, neglect, or abandonment or no current
 529 supervision by the Department of Juvenile Justice or the
 530 Department of Children and Family Services for an adjudication
 531 of dependency or delinquency. The child must also have been
 532 referred to a law enforcement agency or the Department of

533 Juvenile Justice for:

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

535 (b) Persistently disobeying reasonable and lawful demands
536 of parents or legal custodians, and being beyond their control;
537 or

538 (c) Habitual truancy from school.

539 (25)~~(24)~~ "Foster care" means care provided a child in a
540 foster family or boarding home, group home, agency boarding
541 home, child care institution, or any combination thereof.

542 (26)~~(25)~~ "Habitually truant" means that:

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

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

552
553 If a child who is subject to compulsory school attendance is
554 responsive to the interventions described in ss. 1003.26 and
555 1003.27 and has completed the necessary requirements to pass the
556 current grade as indicated in the district pupil progression
557 plan, the child shall not be determined to be habitually truant
558 and shall be passed. If a child within the compulsory school
559 attendance age has 15 unexcused absences within 90 calendar days
560 or fails to enroll in school, the state attorney may file a

561 child-in-need-of-services petition. Before ~~Prior to~~ filing a
 562 petition, the child must be referred to the appropriate agency
 563 for evaluation. After consulting with the evaluating agency, the
 564 state attorney may elect to file a child-in-need-of-services
 565 petition.

566 (c) A school representative, designated according to
 567 school board policy, and a juvenile probation officer of the
 568 department of ~~Juvenile Justice~~ have jointly investigated the
 569 truancy problem or, if that was not feasible, have performed
 570 separate investigations to identify conditions that could be
 571 contributing to the truant behavior; and if, after a joint
 572 staffing of the case to determine the necessity for services,
 573 such services were determined to be needed, the persons who
 574 performed the investigations met jointly with the family and
 575 child to discuss any referral to appropriate community agencies
 576 for economic services, family or individual counseling, or other
 577 services required to remedy the conditions that are contributing
 578 to the truant behavior.

579 (d) The failure or refusal of the parent or legal guardian
 580 or the child to participate, or make a good faith effort to
 581 participate, in the activities prescribed to remedy the truant
 582 behavior, or the failure or refusal of the child to return to
 583 school after participation in activities required by this
 584 subsection, or the failure of the child to stop the truant
 585 behavior after the school administration and the department of ~~of~~
 586 ~~Juvenile Justice~~ have worked with the child as described in s.
 587 1003.27(3) shall be handled as prescribed in s. 1003.27.

588 (27) ~~(26)~~ "Halfway house" means a community-based

589 residential program for 10 or more committed delinquents at the
 590 moderate-risk commitment level which is operated or contracted
 591 by the department ~~of Juvenile Justice~~.

592 ~~(28)~~(27) "Intake" means the initial acceptance and
 593 screening by a county ~~the department of Juvenile Justice~~ of a
 594 complaint or a law enforcement report or probable cause
 595 affidavit of delinquency, ~~family in need of services, or child~~
 596 ~~in need of services~~ to determine the recommendation to be taken
 597 in the best interests of the child, the family, and the
 598 community. The emphasis of intake is on diversion and the least
 599 restrictive available services. Consequently, intake includes
 600 such alternatives as:

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

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

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

608 ~~(29)~~(28) "Judge" means the circuit judge exercising
 609 jurisdiction pursuant to this chapter.

610 ~~(30)~~(29) "Juvenile justice continuum" includes, but is not
 611 limited to, delinquency prevention programs and services
 612 designed for the purpose of preventing or reducing delinquent
 613 acts, including criminal activity by youth gangs, and juvenile
 614 arrests, as well as programs and services targeted at children
 615 who have committed delinquent acts, and children who have
 616 previously been committed to residential treatment programs for

617 delinquents. The term includes children-in-need-of-services and
 618 families-in-need-of-services programs; conditional release;
 619 substance abuse and mental health programs; educational and
 620 career programs; recreational programs; community services
 621 programs; community service work programs; and alternative
 622 dispute resolution programs serving children at risk of
 623 delinquency and their families, whether offered or delivered by
 624 state or local governmental entities, public or private for-
 625 profit or not-for-profit organizations, or religious or
 626 charitable organizations.

627 ~~(31)~~(30) "Juvenile probation officer" means the authorized
 628 agent of the department ~~of Juvenile Justice~~ who performs the
 629 intake, case management, or supervision functions.

630 ~~(32)~~(31) "Juvenile sexual offender" means:

631 (a) A juvenile who has been found by the court under
 632 ~~pursuant to~~ s. 985.228 to have committed a violation of chapter
 633 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;

634 (b) A juvenile found to have committed any felony
 635 violation of law or delinquent act involving juvenile sexual
 636 abuse. "Juvenile sexual abuse" means any sexual behavior which
 637 occurs without consent, without equality, or as a result of
 638 coercion. For purposes of this subsection, the following
 639 definitions apply:

640 1. "Coercion" means the exploitation of authority, use of
 641 bribes, threats of force, or intimidation to gain cooperation or
 642 compliance.

643 2. "Equality" means two participants operating with the
 644 same level of power in a relationship, neither being controlled

645 nor coerced by the other.

646 3. "Consent" means an agreement including all of the
647 following:

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

650 b. Knowledge of societal standards for what is being
651 proposed.

652 c. Awareness of potential consequences and alternatives.

653 d. Assumption that agreement or disagreement will be
654 accepted equally.

655 e. Voluntary decision.

656 f. Mental competence.

657

658 Juvenile sexual offender behavior ranges from noncontact sexual
659 behavior such as making obscene phone calls, exhibitionism,
660 voyeurism, and the showing or taking of lewd photographs to
661 varying degrees of direct sexual contact, such as frottage,
662 fondling, digital penetration, rape, fellatio, sodomy, and
663 various other sexually aggressive acts.

664 (33)~~(32)~~ "Legal custody or guardian" means a legal status
665 created by court order or letter of guardianship which vests in
666 a custodian of the person or guardian, whether an agency or an
667 individual, the right to have physical custody of the child and
668 the right and duty to protect, train, and discipline the child
669 and to provide him or her with food, shelter, education, and
670 ordinary medical, dental, psychiatric, and psychological care.

671 (34)~~(33)~~ "Licensed child-caring agency" means a person,
672 society, association, or agency licensed by the Department of

673 Children and Family Services to care for, receive, and board
674 children.

675 (35)~~(34)~~ "Licensed health care professional" means a
676 physician licensed under chapter 458, an osteopathic physician
677 licensed under chapter 459, a nurse licensed under part I of
678 chapter 464, a physician assistant licensed under chapter 458 or
679 chapter 459, or a dentist licensed under chapter 466.

680 (36)~~(35)~~ "Likely to injure oneself" means that, as
681 evidenced by violent or other actively self-destructive
682 behavior, it is more likely than not that within a 24-hour
683 period the child will attempt to commit suicide or inflict
684 serious bodily harm on himself or herself.

685 (37)~~(36)~~ "Likely to injure others" means that it is more
686 likely than not that within a 24-hour period the child will
687 inflict serious and unjustified bodily harm on another person.

688 (38)~~(37)~~ "Mediation" means a process whereby a neutral
689 third person called a mediator acts to encourage and facilitate
690 the resolution of a dispute between two or more parties. It is
691 an informal and nonadversarial process with the objective of
692 helping the disputing parties reach a mutually acceptable and
693 voluntary agreement. In mediation, decisionmaking authority
694 rests with the parties. The role of the mediator includes, but
695 is not limited to, assisting the parties in identifying issues,
696 fostering joint problem solving, and exploring settlement
697 alternatives.

698 (39)~~(38)~~ "Necessary medical treatment" means care which is
699 necessary within a reasonable degree of medical certainty to
700 prevent the deterioration of a child's condition or to alleviate

701 immediate pain of a child.

702 (40)~~(39)~~ "Next of kin" means an adult relative of a child
 703 who is the child's brother, sister, grandparent, aunt, uncle, or
 704 first cousin.

705 (41)~~(40)~~ "Parent" means a woman who gives birth to a child
 706 and a man whose consent to the adoption of the child would be
 707 required under s. 63.062(1). If a child has been legally
 708 adopted, the term "parent" means the adoptive mother or father
 709 of the child. The term does not include an individual whose
 710 parental relationship to the child has been legally terminated,
 711 or an alleged or prospective parent, unless the parental status
 712 falls within the terms of either s. 39.503(1) or s. 63.062(1).

713 (42)~~(41)~~ "Preliminary screening" means the gathering of
 714 preliminary information to be used in determining a child's need
 715 for further evaluation or assessment or for referral for other
 716 substance abuse services through means such as psychosocial
 717 interviews; urine and breathalyzer screenings; and reviews of
 718 available educational, delinquency, and dependency records of
 719 the child.

720 (43)~~(42)~~ "Preventive services" means social services and
 721 other supportive and rehabilitative services provided to the
 722 parent of the child, the legal guardian of the child, or the
 723 custodian of the child and to the child for the purpose of
 724 averting the removal of the child from the home or disruption of
 725 a family that ~~which~~ will or could result in the placement of a
 726 child in foster care. Social services and other supportive and
 727 rehabilitative services shall promote the child's need for a
 728 safe, continuous, stable living environment and shall promote

729 family autonomy and shall strengthen family life as the first
 730 priority whenever possible.

731 (44)~~(43)~~ "Probation" means the legal status of probation
 732 created by law and court order in cases involving a child who
 733 has been found to have committed a delinquent act. Probation is
 734 an individualized program in which the freedom of the child is
 735 limited and the child is restricted to noninstitutional quarters
 736 or restricted to the child's home in lieu of commitment to the
 737 custody of the department ~~of Juvenile Justice~~. Youth on
 738 probation may be assessed and classified for placement in day-
 739 treatment probation programs designed for youth who represent a
 740 minimum risk to themselves and public safety and do not require
 741 placement and services in a residential setting. ~~Program types~~
 742 ~~in this more intensive and structured day treatment probation~~
 743 ~~option include career programs, marine programs, juvenile~~
 744 ~~justice alternative schools, training and rehabilitation~~
 745 ~~programs, and gender specific programs.~~

746 (45)~~(44)~~ "Relative" means a grandparent, great-
 747 grandparent, sibling, first cousin, aunt, uncle, great-aunt,
 748 great-uncle, niece, or nephew, whether related by the whole or
 749 half blood, by affinity, or by adoption. The term does not
 750 include a stepparent.

751 (46)~~(45)~~ "Restrictiveness Residential Commitment level"
 752 means the level of programming and security provided by programs
 753 that service the supervision, custody, care, and treatment needs
 754 of committed children. Sections 985.3141 and 985.404(11) apply
 755 to children placed in programs at any residential commitment
 756 level. The restrictiveness levels of ~~residential~~ commitment are

757 as follows:

758 (a) Minimum-risk nonresidential--Programs or program
759 models at this commitment level work with youth who remain in
760 the community and participate at least 5 days per week in a day
761 treatment program. Youth assessed and classified for programs at
762 this commitment level represent a minimum risk to themselves and
763 public safety and do not require placement and services in
764 residential settings. Youth in this level have full access to,
765 and reside in, the community. A youth who has been found to have
766 committed delinquent acts that involve firearms, delinquent acts
767 that are sexual offenses, or delinquent acts that would be life
768 felonies or first degree felonies if committed by an adult shall
769 not be committed to a program at this level.

770 (b)(a) Low-risk residential.--Programs or program models
771 at this commitment level are residential but may allow youth to
772 have unsupervised access to the community. Youth assessed and
773 classified for placement in programs at this commitment level
774 represent a low risk to themselves and public safety but do
775 require placement and services in residential settings. Children
776 who have been found to have committed delinquent acts that
777 involve firearms, delinquent acts that are sexual offenses, or
778 delinquent acts that would be life felonies or first degree
779 felonies if committed by an adult shall not be committed to a
780 program at this level.

781 (c)(b) Moderate-risk residential.--Programs or program
782 models at this commitment level are residential but may allow
783 youth to have supervised access to the community. Facilities are
784 either environmentally secure, staff secure, or are hardware-

785 | secure with walls, fencing, or locking doors. Facilities shall
 786 | provide 24-hour awake supervision, custody, care, and treatment
 787 | of residents. Youth assessed and classified for placement in
 788 | programs at this commitment level represent a moderate risk to
 789 | public safety and require close supervision. The staff at a
 790 | facility at this commitment level may seclude a child who is a
 791 | physical threat to himself or herself or others. Mechanical
 792 | restraint may also be used when necessary.

793 | (d)~~(e)~~ High-risk residential.--Programs or program models
 794 | at this commitment level are residential and shall not allow
 795 | youth to have access to the community. Facilities are hardware-
 796 | secure with perimeter fencing and locking doors or are
 797 | environmentally secure. Facilities shall provide 24-hour awake
 798 | supervision, custody, care, and treatment of residents. Youth
 799 | assessed and classified for this level of placement require
 800 | close supervision in a structured residential setting. Placement
 801 | in programs at this level is prompted by a concern for public
 802 | safety that outweighs placement in programs at lower commitment
 803 | levels. The staff at a facility at this commitment level may
 804 | seclude a child who is a physical threat to himself or herself
 805 | or others. Mechanical restraint may also be used when necessary.
 806 | The facility may provide for single cell occupancy.

807 | (e)~~(d)~~ Maximum-risk residential.--Programs or program
 808 | models at this commitment level include juvenile correctional
 809 | facilities ~~and juvenile prisons~~. The programs are long-term
 810 | residential and shall not allow youth to have access to the
 811 | community. Facilities are maximum-custody hardware-secure with
 812 | perimeter security fencing and locking doors. Facilities shall

813 provide 24-hour awake supervision, custody, care, and treatment
814 of residents. The staff at a facility at this commitment level
815 may seclude a child who is a physical threat to himself or
816 herself or others. Mechanical restraint may also be used when
817 necessary. The facility shall provide for single cell occupancy,
818 except that youth may be housed together during prerelease
819 transition. Youth assessed and classified for this level of
820 placement require close supervision in a maximum security
821 residential setting. Placement in a program at this level is
822 prompted by a demonstrated need to protect the public.

823 (47)~~(46)~~ "Respite" means a placement that is available for
824 the care, custody, and placement of a youth charged with
825 domestic violence as an alternative to secure detention or for
826 placement of a youth when a shelter bed for a child in need of
827 services or a family in need of services is unavailable.

828 (48)~~(47)~~ "Secure detention center or facility" means a
829 physically restricting facility for the temporary care of
830 children, pending adjudication, disposition, or placement.

831 (49)~~(48)~~ "Serious or habitual juvenile offender," for
832 purposes of commitment to a residential facility and for
833 purposes of records retention, means a child who has been found
834 to have committed a delinquent act or a violation of law, in the
835 case currently before the court, and who meets at least one of
836 the following criteria:

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

840 1. Arson;

- 841 2. Sexual battery;
- 842 3. Robbery;
- 843 4. Kidnapping;
- 844 5. Aggravated child abuse;
- 845 6. Aggravated assault;
- 846 7. Aggravated stalking;
- 847 8. Murder;
- 848 9. Manslaughter;
- 849 10. Unlawful throwing, placing, or discharging of a
- 850 destructive device or bomb;
- 851 11. Armed burglary;
- 852 12. Aggravated battery;
- 853 13. Any lewd or lascivious offense committed upon or in
- 854 the presence of a person less than 16 years of age; or
- 855 14. Carrying, displaying, using, threatening, or
- 856 attempting to use a weapon or firearm during the commission of a
- 857 felony.

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

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

865 (50)~~(49)~~ "Serious or habitual juvenile offender program"
 866 means the program established in s. 985.31.

867 (51)~~(50)~~ "Shelter" means a place for the temporary care of
 868 a child who is alleged to be or who has been found to be

869 delinquent.

870 (52)~~(51)~~ "Shelter hearing" means a hearing provided for
 871 under s. 984.14 in family-in-need-of-services cases or child-in-
 872 need-of-services cases.

873 (53)~~(52)~~ "Staff-secure shelter" means a facility in which
 874 a child is supervised 24 hours a day by staff members who are
 875 awake while on duty. The facility is for the temporary care and
 876 assessment of a child who has been found to be dependent, who
 877 has violated a court order and been found in contempt of court,
 878 or whom the Department of Children and Family Services is unable
 879 to properly assess or place for assistance within the continuum
 880 of services provided for dependent children.

881 (54)~~(53)~~ "Substance abuse" means using, without medical
 882 reason, any psychoactive or mood-altering drug, including
 883 alcohol, in such a manner as to induce impairment resulting in
 884 dysfunctional social behavior.

885 (55)~~(54)~~ "Taken into custody" means the status of a child
 886 immediately when temporary physical control over the child is
 887 attained by a person authorized by law, pending the child's
 888 release, detention, placement, or other disposition as
 889 authorized by law.

890 (56)~~(55)~~ "Temporary legal custody" means the relationship
 891 that a juvenile court creates between a child and an adult
 892 relative of the child, adult nonrelative approved by the court,
 893 or other person until a more permanent arrangement is ordered.
 894 Temporary legal custody confers upon the custodian the right to
 895 have temporary physical custody of the child and the right and
 896 duty to protect, train, and discipline the child and to provide

897 | the child with food, shelter, and education, and ordinary
 898 | medical, dental, psychiatric, and psychological care, unless
 899 | these rights and duties are otherwise enlarged or limited by the
 900 | court order establishing the temporary legal custody
 901 | relationship.

902 | (57)~~(56)~~ "Temporary release" means the terms and
 903 | conditions under which a child is temporarily released from a
 904 | residential commitment facility or allowed home visits. If the
 905 | temporary release is from a moderate-risk residential facility,
 906 | a high-risk residential facility, or a maximum-risk residential
 907 | facility, the terms and conditions of the temporary release must
 908 | be approved by the child, the court, and the facility. The term
 909 | includes periods during which the child is supervised pursuant
 910 | to a conditional release program or a period during which the
 911 | child is supervised by a juvenile probation officer or other
 912 | nonresidential staff of the department or staff employed by an
 913 | entity under contract with the department.

914 | (58)~~(57)~~ "Training school" means one of the following
 915 | facilities: the Arthur G. Dozier School or the Eckerd Youth
 916 | Development Center.

917 | (59)~~(58)~~ "Violation of law" or "delinquent act" means a
 918 | violation of any law of this state, the United States, or any
 919 | other state which is a misdemeanor or a felony or a violation of
 920 | a county or municipal ordinance which would be punishable by
 921 | incarceration if the violation were committed by an adult.

922 | (60)~~(59)~~ "Waiver hearing" means a hearing provided for
 923 | under s. 985.226(3).

924 Section 5. Paragraph (b) of subsection (4) of section
 925 985.201, Florida Statutes, is amended to read:

926 985.201 Jurisdiction.--

927 (4)

928 (b)1. The court may retain jurisdiction over a child
 929 committed to the department for placement in a juvenile
 930 correctional facility ~~prison~~ or in a high-risk or maximum-risk
 931 residential commitment program to allow the child to participate
 932 in a juvenile conditional release program pursuant to s.
 933 985.316. In no case shall the jurisdiction of the court be
 934 retained beyond the child's 22nd birthday. However, if the child
 935 is not successful in the conditional release program, the
 936 department may use the transfer procedure under s. 985.404.

937 2. The court may retain jurisdiction over a child
 938 committed to the department for placement in an intensive
 939 residential treatment program for 10-year-old to 13-year-old
 940 offenders, in the residential commitment program in a juvenile
 941 correctional facility ~~prison~~, in a residential sex offender
 942 program, or in a program for serious or habitual juvenile
 943 offenders as provided in s. 985.311 or s. 985.31 until the child
 944 reaches the age of 21. If the court exercises this jurisdiction
 945 retention, it shall do so solely for the purpose of the child
 946 completing the intensive residential treatment program for 10-
 947 year-old to 13-year-old offenders, in the residential commitment
 948 program in a juvenile correctional facility ~~prison~~, in a
 949 residential sex offender program, or the program for serious or
 950 habitual juvenile offenders. Such jurisdiction retention does
 951 not apply for other programs, other purposes, or new offenses.

952 Section 6. Paragraph (d) of subsection (1) of section
 953 985.207, Florida Statutes, is amended and paragraph (e) is added
 954 to said subsection to read:

955 985.207 Taking a child into custody.--

956 (1) A child may be taken into custody under the following
 957 circumstances:

958 (d) By a law enforcement officer who has probable cause to
 959 believe that the child is in violation of the conditions of the
 960 child's probation, home detention, postcommitment probation, or
 961 conditional release supervision or has escaped in violation of
 962 s. 985.3141 ~~from commitment~~.

963 (e) A court finds any of the following for a youth
 964 awaiting disposition:

965 1. That the child has a history of failing to appear for
 966 court proceedings.

967 2. That the child is presently ungovernable as evidenced
 968 by his or her recent behavior.

969 3. That the child presents a risk of failing to appear for
 970 future proceedings or to inflict harm to himself or others or
 971 the property of others because of his or her present
 972 ungovernable behavior.

973
 974 Nothing in this subsection shall be construed to allow the
 975 detention of a child who does not meet the detention criteria in
 976 s. 985.215.

977 Section 7. Subsection (1) of section 985.208, Florida
 978 Statutes, is amended to read:

979 985.208 Detention of escapee on authority of the
980 department.--

981 (1) If an authorized agent of the department has
982 reasonable grounds to believe that any delinquent child
983 committed to the department has escaped from a residential
984 commitment facility of the department or from being lawfully
985 transported thereto or therefrom, the agent may take the child
986 into active custody and may deliver the child to the facility
987 or, if it is closer, to a detention center for return to the
988 facility. However, a child may not be held in detention longer
989 than 24 hours, excluding Saturdays, Sundays, and legal holidays,
990 unless a special order so directing is made by the judge after a
991 detention hearing resulting in a finding that detention is
992 required based on the criteria in s. 985.215(2). The order shall
993 state the reasons for such finding. The reasons shall be
994 reviewable by appeal or in habeas corpus proceedings in the
995 district court of appeal.

996 Section 8. Paragraph (f) is added to subsection (1) of
997 section 985.213, Florida Statutes, to read:

998 985.213 Use of detention.--

999 (1) All determinations and court orders regarding the use
1000 of secure, nonsecure, or home detention shall be based primarily
1001 upon findings that the child:

1002 (f) Meets the criteria for taking a child into custody
1003 pursuant to s. 985.207(1)(e). Youth detained pursuant to this
1004 paragraph shall be detained in secure detention or, at the
1005 discretion of the court and if available, placed on home
1006 detention with electronic monitoring until final disposition.

1007 Section 9. Paragraphs (a) and (d) of subsection (1) and
 1008 subsection (2) of section 985.231, Florida Statutes, are amended
 1009 to read:

1010 985.231 Powers of disposition in delinquency cases.--

1011 (1)(a) The court that has jurisdiction of an adjudicated
 1012 delinquent child may, by an order stating the facts upon which a
 1013 determination of a sanction and rehabilitative program was made
 1014 at the disposition hearing:

1015 1. Place the child in a probation program or a
 1016 postcommitment probation program under the supervision of an
 1017 authorized agent of the Department of Juvenile Justice or of any
 1018 other person or agency specifically authorized and appointed by
 1019 the court, whether in the child's own home, in the home of a
 1020 relative of the child, or in some other suitable place under
 1021 such reasonable conditions as the court may direct. A probation
 1022 program for an adjudicated delinquent child must include a
 1023 penalty component such as restitution in money or in kind,
 1024 community service, a curfew, revocation or suspension of the
 1025 driver's license of the child, or other nonresidential
 1026 punishment appropriate to the offense and must also include a
 1027 rehabilitative program component such as a requirement of
 1028 participation in substance abuse treatment or in school or other
 1029 educational program. If the child is attending or is eligible to
 1030 attend public school and the court finds that the victim or a
 1031 sibling of the victim in the case is attending or may attend the
 1032 same school as the child, the court placement order shall
 1033 include a finding pursuant to the proceedings described in s.
 1034 985.23(1)(d). Upon the recommendation of the department at the

1035 time of disposition, or subsequent to disposition pursuant to
 1036 the filing of a petition alleging a violation of the child's
 1037 conditions of postcommitment probation, the court may order the
 1038 child to submit to random testing for the purpose of detecting
 1039 and monitoring the use of alcohol or controlled substances.

1040 a. A ~~restrictiveness level~~ classification scale for levels
 1041 of supervision shall be provided by the department, taking into
 1042 account the child's needs and risks relative to probation
 1043 supervision requirements to reasonably ensure the public safety.
 1044 Probation programs for children shall be supervised by the
 1045 department or by any other person or agency specifically
 1046 authorized by the court. These programs must include, but are
 1047 not limited to, structured or restricted activities as described
 1048 in this subparagraph, and shall be designed to encourage the
 1049 child toward acceptable and functional social behavior. If
 1050 supervision or a program of community service is ordered by the
 1051 court, the duration of such supervision or program must be
 1052 consistent with any treatment and rehabilitation needs
 1053 identified for the child and may not exceed the term for which
 1054 sentence could be imposed if the child were committed for the
 1055 offense, except that the duration of such supervision or program
 1056 for an offense that is a misdemeanor of the second degree, or is
 1057 equivalent to a misdemeanor of the second degree, may be for a
 1058 period not to exceed 6 months. When restitution is ordered by
 1059 the court, the amount of restitution may not exceed an amount
 1060 the child and the parent or guardian could reasonably be
 1061 expected to pay or make. A child who participates in any work

1062 program under this part is considered an employee of the state
1063 for purposes of liability, unless otherwise provided by law.

1064 b. The court may conduct judicial review hearings for a
1065 child placed on probation for the purpose of fostering
1066 accountability to the judge and compliance with other
1067 requirements, such as restitution and community service. The
1068 court may allow early termination of probation for a child who
1069 has substantially complied with the terms and conditions of
1070 probation.

1071 c. If the conditions of the probation program or the
1072 postcommitment probation program are violated, the department or
1073 the state attorney may bring the child before the court on a
1074 petition alleging a violation of the program. Any child who
1075 violates the conditions of probation or postcommitment probation
1076 must be brought before the court if sanctions are sought. A
1077 child taken into custody under s. 985.207 for violating the
1078 conditions of probation or postcommitment probation shall be
1079 held in a consequence unit if such a unit is available. The
1080 child shall be afforded a hearing within 24 hours after being
1081 taken into custody to determine the existence of probable cause
1082 that the child violated the conditions of probation or
1083 postcommitment probation. A consequence unit is a secure
1084 facility specifically designated by the department for children
1085 who are taken into custody under s. 985.207 for violating
1086 probation or postcommitment probation, or who have been found by
1087 the court to have violated the conditions of probation or
1088 postcommitment probation. If the violation involves a new charge
1089 of delinquency, the child may be detained under s. 985.215 in a

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1090 facility other than a consequence unit. If the child is not
1091 eligible for detention for the new charge of delinquency, the
1092 child may be held in the consequence unit pending a hearing and
1093 is subject to the time limitations specified in s. 985.215. If
1094 the child denies violating the conditions of probation or
1095 postcommitment probation, the court shall appoint counsel to
1096 represent the child at the child's request. Upon the child's
1097 admission, or if the court finds after a hearing that the child
1098 has violated the conditions of probation or postcommitment
1099 probation, the court shall enter an order revoking, modifying,
1100 or continuing probation or postcommitment probation. In each
1101 such case, the court shall enter a new disposition order and, in
1102 addition to the sanctions set forth in this paragraph, may
1103 impose any sanction the court could have imposed at the original
1104 disposition hearing. If the child is found to have violated the
1105 conditions of probation or postcommitment probation, the court
1106 may:

1107 (I) Place the child in a consequence unit in that judicial
1108 circuit, if available, for up to 5 days for a first violation,
1109 and up to 15 days for a second or subsequent violation.

1110 (II) Place the child on home detention with electronic
1111 monitoring. However, this sanction may be used only if a
1112 residential consequence unit is not available.

1113 (III) Modify or continue the child's probation program or
1114 postcommitment probation program.

1115 (IV) Revoke probation or postcommitment probation and
1116 commit the child to the department.

1117 d. Notwithstanding s. 743.07 and paragraph (d), and except
 1118 as provided in s. 985.31, the term of any order placing a child
 1119 in a probation program must be until the child's 19th birthday
 1120 unless he or she is released by the court, on the motion of an
 1121 interested party or on its own motion.

1122 2. Commit the child to a licensed child-caring agency
 1123 willing to receive the child, but the court may not commit the
 1124 child to a jail or to a facility used primarily as a detention
 1125 center or facility or shelter.

1126 3. Commit the child to the department of ~~Juvenile Justice~~
 1127 at a restrictiveness residential commitment level defined in s.
 1128 985.03. The court may specify a program or facility within the
 1129 restrictiveness level to which the child has been ordered. For a
 1130 child ordered committed to a specific high-risk residential or
 1131 maximum-risk residential program or facility, the department may
 1132 notify the dispositional judge of alternative placements of the
 1133 same risk level, as space becomes available, that could be
 1134 accomplished prior to entry of the child into the court-ordered
 1135 program or facility. With respect to any court-specified
 1136 placement, the court may not select a program or facility that
 1137 is not under contract with the department. If the court finds
 1138 that the planned vacancies at the program or facility specified
 1139 by the court are insufficient to allow for the placement of the
 1140 child within 45 days after the commitment order, the court must
 1141 select a program or facility of the same restrictiveness level
 1142 from at least three alternative placements provided by the
 1143 department. Such commitment must be for the purpose of
 1144 exercising active control over the child, including, but not

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1145 limited to, custody, care, training, urine monitoring, and
1146 treatment of the child and release of the child from residential
1147 commitment into the community in a postcommitment nonresidential
1148 conditional release program. If the child is eligible to attend
1149 public school following ~~residential~~ commitment and the court
1150 finds that the victim or a sibling of the victim in the case is
1151 or may be attending the same school as the child, the commitment
1152 order shall include a finding pursuant to the proceedings
1153 described in s. 985.23(1)(d). If the child is not successful in
1154 the conditional release program, the department may use the
1155 transfer procedure under s. 985.404. Notwithstanding s. 743.07
1156 and paragraph (d), and except as provided in s. 985.31, the term
1157 of the commitment must be until the child is discharged by the
1158 department or until he or she reaches the age of 21.

1159 4. Revoke or suspend the driver's license of the child.

1160 5. Require the child and, if the court finds it
1161 appropriate, the child's parent or guardian together with the
1162 child, to render community service in a public service program.

1163 6. As part of the probation program to be implemented by
1164 the Department of Juvenile Justice, or, in the case of a
1165 committed child, as part of the community-based sanctions
1166 ordered by the court at the disposition hearing or before the
1167 child's release from commitment, order the child to make
1168 restitution in money, through a promissory note cosigned by the
1169 child's parent or guardian, or in kind for any damage or loss
1170 caused by the child's offense in a reasonable amount or manner
1171 to be determined by the court. The clerk of the circuit court
1172 shall be the receiving and dispensing agent. In such case, the

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1173 court shall order the child or the child's parent or guardian to
 1174 pay to the office of the clerk of the circuit court an amount
 1175 not to exceed the actual cost incurred by the clerk as a result
 1176 of receiving and dispensing restitution payments. The clerk
 1177 shall notify the court if restitution is not made, and the court
 1178 shall take any further action that is necessary against the
 1179 child or the child's parent or guardian. A finding by the court,
 1180 after a hearing, that the parent or guardian has made diligent
 1181 and good faith efforts to prevent the child from engaging in
 1182 delinquent acts absolves the parent or guardian of liability for
 1183 restitution under this subparagraph.

1184 7. Order the child and, if the court finds it appropriate,
 1185 the child's parent or guardian together with the child, to
 1186 participate in a community work project, either as an
 1187 alternative to monetary restitution or as part of the
 1188 rehabilitative or probation program.

1189 8. Commit the child to the Department of Juvenile Justice
 1190 for placement in a program or facility for serious or habitual
 1191 juvenile offenders in accordance with s. 985.31. Any commitment
 1192 of a child to a program or facility for serious or habitual
 1193 juvenile offenders must be for an indeterminate period of time,
 1194 but the time may not exceed the maximum term of imprisonment
 1195 that an adult may serve for the same offense. The court may
 1196 retain jurisdiction over such child until the child reaches the
 1197 age of 21, specifically for the purpose of the child completing
 1198 the program.

1199 9. In addition to the sanctions imposed on the child,
 1200 order the parent or guardian of the child to perform community

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1201 service if the court finds that the parent or guardian did not
 1202 make a diligent and good faith effort to prevent the child from
 1203 engaging in delinquent acts. The court may also order the parent
 1204 or guardian to make restitution in money or in kind for any
 1205 damage or loss caused by the child's offense. The court shall
 1206 determine a reasonable amount or manner of restitution, and
 1207 payment shall be made to the clerk of the circuit court as
 1208 provided in subparagraph 6.

1209 10. Subject to specific appropriation, commit the juvenile
 1210 sexual offender to the Department of Juvenile Justice for
 1211 placement in a program or facility for juvenile sexual offenders
 1212 in accordance with s. 985.308. Any commitment of a juvenile
 1213 sexual offender to a program or facility for juvenile sexual
 1214 offenders must be for an indeterminate period of time, but the
 1215 time may not exceed the maximum term of imprisonment that an
 1216 adult may serve for the same offense. The court may retain
 1217 jurisdiction over a juvenile sexual offender until the juvenile
 1218 sexual offender reaches the age of 21, specifically for the
 1219 purpose of completing the program.

1220 (d) Any commitment of a delinquent child to the Department
 1221 of Juvenile Justice must be for an indeterminate period of time,
 1222 which may include periods of temporary release; however, ~~but~~ the
 1223 period of time may not exceed the maximum term of imprisonment
 1224 that an adult may serve for the same offense, except that the
 1225 duration of a minimum-risk nonresidential commitment for an
 1226 offense that is a misdemeanor of the second degree, or is
 1227 equivalent to a misdemeanor of the second degree, may be for a
 1228 period not to exceed 6 months. The duration of the child's

1229 placement in a ~~residential~~ commitment program of any
 1230 restrictiveness level shall be based on objective performance-
 1231 based treatment planning. The child's treatment plan progress
 1232 and adjustment-related issues shall be reported to the court
 1233 each month. The child's length of stay in a ~~residential~~
 1234 commitment program may be extended if the child fails to comply
 1235 with or participate in treatment activities. The child's length
 1236 of stay in the ~~such~~ program shall not be extended for purposes
 1237 of sanction or punishment. Any temporary release from such
 1238 program must be approved by the court. Any child so committed
 1239 may be discharged from institutional confinement or a program
 1240 upon the direction of the department with the concurrence of the
 1241 court. The child's treatment plan progress and adjustment-
 1242 related issues must be communicated to the court at the time the
 1243 department requests the court to consider releasing the child
 1244 from the ~~residential~~ commitment program. Notwithstanding s.
 1245 743.07 and this subsection, and except as provided in ss.
 1246 985.201 and 985.31, a child may not be held under a commitment
 1247 from a court under ~~pursuant to~~ this section after becoming 21
 1248 years of age. The department shall give the court that committed
 1249 the child to the department reasonable notice, in writing, of
 1250 its desire to discharge the child from a commitment facility.
 1251 The court that committed the child may thereafter accept or
 1252 reject the request. If the court does not respond within 10 days
 1253 after receipt of the notice, the request of the department shall
 1254 be deemed granted. This section does not limit the department's
 1255 authority to revoke a child's temporary release status and

1256 return the child to a commitment facility for any violation of
 1257 the terms and conditions of the temporary release.

1258 (2) Following a delinquency adjudicatory hearing pursuant
 1259 to s. 985.228 and a delinquency disposition hearing pursuant to
 1260 s. 985.23 which results in a commitment determination, the court
 1261 shall, on its own or upon request by the state or the
 1262 department, determine whether the protection of the public
 1263 requires that the child be placed in a program for serious or
 1264 habitual juvenile offenders and whether the particular needs of
 1265 the child would be best served by a program for serious or
 1266 habitual juvenile offenders as provided in s. 985.31. The
 1267 determination shall be made pursuant to ss. 985.03(49)~~(48)~~ and
 1268 985.23(3).

1269 Section 10. Paragraph (a) of subsection (1) of section
 1270 985.2311, Florida Statutes, is amended to read:

1271 985.2311 Cost of supervision; cost of care.--

1272 (1) Except as provided in subsection (3) or subsection
 1273 (4):

1274 (a) When any child is placed into home detention,
 1275 probation, or other supervision status with the Department of
 1276 Juvenile Justice, or is committed to the minimum-risk
 1277 nonresidential restrictiveness level, the court shall order the
 1278 parent of such child to pay to the department a fee for the cost
 1279 of the supervision of such child in the amount of \$1 per day for
 1280 each day that the child is in such ~~supervision~~ status.

1281 Section 11. Section 985.313, Florida Statutes, is amended
 1282 to read:

1283 985.313 Juvenile correctional facilities ~~or juvenile~~
 1284 ~~prison~~.--A juvenile correctional facility ~~or juvenile prison~~ is
 1285 a physically secure residential commitment program with a
 1286 designated length of stay from 18 months to 36 months, primarily
 1287 serving children 13 years of age to 19 years of age, or until
 1288 the jurisdiction of the court expires. The court may retain
 1289 jurisdiction over the child until the child reaches the age of
 1290 21, specifically for the purpose of the child completing the
 1291 program. Each child committed to this level must meet one of the
 1292 following criteria:

1293 (1) The youth is at least 13 years of age at the time of
 1294 the disposition for the current offense and has been adjudicated
 1295 on the current offense for:

- 1296 (a) Arson;
- 1297 (b) Sexual battery;
- 1298 (c) Robbery;
- 1299 (d) Kidnapping;
- 1300 (e) Aggravated child abuse;
- 1301 (f) Aggravated assault;
- 1302 (g) Aggravated stalking;
- 1303 (h) Murder;
- 1304 (i) Manslaughter;
- 1305 (j) Unlawful throwing, placing, or discharging of a
 1306 destructive device or bomb;
- 1307 (k) Armed burglary;
- 1308 (l) Aggravated battery;
- 1309 (m) Carjacking;
- 1310 (n) Home-invasion robbery;

1311 (o) Burglary with an assault or battery;

1312 (p) Any lewd or lascivious offense committed upon or in
 1313 the presence of a person less than 16 years of age; or

1314 (q) Carrying, displaying, using, threatening to use, or
 1315 attempting to use a weapon or firearm during the commission of a
 1316 felony.

1317 (2) The youth is at least 13 years of age at the time of
 1318 the disposition, the current offense is a felony, and the child
 1319 has previously been committed three or more times to a
 1320 delinquency commitment program.

1321 (3) The youth is at least 13 years of age and is currently
 1322 committed for a felony offense and transferred from a moderate-
 1323 risk or high-risk residential commitment placement.

1324 (4) The youth is at least 13 years of age at the time of
 1325 the disposition for the current offense, the youth is eligible
 1326 for prosecution as an adult for the current offense, and the
 1327 current offense is ranked at level 7 or higher on the Criminal
 1328 Punishment Code offense severity ranking chart pursuant to s.
 1329 921.0022.

1330 Section 12. Subsection (3) of section 985.316, Florida
 1331 Statutes, is amended to read:

1332 985.316 Conditional release.--

1333 (3) For juveniles referred or committed to the department,
 1334 the function of the department may include, but shall not be
 1335 limited to, assessing each ~~committed~~ juvenile placed in a
 1336 residential commitment program to determine the need for
 1337 conditional release services upon release from the ~~a commitment~~
 1338 program, supervising the juvenile when released into the

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1339 community from a residential commitment facility of the
 1340 department, providing such counseling and other services as may
 1341 be necessary for the families and assisting their preparations
 1342 for the return of the child. Subject to specific appropriation,
 1343 the department shall provide for outpatient sexual offender
 1344 counseling for any juvenile sexual offender released from a
 1345 residential commitment program as a component of conditional
 1346 release.

1347 Section 13. Section 784.075, Florida Statutes, is amended
 1348 to read:

1349 784.075 Battery on detention or commitment facility staff
 1350 or a juvenile probation officer.--A person who commits a battery
 1351 on a juvenile probation officer, as defined in s. 984.03 or s.
 1352 985.03, on other staff of a detention center or facility as
 1353 defined in s. 984.03(19) or s. 985.03(20)~~(19)~~, or on a staff
 1354 member of a commitment facility as defined in s. 985.03(46)~~(45)~~,
 1355 commits a felony of the third degree, punishable as provided in
 1356 s. 775.082, s. 775.083, or s. 775.084. For purposes of this
 1357 section, a staff member of the facilities listed includes
 1358 persons employed by the Department of Juvenile Justice, persons
 1359 employed at facilities licensed by the Department of Juvenile
 1360 Justice, and persons employed at facilities operated under a
 1361 contract with the Department of Juvenile Justice.

1362 Section 14. Section 984.05, Florida Statutes, is amended
 1363 to read:

1364 984.05 Rules relating to habitual truants; adoption by
 1365 State Board of Education and Department of Juvenile
 1366 Justice.--The Department of Juvenile Justice and the State Board

1367 of Education shall work together on the development of, and
 1368 shall adopt, rules as necessary for the implementation of ss.
 1369 984.03(27), 985.03(26)(~~25~~), and 1003.27.

1370 Section 15. Paragraph (e) of subsection (3) and paragraph
 1371 (a) of subsection (4) of section 985.31, Florida Statutes, are
 1372 amended, and for the purpose of incorporating the amendment to
 1373 section 985.231, Florida Statutes, in references thereto,
 1374 paragraph (k) of subsection (3) of said section is reenacted to
 1375 read:

1376 985.31 Serious or habitual juvenile offender.--

1377 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
 1378 TREATMENT.--

1379 (e) After a child has been adjudicated delinquent pursuant
 1380 to s. 985.228, the court shall determine whether the child meets
 1381 the criteria for a serious or habitual juvenile offender
 1382 pursuant to s. 985.03(49)(~~48~~). If the court determines that the
 1383 child does not meet such criteria, the provisions of s.
 1384 985.231(1) shall apply.

1385 (k) Any commitment of a child to the department for
 1386 placement in a serious or habitual juvenile offender program or
 1387 facility shall be for an indeterminate period of time, but the
 1388 time shall not exceed the maximum term of imprisonment which an
 1389 adult may serve for the same offense. Notwithstanding the
 1390 provisions of ss. 743.07 and 985.231(1)(d), a serious or
 1391 habitual juvenile offender shall not be held under commitment
 1392 from a court pursuant to this section, s. 985.231, or s. 985.233
 1393 after becoming 21 years of age. This provision shall apply only
 1394 for the purpose of completing the serious or habitual juvenile

1395 offender program pursuant to this chapter and shall be used
 1396 solely for the purpose of treatment.

1397 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

1398 (a) Pursuant to the provisions of this section, the
 1399 department shall implement the comprehensive assessment
 1400 instrument for the treatment needs of serious or habitual
 1401 juvenile offenders and for the assessment, which assessment
 1402 shall include the criteria under s. 985.03 (49)~~(48)~~ and shall
 1403 also include, but not be limited to, evaluation of the child's:

- 1404 1. Amenability to treatment.
- 1405 2. Proclivity toward violence.
- 1406 3. Tendency toward gang involvement.
- 1407 4. Substance abuse or addiction and the level thereof.
- 1408 5. History of being a victim of child abuse or sexual
 1409 abuse, or indication of sexual behavior dysfunction.
- 1410 6. Number and type of previous adjudications, findings of
 1411 guilt, and convictions.
- 1412 7. Potential for rehabilitation.

1413 Section 16. Subsection (2) of section 985.3141, Florida
 1414 Statutes, is amended to read:

1415 985.3141 Escapes from secure detention or residential
 1416 commitment facility.--An escape from:

1417 (2) Any residential commitment facility described in s.
 1418 985.03 (46)~~(45)~~, maintained for the custody, treatment,
 1419 punishment, or rehabilitation of children found to have
 1420 committed delinquent acts or violations of law; or
 1421

1422 constitutes escape within the intent and meaning of s. 944.40
 1423 and is a felony of the third degree, punishable as provided in
 1424 s. 775.082, s. 775.083, or s. 775.084.

1425 Section 17. For the purpose of incorporating the amendment
 1426 to section 985.231, Florida Statutes, in a reference thereto,
 1427 paragraph (a) of subsection (4) of section 985.201, Florida
 1428 Statutes, is reenacted to read:

1429 985.201 Jurisdiction.--

1430 (4)(a) Notwithstanding ss. 743.07, 985.229, 985.23, and
 1431 985.231, and except as provided in ss. 985.31 and 985.313, when
 1432 the jurisdiction of any child who is alleged to have committed a
 1433 delinquent act or violation of law is obtained, the court shall
 1434 retain jurisdiction, unless relinquished by its order, until the
 1435 child reaches 19 years of age, with the same power over the
 1436 child that the court had prior to the child becoming an adult.

1437 Section 18. For the purpose of incorporating the amendment
 1438 to section 985.231, Florida Statutes, in a reference thereto,
 1439 paragraph (b) of subsection (4) of section 985.233, Florida
 1440 Statutes, is reenacted to read:

1441 985.233 Sentencing powers; procedures; alternatives for
 1442 juveniles prosecuted as adults.--

1443 (4) SENTENCING ALTERNATIVES.--

1444 (b) Sentencing to juvenile sanctions.--For juveniles
 1445 transferred to adult court but who do not qualify for such
 1446 transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or
 1447 (b), the court may impose juvenile sanctions under this
 1448 paragraph. If juvenile sentences are imposed, the court shall,
 1449 pursuant to this paragraph, adjudge the child to have committed

1450 a delinquent act. Adjudication of delinquency shall not be
 1451 deemed a conviction, nor shall it operate to impose any of the
 1452 civil disabilities ordinarily resulting from a conviction. The
 1453 court shall impose an adult sanction or a juvenile sanction and
 1454 may not sentence the child to a combination of adult and
 1455 juvenile punishments. An adult sanction or a juvenile sanction
 1456 may include enforcement of an order of restitution or probation
 1457 previously ordered in any juvenile proceeding. However, if the
 1458 court imposes a juvenile sanction and the department determines
 1459 that the sanction is unsuitable for the child, the department
 1460 shall return custody of the child to the sentencing court for
 1461 further proceedings, including the imposition of adult
 1462 sanctions. Upon adjudicating a child delinquent under subsection
 1463 (1), the court may:

- 1464 1. Place the child in a probation program under the
 1465 supervision of the department for an indeterminate period of
 1466 time until the child reaches the age of 19 years or sooner if
 1467 discharged by order of the court.
- 1468 2. Commit the child to the department for treatment in an
 1469 appropriate program for children for an indeterminate period of
 1470 time until the child is 21 or sooner if discharged by the
 1471 department. The department shall notify the court of its intent
 1472 to discharge no later than 14 days prior to discharge. Failure
 1473 of the court to timely respond to the department's notice shall
 1474 be considered approval for discharge.
- 1475 3. Order disposition pursuant to s. 985.231 as an
 1476 alternative to youthful offender or adult sentencing if the

1477 court determines not to impose youthful offender or adult
 1478 sanctions.

1479
 1480 It is the intent of the Legislature that the criteria and
 1481 guidelines in this subsection are mandatory and that a
 1482 determination of disposition under this subsection is subject to
 1483 the right of the child to appellate review under s. 985.234.

1484 Section 19. For the purpose of incorporating the amendment
 1485 to section 985.231, Florida Statutes, in a reference thereto,
 1486 paragraph (e) of subsection (3) of section 985.311, Florida
 1487 Statutes, is reenacted to read:

1488 985.311 Intensive residential treatment program for
 1489 offenders less than 13 years of age.--

1490 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
 1491 TREATMENT.--

1492 (e) After a child has been adjudicated delinquent pursuant
 1493 to s. 985.228(5), the court shall determine whether the child is
 1494 eligible for an intensive residential treatment program for
 1495 offenders less than 13 years of age pursuant to s. 985.03(7). If
 1496 the court determines that the child does not meet the criteria,
 1497 the provisions of s. 985.231(1) shall apply.

1498 Section 20. This act shall take effect July 1, 2005.