

CHAMBER ACTION

1 The Juvenile Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to juvenile justice; amending s. 985.2155,
7 F.S.; revising provisions relating to county
8 responsibility for juvenile intake, detention screening,
9 and detention; deleting references to state
10 responsibility; providing for state financial assistance;
11 providing criteria for assignment of county costs and
12 responsibility; requiring the Department of Juvenile
13 Justice to adopt rules establishing quality assurance
14 standards for county intake, detention screening, and
15 detention care operations; requiring that each county
16 shall submit an implementation plan for its assumption of
17 certain responsibilities; revising the deadline for
18 development of a methodology for determining the amount of
19 each fiscally constrained county's costs for certain
20 services; amending s. 943.0515, F.S.; deleting the term
21 "juvenile prison"; amending s. 985.03, F.S.; revising
22 definitions relating to juvenile justice; creating a
23 definition for the term "day treatment"; providing for

24 | county detention care and intake responsibility; creating
 25 | the minimum-risk nonresidential restrictiveness level;
 26 | providing that high-risk residential facilities may be
 27 | environmentally secure; removing juvenile prisons from the
 28 | maximum-risk residential level; providing that temporary
 29 | release may be granted from residential commitment
 30 | facilities; amending s. 985.201, F.S.; conforming to
 31 | definition changes; amending s. 985.207, F.S.; providing
 32 | that a child may be taken into custody for absconding from
 33 | a nonresidential commitment facility; providing for a
 34 | child to be taken into custody for specified court
 35 | findings; amending s. 985.208, F.S.; providing that a
 36 | child may be taken into custody for absconding from a
 37 | nonresidential commitment facility; amending s. 985.213,
 38 | F.S.; providing that permissible detention findings
 39 | include specified criteria for taking a child into
 40 | custody; amending s. 985.215, F.S.; providing that a child
 41 | may be placed in detention for absconding from a
 42 | nonresidential commitment facility; providing procedures
 43 | and time limits for detention for absconding from a
 44 | nonresidential commitment facility; providing exceptions
 45 | that permit a child to be placed in detention
 46 | postadjudication for more than 15 days; providing
 47 | procedures for exceptions; conforming a cross reference;
 48 | providing for detention for committed children; providing
 49 | secure detention for children awaiting minimum-risk
 50 | placement who violate home or nonsecure detention or
 51 | electronic monitoring; providing for limited secure

52 | detention for children being transported to residential
53 | commitment programs; amending s. 985.228, F.S.; requiring
54 | the court to include specified conditions in order of
55 | adjudication that are applicable to a youth for the
56 | postadjudication and predisposition period; amending s.
57 | 985.231, F.S.; revising provisions relating to powers of
58 | disposition; permitting a court to specify the program or
59 | facility a youth shall be placed in when committed;
60 | providing procedures for a court's specific placement;
61 | providing the maximum length for a minimum-risk
62 | nonresidential commitment for a second degree misdemeanor;
63 | making conforming changes; providing for commitment of a
64 | child to a specific high-risk residential or maximum-risk
65 | residential program or facility; amending s. 985.2311,
66 | F.S.; providing that parents shall pay fees for costs of
67 | supervision related to minimum-risk nonresidential
68 | commitment; amending s. 985.313, F.S.; conforming to
69 | definitions changes; amending s. 985.316, F.S.; providing
70 | for assessment of residentially committed youth for
71 | conditional release services; amending s. 985.404, F.S.;
72 | requiring the court to issue written orders granting or
73 | denying specified department-requested transfers for
74 | committed youth; permitting the court to conduct a
75 | hearing; prohibiting specified department-requested
76 | transfers prior to department receipt of a written court
77 | order granting the transfer; amending s. 985.4135, F.S.;
78 | requiring juvenile justice county councils to develop
79 | criteria for law enforcement referrals to juvenile

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

90
91 Be It Enacted by the Legislature of the State of Florida:

92
93 Section 1. Section 985.2155, Florida Statutes, as amended
94 by chapter 2004-473, Laws of Florida, is amended to read:

95 985.2155 ~~Shared County and state~~ responsibility for
96 juvenile detention; state financial assistance.--

97 (1) It is the policy of this state that ~~the state and the~~
98 counties be responsible for juvenile intake, detention
99 screening, and detention care in the manner ~~have a joint~~
100 ~~obligation, as provided in this section, to contribute to the~~
101 ~~financial support of the detention care provided for juveniles.~~

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

103 (a) "Final court disposition" means the trial court's
104 entry of a written disposition order for a juvenile under ss.
105 985.23 and 985.231. ~~"Detention care" means secure detention.~~

106 (b) "Fiscally constrained county" means a county
107 ~~designated as a rural area of critical economic concern under s.~~

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108 | ~~288.0656~~ for which the value of a mill in the county is no more
 109 | than \$4 million ~~\$3 million~~, based on the property valuations and
 110 | tax data annually published by the Department of Revenue under
 111 | s. 195.052.

112 | (3)(a) As soon as possible, but, in any event, no later
 113 | than January 1, 2007, each county shall be responsible for the
 114 | operation of, and payment of all ~~pay the~~ costs associated with
 115 | ~~of~~ providing intake, detention screening, and detention care,
 116 | exclusive of the costs of any preadjudicatory nonmedical
 117 | educational or therapeutic services, for juveniles for the
 118 | period of time prior to final court disposition. The department
 119 | shall develop an accounts payable system to allocate costs that
 120 | are payable by the counties.

121 | (b) Each county may contract with public and private
 122 | organizations, including the department and county or municipal
 123 | governments, to carry out its responsibilities under this
 124 | section. In addition, the department may contract with counties
 125 | for the costs of detention and other services provided to
 126 | juveniles after final court disposition.

127 | (c)(4) Notwithstanding subsection (3), The state shall,
 128 | subject to specific appropriations, reimburse each fiscally
 129 | constrained county for up to 100 percent of its costs under
 130 | paragraph (a) pay all costs of detention care for juveniles for
 131 | ~~which a fiscally constrained county would otherwise be billed.~~
 132 | In addition, the state shall, subject to specific
 133 | appropriations, provide financial assistance to counties that
 134 | are not fiscally constrained. Provision of state funds to a
 135 | county under this paragraph shall be contingent upon the county

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136 maintaining facilities and services within specified standards
 137 established by the department under subsection (4) and in
 138 compliance with state and federal constitutional standards.

139 (d) Prior to county provision of services, the department
 140 shall continue to operate intake, detention screening, and
 141 detention care for juveniles, and each county shall reimburse
 142 the department for the cost of providing such services to
 143 juveniles arrested in the county prior to final court
 144 disposition. If a juvenile is arrested in a county other than
 145 his or her county of residence, the juvenile shall be
 146 transferred to his or her county of residence or to the juvenile
 147 detention facility that serves his or her county of residence as
 148 soon as practicable, and the county of residence shall become
 149 responsible for all costs upon transfer of the juvenile.

150 (e) The department shall make existing detention center
 151 facilities available to counties that wish to use these
 152 facilities at no cost other than the costs of routine
 153 maintenance and the cost of maintaining adequate property and
 154 liability insurance as determined by the department. Any county
 155 using a facility serving multiple counties must agree to a
 156 cooperative agreement with other counties from the area that
 157 wish to use the facility. The agreement must specify how costs
 158 and operational responsibility will be shared among each of the
 159 counties.

160 (4) The department shall adopt rules establishing quality
 161 assurance standards for county intake, detention screening, and
 162 detention care operations that shall include the following
 163 provisions:

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- 164 (a) Compliance with state and federal constitutional
 165 standards.
- 166 (b) Compliance with state and federal laws.
- 167 (c) Continuance of educational services to juveniles in
 168 secure detention facilities.
- 169 (d) Prohibition of the inappropriate use of detention.
- 170 (e) Authorization of county flexibility to develop
 171 innovative approaches to service delivery that will help
 172 counties contain costs and provide more appropriate services to
 173 youth. Such alternative strategies include, but are not limited
 174 to, diversion of status offenders and youth charged with local
 175 ordinance violations and nonviolent misdemeanors from
 176 traditional intake services; the use, with court approval, of
 177 electronic monitoring in lieu of secure detention; and the use,
 178 with court approval, of day treatment programs for youth who are
 179 awaiting placement in a residential commitment program in lieu
 180 of secure detention. Any alternative program must demonstrate
 181 that there is no adverse impact on public order or safety and
 182 that provisions will be made to ensure that youth will attend
 183 court proceedings.
- 184 (f) Transportation of youth to and from court. The
 185 department shall be responsible for transporting youth to a
 186 program of the department after final court disposition.
- 187 (g) Sight and sound separation of detained youth from
 188 youthful and adult offenders.
- 189 (h) Staffing standards and minimum qualifications of staff
 190 who work with youth and level 2 employment screening
 191 requirements under chapter 435 for all personnel employed or

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192 contracted by a county for work in any facility or program under
193 this section.

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

196 (j) Minimum standards for detention facilities housing
197 youth.

198 (k) Uniform standards for medical care for youth,
199 including protocols for emergency services and hospitalization
200 when necessary.

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

204 (m) Requirement that any organization engaged by the
205 county to provide services under this section is subject to all
206 staffing standards and minimum staff qualifications established
207 under this subsection.

208 (n) Access by the department to all facilities and
209 programs at any time to conduct quality assurance and program
210 compliance reviews.

211 (o) Provision for the state to take any county program or
212 facility into receivership upon a determination that a county
213 program or facility is not in compliance with statewide quality
214 assurance standards and, as such, places youth in imminent
215 physical danger or violates constitutional standards regarding
216 the care and confinement of juveniles. The department shall
217 operate, either directly or under contract, any county program
218 or facility taken into receivership under this paragraph.

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219 (p) Requirement that if the state takes a facility or
 220 program under receivership, the county shall be liable for costs
 221 incurred by the department for operating the facility or program
 222 plus an administrative fee of 10 percent of the cost of
 223 operating the facility or program.

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

226 (r) Regular, ongoing quality assurance monitoring by the
 227 department to ensure compliance with the quality assurance
 228 standards established under this subsection.

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

234 1. A detailed schedule for county assumption of
 235 responsibilities.

236 2. A complete description of program operations, including
 237 any private or public entity engaged by the county to provide
 238 services.

239 3. Any agreements reached with other counties to operate
 240 regional facilities or programs.

241 4. An attestation by the chair of the board of county
 242 commissioners and the county manager that the county will remain
 243 in compliance with all quality assurance standards established
 244 by the department under subsection (4).

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

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246 (b) The department shall review each county's
 247 implementation plan and shall provide notice to the county
 248 administrator of the department's approval or disapproval of
 249 such plan no later than October 1, 2006. The department's
 250 failure to provide such notice by October 1, 2006, shall
 251 constitute approval.

252 (6)(a) By October 1, 2006 ~~2004~~, the department shall
 253 develop a methodology for determining the amount of each
 254 fiscally constrained county's costs under paragraph (3)(a) for
 255 intake, detention screening, and ~~of~~ detention care for
 256 juveniles, during ~~for~~ the period of time prior to final court
 257 disposition that, ~~which~~ must be paid by the state. At a minimum,
 258 this methodology must consider the difference between the amount
 259 appropriated to the department for offsetting the costs
 260 associated with the assignment of juvenile intake, detention
 261 screening, and ~~pretrial~~ detention care expenses to the fiscally
 262 constrained county and the total estimated costs to the fiscally
 263 constrained county, for the fiscal year, of intake, detention
 264 screening, and detention care for juveniles for the period of
 265 time prior to final court disposition.

266 (b) Subject to legislative appropriation and based on the
 267 methodology developed under paragraph (a), the department shall
 268 provide funding to offset the costs to fiscally constrained
 269 counties of intake, detention screening, and detention care for
 270 juveniles for the period of time prior to final court
 271 disposition. If county matching funds are required by the
 272 department to eliminate the difference calculated under
 273 paragraph (a) or the difference between the actual costs of the

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274 fiscally constrained counties and the amount appropriated in
 275 small county grants for use in mitigating such costs, that match
 276 amount must be allocated proportionately among all fiscally
 277 constrained counties.

278 (7)(5) Each county shall incorporate into its annual
 279 county budget sufficient funds to pay its estimated costs of
 280 intake, detention screening, and detention care for juveniles
 281 who are arrested or reside in that county for the period of time
 282 prior to final court disposition. This amount shall be estimated
 283 based upon the prior use of intake, detention screening, and
 284 secure detention for juveniles who are arrested in or are
 285 residents of that county, as calculated by the department. Each
 286 county that is required to make payment to the department shall
 287 pay the estimated costs at the beginning of each month. Any
 288 difference between the estimated costs and actual costs shall be
 289 reconciled at the end of the state fiscal year and the
 290 department shall promptly provide a credit against future
 291 obligations or a refund if there are no future obligations.

292 (8)(6) Court payment under subsection (7) shall be
 293 deposited ~~Each county shall pay to the department for deposit~~
 294 into the Juvenile Justice Grants and Donations Trust Fund or
 295 such other trust fund as may be designated by the Legislature
 296 ~~its share of the county's total costs for juvenile detention,~~
 297 ~~based upon calculations published by the department with input~~
 298 ~~from the counties.~~

299 (9)(7) The department ~~of Juvenile Justice~~ shall determine
 300 each quarter whether the counties of this state are remitting to

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301 the department their share of the costs of detention as required
302 by this section.

303 (10)~~(8)~~ The Department of Revenue and the counties shall
304 provide technical assistance as necessary to the department ~~of~~
305 ~~Juvenile Justice~~ in order to develop the most cost-effective
306 means of collection.

307 (11)~~(9)~~ Funds received from counties under ~~pursuant to~~
308 this section are not subject to the service charges provided in
309 s. 215.20.

310 (12)~~(10)~~ The department shall ~~may~~ adopt rules to
311 administer this section.

312 Section 2. Subsection (1) of section 943.0515, Florida
313 Statutes, is amended to read:

314 943.0515 Retention of criminal history records of
315 minors.--

316 (1)(a) The Criminal Justice Information Program shall
317 retain the criminal history record of a minor who is classified
318 as a serious or habitual juvenile offender or committed to a
319 juvenile correctional facility ~~or juvenile prison~~ under chapter
320 985 for 5 years after the date the offender reaches 21 years of
321 age, at which time the record shall be expunged unless it meets
322 the criteria of paragraph (2)(a) or paragraph (2)(b).

323 (b) If the minor is not classified as a serious or
324 habitual juvenile offender or committed to a juvenile
325 correctional facility ~~or juvenile prison~~ under chapter 985, the
326 program shall retain the minor's criminal history record for 5
327 years after the date the minor reaches 19 years of age, at which

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328 | time the record shall be expunged unless it meets the criteria
329 | of paragraph (2)(a) or paragraph (2)(b).

330 | Section 3. Section 985.03, Florida Statutes, is amended to
331 | read:

332 | 985.03 Definitions. --As ~~When~~ used in this chapter, the
333 | term:

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

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

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

341 | (4) "Arbitration" means a process whereby a neutral third
342 | person or panel, called an arbitrator or an arbitration panel,
343 | considers the facts and arguments presented by the parties and
344 | renders a decision which may be binding or nonbinding.

345 | (5) "Authorized agent" or "designee" of the department
346 | means a person or agency assigned or designated by the
347 | Department of Juvenile Justice or the Department of Children and
348 | Family Services, as appropriate, to perform duties or exercise
349 | powers pursuant to this chapter and includes contract providers
350 | and their employees for purposes of providing services to and
351 | managing cases of children in need of services and families in
352 | need of services.

353 | (6) "Child" or "juvenile" or "youth" means any unmarried
354 | person under the age of 18 who has not been emancipated by order
355 | of the court and who has been found or alleged to be dependent,

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356 | in need of services, or from a family in need of services; or
 357 | any married or unmarried person who is charged with a violation
 358 | of law occurring prior to the time that person reached the age
 359 | of 18 years.

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

365 | (a) The child is less than 13 years of age at the time of
 366 | the disposition for the current offense and has been adjudicated
 367 | on the current offense for:

- 368 | 1. Arson;
- 369 | 2. Sexual battery;
- 370 | 3. Robbery;
- 371 | 4. Kidnapping;
- 372 | 5. Aggravated child abuse;
- 373 | 6. Aggravated assault;
- 374 | 7. Aggravated stalking;
- 375 | 8. Murder;
- 376 | 9. Manslaughter;
- 377 | 10. Unlawful throwing, placing, or discharging of a
 378 | destructive device or bomb;
- 379 | 11. Armed burglary;
- 380 | 12. Aggravated battery;
- 381 | 13. Any lewd or lascivious offense committed upon or in
 382 | the presence of a person less than 16 years of age; or

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383 14. Carrying, displaying, using, threatening, or
384 attempting to use a weapon or firearm during the commission of a
385 felony.

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

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

393 (8) "Child in need of services" means a child for whom
394 there is no pending investigation into an allegation or
395 suspicion of abuse, neglect, or abandonment; no pending referral
396 alleging the child is delinquent; or no current supervision by
397 the Department of Juvenile Justice or the Department of Children
398 and Family Services for an adjudication of dependency or
399 delinquency. The child must also, pursuant to this chapter, be
400 found by the court:

401 (a) To have persistently run away from the child's parents
402 or legal custodians despite reasonable efforts of the child, the
403 parents or legal custodians, and appropriate agencies to remedy
404 the conditions contributing to the behavior. Reasonable efforts
405 shall include voluntary participation by the child's parents or
406 legal custodians and the child in family mediation, services,
407 and treatment offered by the Department of Juvenile Justice or
408 the Department of Children and Family Services;

409 (b) To be habitually truant from school, while subject to
410 compulsory school attendance, despite reasonable efforts to

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411 remedy the situation pursuant to ss. 1003.26 and 1003.27 and
 412 through voluntary participation by the child's parents or legal
 413 custodians and by the child in family mediation, services, and
 414 treatment offered by the Department of Juvenile Justice or the
 415 Department of Children and Family Services; or

416 (c) To have persistently disobeyed the reasonable and
 417 lawful demands of the child's parents or legal custodians, and
 418 to be beyond their control despite efforts by the child's
 419 parents or legal custodians and appropriate agencies to remedy
 420 the conditions contributing to the behavior. Reasonable efforts
 421 may include such things as good faith participation in family or
 422 individual counseling.

423 (9) "Child who has been found to have committed a
 424 delinquent act" means a child who, pursuant to the provisions of
 425 this chapter, is found by a court to have committed a violation
 426 of law or to be in direct or indirect contempt of court, except
 427 that this definition shall not include an act constituting
 428 contempt of court arising out of a dependency proceeding or a
 429 proceeding pursuant to part III of this chapter.

430 (10) "Child support" means a court-ordered obligation,
 431 enforced under chapter 61 and ss. 409.2551-409.2597, for
 432 monetary support for the care, maintenance, training, and
 433 education of a child.

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

436 (12) "Comprehensive assessment" or "assessment" means the
 437 gathering of information for the evaluation of a juvenile
 438 offender's or a child's physical, psychological, educational,

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439 vocational, and social condition and family environment as they
 440 relate to the child's need for rehabilitative and treatment
 441 services, including substance abuse treatment services, mental
 442 health services, developmental services, literacy services,
 443 medical services, family services, and other specialized
 444 services, as appropriate.

445 (13) "Conditional release" means the care, treatment,
 446 help, and supervision provided to a juvenile released from a
 447 residential commitment program which is intended to promote
 448 rehabilitation and prevent recidivism. The purpose of
 449 conditional release is to protect the public, reduce recidivism,
 450 increase responsible productive behavior, and provide for a
 451 successful transition of the youth from the department to the
 452 family. Conditional release includes, but is not limited to,
 453 nonresidential community-based programs.

454 (14) "Court," unless otherwise expressly stated, means the
 455 circuit court assigned to exercise jurisdiction under this
 456 chapter.

457 (15) "Day treatment" means a nonresidential, community-
 458 based program designed to provide therapeutic intervention to
 459 youth who are placed on probation or conditional release or are
 460 committed to the minimum-risk nonresidential level. A day
 461 treatment program may provide educational and vocational
 462 services and shall provide case management services; individual,
 463 group, and family counseling; training designed to address
 464 delinquency risk factors; and monitoring of a youth's compliance
 465 with, and facilitation of a youth's completion of, sanctions if
 466 ordered by the court. Program types may include, but are not

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467 limited to, career programs, marine programs, juvenile justice
 468 alternative schools, training and rehabilitation programs, and
 469 gender-specific programs.

470 (16)~~(15)~~(a) "Delinquency program" means any intake,
 471 probation, or similar program; regional detention center or
 472 facility; or community-based program, whether owned and operated
 473 by or contracted by the Department of Juvenile Justice, or
 474 institution owned and operated by or contracted by the
 475 Department of Juvenile Justice, which provides intake,
 476 supervision, or custody and care of children who are alleged to
 477 be or who have been found to be delinquent under ~~pursuant to~~
 478 part II.

479 (b) "Delinquency program staff" means supervisory and
 480 direct care staff of a delinquency program as well as support
 481 staff who have direct contact with children in a delinquency
 482 program.

483 (c) "Delinquency prevention programs" means programs
 484 designed for the purpose of reducing the occurrence of
 485 delinquency, including youth and street gang activity, and
 486 juvenile arrests. The term excludes arbitration, diversionary or
 487 mediation programs, and community service work or other
 488 treatment available subsequent to a child committing a
 489 delinquent act.

490 (17)~~(16)~~ "Department" means the Department of Juvenile
 491 Justice.

492 (18)~~(17)~~ "Designated facility" or "designated treatment
 493 facility" means any facility designated by the Department of
 494 Juvenile Justice to provide treatment to juvenile offenders.

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495 ~~(19)~~⁽¹⁸⁾ "Detention care" means the temporary care of a
 496 child in secure, nonsecure, or home detention, that is provided
 497 by a county before final ~~pending a court adjudication or~~
 498 disposition or by the department after final disposition
 499 ~~execution of a court order.~~ For purposes of this subsection, the
 500 term "final disposition" shall have the same meaning as "final
 501 court disposition" in s. 985.2155. There are three types of
 502 detention care, as follows:

503 (a) "Secure detention" means temporary custody of the
 504 child while the child is under the physical restriction of a
 505 detention center or facility before or after final ~~pending~~
 506 ~~adjudication,~~ disposition, ~~or placement.~~

507 (b) "Nonsecure detention" means temporary custody of the
 508 child while the child is in a residential home in the community
 509 in a physically nonrestrictive environment under county ~~the~~
 510 supervision before final ~~of the Department of Juvenile Justice~~
 511 ~~pending adjudication,~~ disposition, or under department
 512 supervision after final disposition ~~placement.~~

513 (c) "Home detention" means temporary custody of the child
 514 while the child is released to the custody of the parent,
 515 guardian, or custodian in a physically nonrestrictive
 516 environment under county staff ~~the~~ supervision before final
 517 disposition or under ~~of the department of Juvenile Justice~~ staff
 518 supervision after final ~~pending adjudication,~~ disposition, ~~or~~
 519 ~~placement.~~

520 ~~(20)~~⁽¹⁹⁾ "Detention center or facility" means a facility
 521 used pending court adjudication or disposition or execution of
 522 court order for the temporary care of a child alleged or found

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523 | to have committed a violation of law. A detention center or
 524 | facility may provide secure or nonsecure custody. A facility
 525 | used for the commitment of adjudicated delinquents shall not be
 526 | considered a detention center or facility.

527 | (21)~~(20)~~ "Detention hearing" means a hearing for the court
 528 | to determine if a child should be placed in temporary custody,
 529 | as provided for under ss. 985.213 and 985.215 in delinquency
 530 | cases.

531 | (22)~~(21)~~ "Disposition hearing" means a hearing in which
 532 | the court determines the most appropriate dispositional services
 533 | in the least restrictive available setting provided for under s.
 534 | 985.231, in delinquency cases.

535 | (23)~~(22)~~ "Family" means a collective of persons,
 536 | consisting of a child and a parent, guardian, adult custodian,
 537 | or adult relative, in which:

538 | (a) The persons reside in the same house or living unit;
 539 | or

540 | (b) The parent, guardian, adult custodian, or adult
 541 | relative has a legal responsibility by blood, marriage, or court
 542 | order to support or care for the child.

543 | (24)~~(23)~~ "Family in need of services" means a family that
 544 | has a child for whom there is no pending investigation into an
 545 | allegation of abuse, neglect, or abandonment or no current
 546 | supervision by the Department of Juvenile Justice or the
 547 | Department of Children and Family Services for an adjudication
 548 | of dependency or delinquency. The child must also have been
 549 | referred to a law enforcement agency or the Department of
 550 | Juvenile Justice for:

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551 (a) Running away from parents or legal custodians;
 552 (b) Persistently disobeying reasonable and lawful demands
 553 of parents or legal custodians, and being beyond their control;
 554 or
 555 (c) Habitual truancy from school.
 556 (25)~~(24)~~ "Foster care" means care provided a child in a
 557 foster family or boarding home, group home, agency boarding
 558 home, child care institution, or any combination thereof.
 559 (26)~~(25)~~ "Habitually truant" means that:
 560 (a) The child has 15 unexcused absences within 90 calendar
 561 days with or without the knowledge or justifiable consent of the
 562 child's parent or legal guardian, is subject to compulsory
 563 school attendance under s. 1003.21(1) and (2)(a), and is not
 564 exempt under s. 1003.21(3), s. 1003.24, or any other exemptions
 565 specified by law or the rules of the State Board of Education.
 566 (b) Escalating activities to determine the cause, and to
 567 attempt the remediation, of the child's truant behavior under
 568 ss. 1003.26 and 1003.27 have been completed.
 569
 570 If a child who is subject to compulsory school attendance is
 571 responsive to the interventions described in ss. 1003.26 and
 572 1003.27 and has completed the necessary requirements to pass the
 573 current grade as indicated in the district pupil progression
 574 plan, the child shall not be determined to be habitually truant
 575 and shall be passed. If a child within the compulsory school
 576 attendance age has 15 unexcused absences within 90 calendar days
 577 or fails to enroll in school, the state attorney may file a
 578 child-in-need-of-services petition. Before ~~Prior to~~ filing a

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579 | petition, the child must be referred to the appropriate agency
580 | for evaluation. After consulting with the evaluating agency, the
581 | state attorney may elect to file a child-in-need-of-services
582 | petition.

583 | (c) A school representative, designated according to
584 | school board policy, and a juvenile probation officer of the
585 | department ~~of Juvenile Justice~~ have jointly investigated the
586 | truancy problem or, if that was not feasible, have performed
587 | separate investigations to identify conditions that could be
588 | contributing to the truant behavior; and if, after a joint
589 | staffing of the case to determine the necessity for services,
590 | such services were determined to be needed, the persons who
591 | performed the investigations met jointly with the family and
592 | child to discuss any referral to appropriate community agencies
593 | for economic services, family or individual counseling, or other
594 | services required to remedy the conditions that are contributing
595 | to the truant behavior.

596 | (d) The failure or refusal of the parent or legal guardian
597 | or the child to participate, or make a good faith effort to
598 | participate, in the activities prescribed to remedy the truant
599 | behavior, or the failure or refusal of the child to return to
600 | school after participation in activities required by this
601 | subsection, or the failure of the child to stop the truant
602 | behavior after the school administration and the department ~~of~~
603 | ~~Juvenile Justice~~ have worked with the child as described in s.
604 | 1003.27(3) shall be handled as prescribed in s. 1003.27.

605 | (27)~~(26)~~ "Halfway house" means a community-based
606 | residential program for 10 or more committed delinquents at the

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607 moderate-risk commitment level which is operated or contracted
608 by the department ~~of Juvenile Justice~~.

609 (28)~~(27)~~ "Intake" means the initial acceptance and
610 screening by a county ~~the department of Juvenile Justice~~ of a
611 complaint or a law enforcement report or probable cause
612 affidavit of delinquency, ~~family in need of services, or child~~
613 ~~in need of services~~ to determine the recommendation to be taken
614 in the best interests of the child, the family, and the
615 community. The emphasis of intake is on diversion and the least
616 restrictive available services. Consequently, intake includes
617 such alternatives as:

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

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

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

625 (29)~~(28)~~ "Judge" means the circuit judge exercising
626 jurisdiction pursuant to this chapter.

627 (30)~~(29)~~ "Juvenile justice continuum" includes, but is not
628 limited to, delinquency prevention programs and services
629 designed for the purpose of preventing or reducing delinquent
630 acts, including criminal activity by youth gangs, and juvenile
631 arrests, as well as programs and services targeted at children
632 who have committed delinquent acts, and children who have
633 previously been committed to residential treatment programs for
634 delinquents. The term includes children-in-need-of-services and

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635 families-in-need-of-services programs; conditional release;
 636 substance abuse and mental health programs; educational and
 637 career programs; recreational programs; community services
 638 programs; community service work programs; and alternative
 639 dispute resolution programs serving children at risk of
 640 delinquency and their families, whether offered or delivered by
 641 state or local governmental entities, public or private for-
 642 profit or not-for-profit organizations, or religious or
 643 charitable organizations.

644 (31)~~(30)~~ "Juvenile probation officer" means the authorized
 645 agent of the department or a county, as appropriate, ~~of Juvenile~~
 646 ~~Justice~~ who performs the intake, case management, or supervision
 647 functions.

648 (32)~~(31)~~ "Juvenile sexual offender" means:

649 (a) A juvenile who has been found by the court under
 650 ~~pursuant to~~ s. 985.228 to have committed a violation of chapter
 651 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;

652 (b) A juvenile found to have committed any felony
 653 violation of law or delinquent act involving juvenile sexual
 654 abuse. "Juvenile sexual abuse" means any sexual behavior which
 655 occurs without consent, without equality, or as a result of
 656 coercion. For purposes of this subsection, the following
 657 definitions apply:

658 1. "Coercion" means the exploitation of authority, use of
 659 bribes, threats of force, or intimidation to gain cooperation or
 660 compliance.

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

664 3. "Consent" means an agreement including all of the
665 following:

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

668 b. Knowledge of societal standards for what is being
669 proposed.

670 c. Awareness of potential consequences and alternatives.

671 d. Assumption that agreement or disagreement will be
672 accepted equally.

673 e. Voluntary decision.

674 f. Mental competence.

675

676 Juvenile sexual offender behavior ranges from noncontact sexual
677 behavior such as making obscene phone calls, exhibitionism,
678 voyeurism, and the showing or taking of lewd photographs to
679 varying degrees of direct sexual contact, such as frottage,
680 fondling, digital penetration, rape, fellatio, sodomy, and
681 various other sexually aggressive acts.

682 ~~(33)~~(32) "Legal custody or guardian" means a legal status
683 created by court order or letter of guardianship which vests in
684 a custodian of the person or guardian, whether an agency or an
685 individual, the right to have physical custody of the child and
686 the right and duty to protect, train, and discipline the child
687 and to provide him or her with food, shelter, education, and
688 ordinary medical, dental, psychiatric, and psychological care.

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689 (34)~~(33)~~ "Licensed child-caring agency" means a person,
690 society, association, or agency licensed by the Department of
691 Children and Family Services to care for, receive, and board
692 children.

693 (35)~~(34)~~ "Licensed health care professional" means a
694 physician licensed under chapter 458, an osteopathic physician
695 licensed under chapter 459, a nurse licensed under part I of
696 chapter 464, a physician assistant licensed under chapter 458 or
697 chapter 459, or a dentist licensed under chapter 466.

698 (36)~~(35)~~ "Likely to injure oneself" means that, as
699 evidenced by violent or other actively self-destructive
700 behavior, it is more likely than not that within a 24-hour
701 period the child will attempt to commit suicide or inflict
702 serious bodily harm on himself or herself.

703 (37)~~(36)~~ "Likely to injure others" means that it is more
704 likely than not that within a 24-hour period the child will
705 inflict serious and unjustified bodily harm on another person.

706 (38)~~(37)~~ "Mediation" means a process whereby a neutral
707 third person called a mediator acts to encourage and facilitate
708 the resolution of a dispute between two or more parties. It is
709 an informal and nonadversarial process with the objective of
710 helping the disputing parties reach a mutually acceptable and
711 voluntary agreement. In mediation, decisionmaking authority
712 rests with the parties. The role of the mediator includes, but
713 is not limited to, assisting the parties in identifying issues,
714 fostering joint problem solving, and exploring settlement
715 alternatives.

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716 (39)~~(38)~~ "Necessary medical treatment" means care which is
717 necessary within a reasonable degree of medical certainty to
718 prevent the deterioration of a child's condition or to alleviate
719 immediate pain of a child.

720 (40)~~(39)~~ "Next of kin" means an adult relative of a child
721 who is the child's brother, sister, grandparent, aunt, uncle, or
722 first cousin.

723 (41)~~(40)~~ "Parent" means a woman who gives birth to a child
724 and a man whose consent to the adoption of the child would be
725 required under s. 63.062(1). If a child has been legally
726 adopted, the term "parent" means the adoptive mother or father
727 of the child. The term does not include an individual whose
728 parental relationship to the child has been legally terminated,
729 or an alleged or prospective parent, unless the parental status
730 falls within the terms of either s. 39.503(1) or s. 63.062(1).

731 (42)~~(41)~~ "Preliminary screening" means the gathering of
732 preliminary information to be used in determining a child's need
733 for further evaluation or assessment or for referral for other
734 substance abuse services through means such as psychosocial
735 interviews; urine and breathalyzer screenings; and reviews of
736 available educational, delinquency, and dependency records of
737 the child.

738 (43)~~(42)~~ "Preventive services" means social services and
739 other supportive and rehabilitative services provided to the
740 parent of the child, the legal guardian of the child, or the
741 custodian of the child and to the child for the purpose of
742 averting the removal of the child from the home or disruption of
743 a family that ~~which~~ will or could result in the placement of a

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744 child in foster care. Social services and other supportive and
745 rehabilitative services shall promote the child's need for a
746 safe, continuous, stable living environment and shall promote
747 family autonomy and shall strengthen family life as the first
748 priority whenever possible.

749 ~~(44)~~(43) "Probation" means the legal status of probation
750 created by law and court order in cases involving a child who
751 has been found to have committed a delinquent act. Probation is
752 an individualized program in which the freedom of the child is
753 limited and the child is restricted to noninstitutional quarters
754 or restricted to the child's home in lieu of commitment to the
755 custody of the department ~~of Juvenile Justice~~. Youth on
756 probation may be assessed and classified for placement in day-
757 treatment probation programs designed for youth who represent a
758 minimum risk to themselves and public safety and do not require
759 placement and services in a residential setting. ~~Program types~~
760 ~~in this more intensive and structured day treatment probation~~
761 ~~option include career programs, marine programs, juvenile~~
762 ~~justice alternative schools, training and rehabilitation~~
763 ~~programs, and gender specific programs.~~

764 ~~(45)~~(44) "Relative" means a grandparent, great-
765 grandparent, sibling, first cousin, aunt, uncle, great-aunt,
766 great-uncle, niece, or nephew, whether related by the whole or
767 half blood, by affinity, or by adoption. The term does not
768 include a stepparent.

769 ~~(46)~~(45) "Restrictiveness Residential Commitment level"
770 means the level of programming and security provided by programs
771 that service the supervision, custody, care, and treatment needs

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772 of committed children. Sections 985.3141 and 985.404(11) apply
773 to children placed in programs at any residential commitment
774 level. The restrictiveness levels of ~~residential~~ commitment are
775 as follows:

776 (a) Minimum-risk nonresidential.--Programs or program
777 models at this commitment level work with youth who remain in
778 the community and participate at least 5 days per week in a day
779 treatment program. Youth assessed and classified for programs at
780 this commitment level represent a minimum risk to themselves and
781 public safety and do not require placement and services in
782 residential settings. Youth in this level have full access to,
783 and reside in, the community. A youth who has been found to have
784 committed delinquent acts that involve firearms, delinquent acts
785 that are sexual offenses, or delinquent acts that would be life
786 felonies or first degree felonies if committed by an adult shall
787 not be committed to a program at this level.

788 (b)(a) Low-risk residential.--Programs or program models
789 at this commitment level are residential but may allow youth to
790 have unsupervised access to the community. Youth assessed and
791 classified for placement in programs at this commitment level
792 represent a low risk to themselves and public safety but do
793 require placement and services in residential settings. Children
794 who have been found to have committed delinquent acts that
795 involve firearms, delinquent acts that are sexual offenses, or
796 delinquent acts that would be life felonies or first degree
797 felonies if committed by an adult shall not be committed to a
798 program at this level.

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799 ~~(c)~~~~(b)~~ Moderate-risk residential.--Programs or program
 800 models at this commitment level are residential but may allow
 801 youth to have supervised access to the community. Facilities are
 802 either environmentally secure, staff secure, or are hardware-
 803 secure with walls, fencing, or locking doors. Facilities shall
 804 provide 24-hour awake supervision, custody, care, and treatment
 805 of residents. Youth assessed and classified for placement in
 806 programs at this commitment level represent a moderate risk to
 807 public safety and require close supervision. The staff at a
 808 facility at this commitment level may seclude a child who is a
 809 physical threat to himself or herself or others. Mechanical
 810 restraint may also be used when necessary.

811 ~~(d)~~~~(e)~~ High-risk residential.--Programs or program models
 812 at this commitment level are residential and shall not allow
 813 youth to have access to the community. Facilities are hardware-
 814 secure with perimeter fencing and locking doors or are
 815 environmentally secure. Facilities shall provide 24-hour awake
 816 supervision, custody, care, and treatment of residents. Youth
 817 assessed and classified for this level of placement require
 818 close supervision in a structured residential setting. Placement
 819 in programs at this level is prompted by a concern for public
 820 safety that outweighs placement in programs at lower commitment
 821 levels. The staff at a facility at this commitment level may
 822 seclude a child who is a physical threat to himself or herself
 823 or others. Mechanical restraint may also be used when necessary.
 824 The facility may provide for single cell occupancy.

825 ~~(e)~~~~(d)~~ Maximum-risk residential.--Programs or program
 826 models at this commitment level include juvenile correctional

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827 facilities ~~and juvenile prisons~~. The programs are long-term
 828 residential and shall not allow youth to have access to the
 829 community. Facilities are maximum-custody hardware-secure with
 830 perimeter security fencing and locking doors. Facilities shall
 831 provide 24-hour awake supervision, custody, care, and treatment
 832 of residents. The staff at a facility at this commitment level
 833 may seclude a child who is a physical threat to himself or
 834 herself or others. Mechanical restraint may also be used when
 835 necessary. The facility shall provide for single cell occupancy,
 836 except that youth may be housed together during prerelease
 837 transition. Youth assessed and classified for this level of
 838 placement require close supervision in a maximum security
 839 residential setting. Placement in a program at this level is
 840 prompted by a demonstrated need to protect the public.

841 (47)~~(46)~~ "Respite" means a placement that is available for
 842 the care, custody, and placement of a youth charged with
 843 domestic violence as an alternative to secure detention or for
 844 placement of a youth when a shelter bed for a child in need of
 845 services or a family in need of services is unavailable.

846 (48)~~(47)~~ "Secure detention center or facility" means a
 847 physically restricting facility for the temporary care of
 848 children, pending adjudication, disposition, or placement.

849 (49)~~(48)~~ "Serious or habitual juvenile offender," for
 850 purposes of commitment to a residential facility and for
 851 purposes of records retention, means a child who has been found
 852 to have committed a delinquent act or a violation of law, in the
 853 case currently before the court, and who meets at least one of
 854 the following criteria:

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

- 858 1. Arson;
- 859 2. Sexual battery;
- 860 3. Robbery;
- 861 4. Kidnapping;
- 862 5. Aggravated child abuse;
- 863 6. Aggravated assault;
- 864 7. Aggravated stalking;
- 865 8. Murder;
- 866 9. Manslaughter;
- 867 10. Unlawful throwing, placing, or discharging of a
868 destructive device or bomb;
- 869 11. Armed burglary;
- 870 12. Aggravated battery;
- 871 13. Any lewd or lascivious offense committed upon or in
872 the presence of a person less than 16 years of age; or
- 873 14. Carrying, displaying, using, threatening, or
874 attempting to use a weapon or firearm during the commission of a
875 felony.

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

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

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883 (50)~~(49)~~ "Serious or habitual juvenile offender program"
884 means the program established in s. 985.31.

885 (51)~~(50)~~ "Shelter" means a place for the temporary care of
886 a child who is alleged to be or who has been found to be
887 delinquent.

888 (52)~~(51)~~ "Shelter hearing" means a hearing provided for
889 under s. 984.14 in family-in-need-of-services cases or child-in-
890 need-of-services cases.

891 (53)~~(52)~~ "Staff-secure shelter" means a facility in which
892 a child is supervised 24 hours a day by staff members who are
893 awake while on duty. The facility is for the temporary care and
894 assessment of a child who has been found to be dependent, who
895 has violated a court order and been found in contempt of court,
896 or whom the Department of Children and Family Services is unable
897 to properly assess or place for assistance within the continuum
898 of services provided for dependent children.

899 (54)~~(53)~~ "Substance abuse" means using, without medical
900 reason, any psychoactive or mood-altering drug, including
901 alcohol, in such a manner as to induce impairment resulting in
902 dysfunctional social behavior.

903 (55)~~(54)~~ "Taken into custody" means the status of a child
904 immediately when temporary physical control over the child is
905 attained by a person authorized by law, pending the child's
906 release, detention, placement, or other disposition as
907 authorized by law.

908 (56)~~(55)~~ "Temporary legal custody" means the relationship
909 that a juvenile court creates between a child and an adult
910 relative of the child, adult nonrelative approved by the court,

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911 or other person until a more permanent arrangement is ordered.
 912 Temporary legal custody confers upon the custodian the right to
 913 have temporary physical custody of the child and the right and
 914 duty to protect, train, and discipline the child and to provide
 915 the child with food, shelter, and education, and ordinary
 916 medical, dental, psychiatric, and psychological care, unless
 917 these rights and duties are otherwise enlarged or limited by the
 918 court order establishing the temporary legal custody
 919 relationship.

920 (57)~~(56)~~ "Temporary release" means the terms and
 921 conditions under which a child is temporarily released from a
 922 residential commitment facility or allowed home visits. If the
 923 temporary release is from a moderate-risk residential facility,
 924 a high-risk residential facility, or a maximum-risk residential
 925 facility, the terms and conditions of the temporary release must
 926 be approved by the child, the court, and the facility. The term
 927 includes periods during which the child is supervised pursuant
 928 to a conditional release program or a period during which the
 929 child is supervised by a juvenile probation officer or other
 930 nonresidential staff of the department or staff employed by an
 931 entity under contract with the department.

932 (58)~~(57)~~ "Training school" means one of the following
 933 facilities: the Arthur G. Dozier School or the Eckerd Youth
 934 Development Center.

935 (59)~~(58)~~ "Violation of law" or "delinquent act" means a
 936 violation of any law of this state, the United States, or any
 937 other state which is a misdemeanor or a felony or a violation of

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

940 (60)~~(59)~~ "Waiver hearing" means a hearing provided for
941 under s. 985.226(3).

942 Section 4. Paragraph (b) of subsection (4) of section
943 985.201, Florida Statutes, is amended to read:

944 985.201 Jurisdiction.--

945 (4)

946 (b)1. The court may retain jurisdiction over a child
947 committed to the department for placement in a juvenile
948 correctional facility ~~prison~~ or in a high-risk or maximum-risk
949 residential commitment program to allow the child to participate
950 in a juvenile conditional release program pursuant to s.
951 985.316. In no case shall the jurisdiction of the court be
952 retained beyond the child's 22nd birthday. However, if the child
953 is not successful in the conditional release program, the
954 department may use the transfer procedure under s. 985.404.

955 2. The court may retain jurisdiction over a child
956 committed to the department for placement in an intensive
957 residential treatment program for 10-year-old to 13-year-old
958 offenders, in the residential commitment program in a juvenile
959 correctional facility ~~prison~~, in a residential sex offender
960 program, or in a program for serious or habitual juvenile
961 offenders as provided in s. 985.311 or s. 985.31 until the child
962 reaches the age of 21. If the court exercises this jurisdiction
963 retention, it shall do so solely for the purpose of the child
964 completing the intensive residential treatment program for 10-
965 year-old to 13-year-old offenders, in the residential commitment

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966 program in a juvenile correctional facility ~~prison~~, in a
 967 residential sex offender program, or the program for serious or
 968 habitual juvenile offenders. Such jurisdiction retention does
 969 not apply for other programs, other purposes, or new offenses.

970 Section 5. Paragraph (d) of subsection (1) of section
 971 985.207, Florida Statutes, is amended and paragraph (e) is added
 972 to said subsection to read:

973 985.207 Taking a child into custody.--

974 (1) A child may be taken into custody under the following
 975 circumstances:

976 (d) By a law enforcement officer who has probable cause to
 977 believe that the child is in violation of the conditions of the
 978 child's probation, home detention, postcommitment probation, or
 979 conditional release supervision, has absconded from
 980 nonresidential commitment, or has escaped from residential
 981 commitment.

982 (e) When a court finds that the child, who has been found
 983 to have committed a delinquent act or a violation of law and who
 984 is awaiting disposition for that delinquent act or violation of
 985 law:

986 1. Has engaged in behavior evidencing a risk that the
 987 child will fail to appear at a subsequent court hearing of any
 988 nature;

989 2. Has engaged in behavior evidencing a risk that the
 990 child will inflict harm upon himself, herself, or others or the
 991 property of others; or

992 3. Has violated conditions imposed by the court in his or
 993 her order of adjudication of delinquency.

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994
995 Nothing in this subsection shall be construed to allow the
996 detention of a child who does not meet the detention criteria in
997 s. 985.215.

998 Section 6. Section 985.208, Florida Statutes, is amended
999 to read:

1000 985.208 Detention of escapee or absconder on authority of
1001 the department.--

1002 (1) If an authorized agent of the department has
1003 reasonable grounds to believe that any delinquent child
1004 committed to the department has escaped from a residential
1005 commitment facility of the department or from being lawfully
1006 transported thereto or therefrom or has absconded from a
1007 nonresidential commitment facility, the agent may take the child
1008 into active custody and may deliver the child to the facility
1009 or, if it is closer, to a detention center for return to the
1010 facility. However, a child may not be held in detention longer
1011 than 24 hours, excluding Saturdays, Sundays, and legal holidays,
1012 unless a special order so directing is made by the judge after a
1013 detention hearing resulting in a finding that detention is
1014 required based on the criteria in s. 985.215(2). The order shall
1015 state the reasons for such finding. The reasons shall be
1016 reviewable by appeal or in habeas corpus proceedings in the
1017 district court of appeal.

1018 (2) Any sheriff or other law enforcement officer, upon the
1019 request of the secretary of the department or duly authorized
1020 agent, shall take a child who has escaped ~~or absconded~~ from a
1021 residential commitment ~~department~~ facility ~~for committed~~

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1022 ~~delinquent children,~~ or from being lawfully transported thereto
 1023 or therefrom, or has absconded from a nonresidential commitment
 1024 facility into custody and deliver the child to the appropriate
 1025 juvenile probation officer ~~of the department.~~

1026 Section 7. Paragraph (f) is added to subsection (1) of
 1027 section 985.213, Florida Statutes, to read:

1028 985.213 Use of detention.--

1029 (1) All determinations and court orders regarding the use
 1030 of secure, nonsecure, or home detention shall be based primarily
 1031 upon findings that the child:

1032 (f) Meets the criteria for taking a child into custody
 1033 under s. 985.207(1)(e).

1034 Section 8. Subsection (2), paragraphs (d) and (g) of
 1035 subsection (5), and paragraphs (a), (b), and (f) of subsection
 1036 (10) of section 985.215, Florida Statutes, are amended to read:

1037 985.215 Detention.--

1038 (2) Subject to the provisions of subsection (1), a child
 1039 taken into custody and placed into nonsecure or home detention
 1040 care or detained in secure detention care prior to a detention
 1041 hearing may continue to be detained by the court if:

1042 (a)1. The child is alleged to be an escapee from a
 1043 residential commitment program; ~~or~~ an absconder from a
 1044 nonresidential commitment program, a probation program, or
 1045 conditional release supervision;; or is alleged to have escaped
 1046 while being lawfully transported to or from a residential
 1047 commitment ~~such program or supervision.~~

1048 2.a. If the court finds during the detention hearing under
 1049 this subsection that a child has absconded from a nonresidential

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1050 commitment program, the court shall determine whether to place
 1051 the child in detention care based on the results of the risk
 1052 assessment by the juvenile probation officer. The risk
 1053 assessment instrument provided for in s. 985.213 shall take the
 1054 child's act of absconding from the nonresidential commitment
 1055 program into consideration for purposes of detention care
 1056 placement determinations and orders.

1057 b. If the court places a child into detention care under
 1058 this subparagraph, the child shall remain in detention care for
 1059 21 days or until the department, under s. 985.404(4), determines
 1060 that transfer of the child is inappropriate or the court grants
 1061 or denies the transfer, whichever period of time is shorter.

1062 (b) The child is wanted in another jurisdiction for an
 1063 offense which, if committed by an adult, would be a felony.

1064 (c) The child is charged with a delinquent act or
 1065 violation of law and requests in writing through legal counsel
 1066 to be detained for protection from an imminent physical threat
 1067 to his or her personal safety.

1068 (d) The child is charged with committing an offense of
 1069 domestic violence as defined in s. 741.28 and is detained as
 1070 provided in s. 985.213(2)(b)3.

1071 (e) The child is charged with possession or discharging a
 1072 firearm on school property in violation of s. 790.115.

1073 (f) The child is charged with a capital felony, a life
 1074 felony, a felony of the first degree, a felony of the second
 1075 degree that does not involve a violation of chapter 893, or a
 1076 felony of the third degree that is also a crime of violence,

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1077 including any such offense involving the use or possession of a
1078 firearm.

1079 (g) The child is charged with any second degree or third
1080 degree felony involving a violation of chapter 893 or any third
1081 degree felony that is not also a crime of violence, and the
1082 child:

- 1083 1. Has a record of failure to appear at court hearings
1084 after being properly notified in accordance with the Rules of
1085 Juvenile Procedure;
- 1086 2. Has a record of law violations prior to court hearings;
- 1087 3. Has already been detained or has been released and is
1088 awaiting final disposition of the case;
- 1089 4. Has a record of violent conduct resulting in physical
1090 injury to others; or
- 1091 5. Is found to have been in possession of a firearm.

1092 (h) The child is alleged to have violated the conditions
1093 of the child's probation or conditional release supervision.
1094 However, a child detained under this paragraph may be held only
1095 in a consequence unit as provided in s. 985.231(1)(a)1.c. If a
1096 consequence unit is not available, the child shall be placed on
1097 home detention with electronic monitoring.

1098 (i) The child is detained on a judicial order for failure
1099 to appear and has previously willfully failed to appear, after
1100 proper notice, for an adjudicatory hearing on the same case
1101 regardless of the results of the risk assessment instrument. A
1102 child may be held in secure detention for up to 72 hours in
1103 advance of the next scheduled court hearing pursuant to this
1104 paragraph. The child's failure to keep the clerk of court and

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1105 | defense counsel informed of a current and valid mailing address
 1106 | where the child will receive notice to appear at court
 1107 | proceedings does not provide an adequate ground for excusal of
 1108 | the child's nonappearance at the hearings.

1109 | (j) The child is detained on a judicial order for failure
 1110 | to appear and has previously willfully failed to appear, after
 1111 | proper notice, at two or more court hearings of any nature on
 1112 | the same case regardless of the results of the risk assessment
 1113 | instrument. A child may be held in secure detention for up to 72
 1114 | hours in advance of the next scheduled court hearing pursuant to
 1115 | this paragraph. The child's failure to keep the clerk of court
 1116 | and defense counsel informed of a current and valid mailing
 1117 | address where the child will receive notice to appear at court
 1118 | proceedings does not provide an adequate ground for excusal of
 1119 | the child's nonappearance at the hearings.

1120 |
 1121 | A child who meets any of these criteria and who is ordered to be
 1122 | detained pursuant to this subsection shall be given a hearing
 1123 | within 24 hours after being taken into custody. The purpose of
 1124 | the detention hearing is to determine the existence of probable
 1125 | cause that the child has committed the delinquent act or
 1126 | violation of law with which he or she is charged and the need
 1127 | for continued detention, except where the child has absconded
 1128 | from a nonresidential commitment program in which case
 1129 | subparagraph (a)2. applies. Unless a child is detained under
 1130 | paragraph (d) or paragraph (e), the court shall use ~~utilize~~ the
 1131 | results of the risk assessment performed by the juvenile
 1132 | probation officer and, based on the criteria in this subsection,

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1133 shall determine the need for continued detention. A child placed
 1134 into secure, nonsecure, or home detention care may continue to
 1135 be so detained by the court pursuant to this subsection. If the
 1136 court orders a placement more restrictive than indicated by the
 1137 results of the risk assessment instrument, the court shall
 1138 state, in writing, clear and convincing reasons for such
 1139 placement. Except as provided in s. 790.22(8) or in subparagraph
 1140 (10)(a)2., paragraph (10)(b), paragraph (10)(c), or paragraph
 1141 (10)(d), when a child is placed into secure or nonsecure
 1142 detention care, or into a respite home or other placement
 1143 pursuant to a court order following a hearing, the court order
 1144 must include specific instructions that direct the release of
 1145 the child from such placement no later than 5 p.m. on the last
 1146 day of the detention period specified in paragraph (5)(b) or
 1147 paragraph (5)(c), or subparagraph (10)(a)1., whichever is
 1148 applicable, unless the requirements of such applicable provision
 1149 have been met or an order of continuance has been granted
 1150 pursuant to paragraph (5)(f).

1151 (5)

1152 (d)1. ~~Except as provided in paragraph (g),~~ A child may not
 1153 be held in secure, nonsecure, or home detention care for more
 1154 than 15 days following the entry of an order of adjudication,
 1155 except as provided in paragraph (g) or when the court makes a
 1156 written finding that the child has:—

1157 a. A history of failing to appear for court proceedings;

1158 b. Engaged in behavior evidencing a risk that the child
 1159 will fail to appear at a subsequent court hearing of any nature;

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1160 c. Engaged in behavior evidencing a risk that the child
 1161 will inflict harm upon himself, herself, or others or the
 1162 property of others; or

1163 d. Violated conditions imposed by the court in his or her
 1164 order of adjudication of delinquency.

1165 2. If the court makes a written finding under subparagraph
 1166 1., the court shall order the placement of the child in secure
 1167 detention or, at the discretion of the court and if available,
 1168 on home detention with electronic monitoring until the
 1169 disposition order is entered in the child's case.

1170 (g) Upon good cause being shown that the nature of the
 1171 charge requires additional time for the prosecution or defense
 1172 of the case, the court may extend the time limits for detention
 1173 specified in paragraph (c) or paragraph (d) an additional 9 days
 1174 if the child is charged with an offense that would be, if
 1175 committed by an adult, a capital felony, a life felony, a felony
 1176 of the first degree, or a felony of the second degree involving
 1177 violence against any individual.

1178 (10)(a)1. When a child is committed to the Department of
 1179 Juvenile Justice awaiting dispositional placement, removal of
 1180 the child from detention care shall occur within 5 days,
 1181 excluding Saturdays, Sundays, and legal holidays. Any child held
 1182 in secure detention during the 5 days must meet detention
 1183 admission criteria pursuant to this section. If the child is
 1184 committed to a moderate-risk residential program, the department
 1185 may seek an order from the court authorizing continued detention
 1186 for a specific period of time necessary for the appropriate
 1187 residential placement of the child. However, such continued

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1188 detention in secure detention care may not exceed 15 days after
1189 commitment, excluding Saturdays, Sundays, and legal holidays,
1190 and except as otherwise provided in this subsection.

1191 2. The court must place all children who are adjudicated
1192 and awaiting placement in a ~~residential~~ commitment program in
1193 detention care. Children who are in home detention care or
1194 nonsecure detention care may be placed on electronic monitoring.

1195 (b) A child who is placed in home detention care,
1196 nonsecure detention care, or home or nonsecure detention care
1197 with electronic monitoring, while awaiting placement in a
1198 minimum-risk, low-risk, or moderate-risk program, may be held in
1199 secure detention care for 5 days, if the child violates the
1200 conditions of the home detention care, the nonsecure detention
1201 care, or the electronic monitoring agreement. For any subsequent
1202 violation, the court may impose an additional 5 days in secure
1203 detention care.

1204 (f) Regardless of detention status, a child being
1205 transported by the department to a residential commitment
1206 facility of the department may be placed in secure detention
1207 overnight, not to exceed a 24-hour period, for the specific
1208 purpose of ensuring the safe delivery of the child to his or her
1209 residential commitment program, court, appointment, transfer, or
1210 release.

1211 Section 9. Subsection (5) of section 985.228, Florida
1212 Statutes, is amended to read:

1213 985.228 Adjudicatory hearings; withheld adjudications;
1214 orders of adjudication.--

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1215 (5) If the court finds that the child named in a petition
 1216 has committed a delinquent act or violation of law, but elects
 1217 not to proceed under subsection (4), it shall incorporate that
 1218 finding in an order of adjudication of delinquency entered in
 1219 the case, briefly stating the facts upon which the finding is
 1220 made, and the court shall thereafter have full authority under
 1221 this chapter to deal with the child as adjudicated. The order of
 1222 adjudication of delinquency shall also include conditions that
 1223 must be followed by the child until a disposition order is
 1224 entered in his or her case. These conditions must include, but
 1225 are not limited to, requirements that the child, during any
 1226 period of time that he or she:

1227 (a) Is not in secure detention, comply with a curfew;
 1228 attend school or another educational program, if eligible; and
 1229 obey the reasonable and lawful demands of his or her parents or
 1230 legal guardians and, if applicable, all persons responsible for
 1231 supervising him or her while he or she is in school or another
 1232 educational program.

1233 (b) Is in secure detention, obey the reasonable and lawful
 1234 demands of all persons responsible for his or her supervision.

1235 Section 10. Paragraphs (a) and (d) of subsection (1) and
 1236 subsection (2) of section 985.231, Florida Statutes, are amended
 1237 to read:

1238 985.231 Powers of disposition in delinquency cases.--

1239 (1)(a) The court that has jurisdiction of an adjudicated
 1240 delinquent child may, by an order stating the facts upon which a
 1241 determination of a sanction and rehabilitative program was made
 1242 at the disposition hearing:

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1243 | 1. Place the child in a probation program or a
 1244 | postcommitment probation program under the supervision of an
 1245 | authorized agent of the Department of Juvenile Justice or of any
 1246 | other person or agency specifically authorized and appointed by
 1247 | the court, whether in the child's own home, in the home of a
 1248 | relative of the child, or in some other suitable place under
 1249 | such reasonable conditions as the court may direct. A probation
 1250 | program for an adjudicated delinquent child must include a
 1251 | penalty component such as restitution in money or in kind,
 1252 | community service, a curfew, revocation or suspension of the
 1253 | driver's license of the child, or other nonresidential
 1254 | punishment appropriate to the offense and must also include a
 1255 | rehabilitative program component such as a requirement of
 1256 | participation in substance abuse treatment or in school or other
 1257 | educational program. If the child is attending or is eligible to
 1258 | attend public school and the court finds that the victim or a
 1259 | sibling of the victim in the case is attending or may attend the
 1260 | same school as the child, the court placement order shall
 1261 | include a finding pursuant to the proceedings described in s.
 1262 | 985.23(1)(d). Upon the recommendation of the department at the
 1263 | time of disposition, or subsequent to disposition pursuant to
 1264 | the filing of a petition alleging a violation of the child's
 1265 | conditions of postcommitment probation, the court may order the
 1266 | child to submit to random testing for the purpose of detecting
 1267 | and monitoring the use of alcohol or controlled substances.

1268 | a. A ~~restrictiveness level~~ classification scale for levels
 1269 | of supervision shall be provided by the department, taking into
 1270 | account the child's needs and risks relative to probation

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1271 supervision requirements to reasonably ensure the public safety.
 1272 Probation programs for children shall be supervised by the
 1273 department or by any other person or agency specifically
 1274 authorized by the court. These programs must include, but are
 1275 not limited to, structured or restricted activities as described
 1276 in this subparagraph, and shall be designed to encourage the
 1277 child toward acceptable and functional social behavior. If
 1278 supervision or a program of community service is ordered by the
 1279 court, the duration of such supervision or program must be
 1280 consistent with any treatment and rehabilitation needs
 1281 identified for the child and may not exceed the term for which
 1282 sentence could be imposed if the child were committed for the
 1283 offense, except that the duration of such supervision or program
 1284 for an offense that is a misdemeanor of the second degree, or is
 1285 equivalent to a misdemeanor of the second degree, may be for a
 1286 period not to exceed 6 months. When restitution is ordered by
 1287 the court, the amount of restitution may not exceed an amount
 1288 the child and the parent or guardian could reasonably be
 1289 expected to pay or make. A child who participates in any work
 1290 program under this part is considered an employee of the state
 1291 for purposes of liability, unless otherwise provided by law.

1292 b. The court may conduct judicial review hearings for a
 1293 child placed on probation for the purpose of fostering
 1294 accountability to the judge and compliance with other
 1295 requirements, such as restitution and community service. The
 1296 court may allow early termination of probation for a child who
 1297 has substantially complied with the terms and conditions of
 1298 probation.

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1299 c. If the conditions of the probation program or the
 1300 postcommitment probation program are violated, the department or
 1301 the state attorney may bring the child before the court on a
 1302 petition alleging a violation of the program. Any child who
 1303 violates the conditions of probation or postcommitment probation
 1304 must be brought before the court if sanctions are sought. A
 1305 child taken into custody under s. 985.207 for violating the
 1306 conditions of probation or postcommitment probation shall be
 1307 held in a consequence unit if such a unit is available. The
 1308 child shall be afforded a hearing within 24 hours after being
 1309 taken into custody to determine the existence of probable cause
 1310 that the child violated the conditions of probation or
 1311 postcommitment probation. A consequence unit is a secure
 1312 facility specifically designated by the department for children
 1313 who are taken into custody under s. 985.207 for violating
 1314 probation or postcommitment probation, or who have been found by
 1315 the court to have violated the conditions of probation or
 1316 postcommitment probation. If the violation involves a new charge
 1317 of delinquency, the child may be detained under s. 985.215 in a
 1318 facility other than a consequence unit. If the child is not
 1319 eligible for detention for the new charge of delinquency, the
 1320 child may be held in the consequence unit pending a hearing and
 1321 is subject to the time limitations specified in s. 985.215. If
 1322 the child denies violating the conditions of probation or
 1323 postcommitment probation, the court shall appoint counsel to
 1324 represent the child at the child's request. Upon the child's
 1325 admission, or if the court finds after a hearing that the child
 1326 has violated the conditions of probation or postcommitment

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1327 | probation, the court shall enter an order revoking, modifying,
 1328 | or continuing probation or postcommitment probation. In each
 1329 | such case, the court shall enter a new disposition order and, in
 1330 | addition to the sanctions set forth in this paragraph, may
 1331 | impose any sanction the court could have imposed at the original
 1332 | disposition hearing. If the child is found to have violated the
 1333 | conditions of probation or postcommitment probation, the court
 1334 | may:

1335 | (I) Place the child in a consequence unit in that judicial
 1336 | circuit, if available, for up to 5 days for a first violation,
 1337 | and up to 15 days for a second or subsequent violation.

1338 | (II) Place the child on home detention with electronic
 1339 | monitoring. However, this sanction may be used only if a
 1340 | residential consequence unit is not available.

1341 | (III) Modify or continue the child's probation program or
 1342 | postcommitment probation program.

1343 | (IV) Revoke probation or postcommitment probation and
 1344 | commit the child to the department.

1345 | d. Notwithstanding s. 743.07 and paragraph (d), and except
 1346 | as provided in s. 985.31, the term of any order placing a child
 1347 | in a probation program must be until the child's 19th birthday
 1348 | unless he or she is released by the court, on the motion of an
 1349 | interested party or on its own motion.

1350 | 2. Commit the child to a licensed child-caring agency
 1351 | willing to receive the child, but the court may not commit the
 1352 | child to a jail or to a facility used primarily as a detention
 1353 | center or facility or shelter.

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1354 | 3. Commit the child to the department ~~of Juvenile Justice~~
 1355 | at a restrictiveness residential commitment level defined in s.
 1356 | 985.03. The court may specify a program or facility within the
 1357 | restrictiveness level to which the child has been ordered. For a
 1358 | child ordered committed to a specific high-risk residential or
 1359 | maximum-risk residential program or facility, the department may
 1360 | notify the dispositional judge of alternative placements of the
 1361 | same risk level, as space becomes available, that could be
 1362 | accomplished prior to entry of the child into the court-ordered
 1363 | program or facility. With respect to any court-specified
 1364 | placement, the court may not select a program or facility that
 1365 | is not under contract with the department. If the court finds
 1366 | that the planned vacancies at the program or facility specified
 1367 | by the court are insufficient to allow for the placement of the
 1368 | child within 45 days after the commitment order, the court must
 1369 | select a program or facility of the same restrictiveness level
 1370 | from at least three alternative placements provided by the
 1371 | department. Such commitment must be for the purpose of
 1372 | exercising active control over the child, including, but not
 1373 | limited to, custody, care, training, urine monitoring, and
 1374 | treatment of the child and release of the child from residential
 1375 | commitment into the community in a postcommitment nonresidential
 1376 | conditional release program. If the child is eligible to attend
 1377 | public school following ~~residential~~ commitment and the court
 1378 | finds that the victim or a sibling of the victim in the case is
 1379 | or may be attending the same school as the child, the commitment
 1380 | order shall include a finding pursuant to the proceedings
 1381 | described in s. 985.23(1)(d). If the child is not successful in

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1382 the conditional release program, the department may use the
 1383 transfer procedure under s. 985.404. Notwithstanding s. 743.07
 1384 and paragraph (d), and except as provided in s. 985.31, the term
 1385 of the commitment must be until the child is discharged by the
 1386 department or until he or she reaches the age of 21.

1387 4. Revoke or suspend the driver's license of the child.

1388 5. Require the child and, if the court finds it
 1389 appropriate, the child's parent or guardian together with the
 1390 child, to render community service in a public service program.

1391 6. As part of the probation program to be implemented by
 1392 the Department of Juvenile Justice, or, in the case of a
 1393 committed child, as part of the community-based sanctions
 1394 ordered by the court at the disposition hearing or before the
 1395 child's release from commitment, order the child to make
 1396 restitution in money, through a promissory note cosigned by the
 1397 child's parent or guardian, or in kind for any damage or loss
 1398 caused by the child's offense in a reasonable amount or manner
 1399 to be determined by the court. The clerk of the circuit court
 1400 shall be the receiving and dispensing agent. In such case, the
 1401 court shall order the child or the child's parent or guardian to
 1402 pay to the office of the clerk of the circuit court an amount
 1403 not to exceed the actual cost incurred by the clerk as a result
 1404 of receiving and dispensing restitution payments. The clerk
 1405 shall notify the court if restitution is not made, and the court
 1406 shall take any further action that is necessary against the
 1407 child or the child's parent or guardian. A finding by the court,
 1408 after a hearing, that the parent or guardian has made diligent
 1409 and good faith efforts to prevent the child from engaging in

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1410 delinquent acts absolves the parent or guardian of liability for
1411 restitution under this subparagraph.

1412 7. Order the child and, if the court finds it appropriate,
1413 the child's parent or guardian together with the child, to
1414 participate in a community work project, either as an
1415 alternative to monetary restitution or as part of the
1416 rehabilitative or probation program.

1417 8. Commit the child to the Department of Juvenile Justice
1418 for placement in a program or facility for serious or habitual
1419 juvenile offenders in accordance with s. 985.31. Any commitment
1420 of a child to a program or facility for serious or habitual
1421 juvenile offenders must be for an indeterminate period of time,
1422 but the time may not exceed the maximum term of imprisonment
1423 that an adult may serve for the same offense. The court may
1424 retain jurisdiction over such child until the child reaches the
1425 age of 21, specifically for the purpose of the child completing
1426 the program.

1427 9. In addition to the sanctions imposed on the child,
1428 order the parent or guardian of the child to perform community
1429 service if the court finds that the parent or guardian did not
1430 make a diligent and good faith effort to prevent the child from
1431 engaging in delinquent acts. The court may also order the parent
1432 or guardian to make restitution in money or in kind for any
1433 damage or loss caused by the child's offense. The court shall
1434 determine a reasonable amount or manner of restitution, and
1435 payment shall be made to the clerk of the circuit court as
1436 provided in subparagraph 6.

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1437 10. Subject to specific appropriation, commit the juvenile
1438 sexual offender to the Department of Juvenile Justice for
1439 placement in a program or facility for juvenile sexual offenders
1440 in accordance with s. 985.308. Any commitment of a juvenile
1441 sexual offender to a program or facility for juvenile sexual
1442 offenders must be for an indeterminate period of time, but the
1443 time may not exceed the maximum term of imprisonment that an
1444 adult may serve for the same offense. The court may retain
1445 jurisdiction over a juvenile sexual offender until the juvenile
1446 sexual offender reaches the age of 21, specifically for the
1447 purpose of completing the program.

1448 (d) Any commitment of a delinquent child to the Department
1449 of Juvenile Justice must be for an indeterminate period of time,
1450 which may include periods of temporary release; however, ~~but~~ the
1451 period of time may not exceed the maximum term of imprisonment
1452 that an adult may serve for the same offense, except that the
1453 duration of a minimum-risk nonresidential commitment for an
1454 offense that is a misdemeanor of the second degree, or is
1455 equivalent to a misdemeanor of the second degree, may be for a
1456 period not to exceed 6 months. The duration of the child's
1457 placement in a ~~residential~~ commitment program of any
1458 restrictiveness level shall be based on objective performance-
1459 based treatment planning. The child's treatment plan progress
1460 and adjustment-related issues shall be reported to the court
1461 each month. The child's length of stay in a ~~residential~~
1462 commitment program may be extended if the child fails to comply
1463 with or participate in treatment activities. The child's length
1464 of stay in the ~~such~~ program shall not be extended for purposes

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1465 | of sanction or punishment. Any temporary release from such
 1466 | program must be approved by the court. Any child so committed
 1467 | may be discharged from institutional confinement or a program
 1468 | upon the direction of the department with the concurrence of the
 1469 | court. The child's treatment plan progress and adjustment-
 1470 | related issues must be communicated to the court at the time the
 1471 | department requests the court to consider releasing the child
 1472 | from the ~~residential~~ commitment program. Notwithstanding s.
 1473 | 743.07 and this subsection, and except as provided in ss.
 1474 | 985.201 and 985.31, a child may not be held under a commitment
 1475 | from a court under ~~pursuant to~~ this section after becoming 21
 1476 | years of age. The department shall give the court that committed
 1477 | the child to the department reasonable notice, in writing, of
 1478 | its desire to discharge the child from a commitment facility.
 1479 | The court that committed the child may thereafter accept or
 1480 | reject the request. If the court does not respond within 10 days
 1481 | after receipt of the notice, the request of the department shall
 1482 | be deemed granted. This section does not limit the department's
 1483 | authority to revoke a child's temporary release status and
 1484 | return the child to a commitment facility for any violation of
 1485 | the terms and conditions of the temporary release.

1486 | (2) Following a delinquency adjudicatory hearing pursuant
 1487 | to s. 985.228 and a delinquency disposition hearing pursuant to
 1488 | s. 985.23 which results in a commitment determination, the court
 1489 | shall, on its own or upon request by the state or the
 1490 | department, determine whether the protection of the public
 1491 | requires that the child be placed in a program for serious or
 1492 | habitual juvenile offenders and whether the particular needs of

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1493 | the child would be best served by a program for serious or
 1494 | habitual juvenile offenders as provided in s. 985.31. The
 1495 | determination shall be made pursuant to ss. 985.03(49)(~~48~~) and
 1496 | 985.23(3).

1497 | Section 11. Paragraph (a) of subsection (1) of section
 1498 | 985.2311, Florida Statutes, is amended to read:

1499 | 985.2311 Cost of supervision; cost of care.--

1500 | (1) Except as provided in subsection (3) or subsection
 1501 | (4):

1502 | (a) When any child is placed into home detention,
 1503 | probation, or other supervision status with the Department of
 1504 | Juvenile Justice, or is committed to the minimum-risk
 1505 | nonresidential restrictiveness level, the court shall order the
 1506 | parent of such child to pay to the department a fee for the cost
 1507 | of the supervision of such child in the amount of \$1 per day for
 1508 | each day that the child is in such ~~supervision~~ status.

1509 | Section 12. Section 985.313, Florida Statutes, is amended
 1510 | to read:

1511 | 985.313 Juvenile correctional facilities ~~or juvenile~~
 1512 | ~~prison~~.--A juvenile correctional facility ~~or juvenile prison~~ is
 1513 | a physically secure residential commitment program with a
 1514 | designated length of stay from 18 months to 36 months, primarily
 1515 | serving children 13 years of age to 19 years of age, or until
 1516 | the jurisdiction of the court expires. The court may retain
 1517 | jurisdiction over the child until the child reaches the age of
 1518 | 21, specifically for the purpose of the child completing the
 1519 | program. Each child committed to this level must meet one of the
 1520 | following criteria:

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1521 (1) The youth is at least 13 years of age at the time of
1522 the disposition for the current offense and has been adjudicated
1523 on the current offense for:

1524 (a) Arson;

1525 (b) Sexual battery;

1526 (c) Robbery;

1527 (d) Kidnapping;

1528 (e) Aggravated child abuse;

1529 (f) Aggravated assault;

1530 (g) Aggravated stalking;

1531 (h) Murder;

1532 (i) Manslaughter;

1533 (j) Unlawful throwing, placing, or discharging of a
1534 destructive device or bomb;

1535 (k) Armed burglary;

1536 (l) Aggravated battery;

1537 (m) Carjacking;

1538 (n) Home-invasion robbery;

1539 (o) Burglary with an assault or battery;

1540 (p) Any lewd or lascivious offense committed upon or in
1541 the presence of a person less than 16 years of age; or

1542 (q) Carrying, displaying, using, threatening to use, or
1543 attempting to use a weapon or firearm during the commission of a
1544 felony.

1545 (2) The youth is at least 13 years of age at the time of
1546 the disposition, the current offense is a felony, and the child
1547 has previously been committed three or more times to a
1548 delinquency commitment program.

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1549 (3) The youth is at least 13 years of age and is currently
1550 committed for a felony offense and transferred from a moderate-
1551 risk or high-risk residential commitment placement.

1552 (4) The youth is at least 13 years of age at the time of
1553 the disposition for the current offense, the youth is eligible
1554 for prosecution as an adult for the current offense, and the
1555 current offense is ranked at level 7 or higher on the Criminal
1556 Punishment Code offense severity ranking chart pursuant to s.
1557 921.0022.

1558 Section 13. Subsection (3) of section 985.316, Florida
1559 Statutes, is amended to read:

1560 985.316 Conditional release.--

1561 (3) For juveniles referred or committed to the department,
1562 the function of the department may include, but shall not be
1563 limited to, assessing each ~~committed~~ juvenile placed in a
1564 residential commitment program to determine the need for
1565 conditional release services upon release from the a ~~commitment~~
1566 program, supervising the juvenile when released into the
1567 community from a residential commitment facility of the
1568 department, providing such counseling and other services as may
1569 be necessary for the families and assisting their preparations
1570 for the return of the child. Subject to specific appropriation,
1571 the department shall provide for outpatient sexual offender
1572 counseling for any juvenile sexual offender released from a
1573 residential commitment program as a component of conditional
1574 release.

1575 Section 14. Subsection (4) of section 985.404, Florida
1576 Statutes, is amended to read:

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1577 985.404 Administering the juvenile justice continuum.--
 1578 (4) The department may transfer a child, when necessary to
 1579 appropriately administer the child's commitment, from one
 1580 facility or program to another facility or program operated,
 1581 contracted, subcontracted, or designated by the department,
 1582 including a postcommitment nonresidential conditional release
 1583 program. The department shall notify the court that committed
 1584 the child to the department and any attorney of record, in
 1585 writing, of its intent to transfer the child from a commitment
 1586 facility or program to another facility or program of a higher
 1587 or lower restrictiveness level or to another facility or program
 1588 that is different from a facility or program specified by the
 1589 court under s. 985.231(1)(a)3. After receipt of the notice, the
 1590 court that committed the child may agree to the transfer or may
 1591 set a hearing to review the transfer, after which the court
 1592 shall issue a written order granting or denying the transfer or
 1593 may, without setting a hearing, issue a written order granting
 1594 or denying the transfer. No child shall be transferred by the
 1595 department to a higher or lower restrictiveness level or to a
 1596 facility or program different from that specified by the court
 1597 under s. 985.231(1)(a)3. prior to the department receiving a
 1598 written court order granting the transfer. If the court does not
 1599 respond within 10 days after receipt of the notice, the transfer
 1600 of the child shall be deemed granted.

1601 Section 15. Subsection (2) of section 985.4135, Florida
 1602 Statutes, is amended to read:

1603 985.4135 Juvenile justice circuit boards and juvenile
 1604 justice county councils.--

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1605 (2) Each juvenile justice county council shall:

1606 (a) Develop a juvenile justice prevention and early

1607 intervention plan for the county and shall collaborate with the

1608 circuit board and other county councils assigned to that circuit

1609 in the development of a comprehensive plan for the circuit.

1610 (b) Develop, with the cooperation of county commissioners,

1611 school board officials, representatives of governing bodies for

1612 local municipalities, and representatives of local law

1613 enforcement agencies, criteria to be considered by law

1614 enforcement officers prior to referring youth to juvenile

1615 assessment centers.

1616 Section 16. Section 784.075, Florida Statutes, is amended

1617 to read:

1618 784.075 Battery on detention or commitment facility staff

1619 or a juvenile probation officer.--A person who commits a battery

1620 on a juvenile probation officer, as defined in s. 984.03 or s.

1621 985.03, on other staff of a detention center or facility as

1622 defined in s. 984.03~~(19)~~ or s. 985.03~~(19)~~, or on a staff member

1623 of a commitment facility as defined in s. 985.03~~(45)~~, commits a

1624 felony of the third degree, punishable as provided in s.

1625 775.082, s. 775.083, or s. 775.084. For purposes of this

1626 section, a staff member of the facilities listed includes

1627 persons employed by the Department of Juvenile Justice, persons

1628 employed at facilities licensed by the Department of Juvenile

1629 Justice, and persons employed at facilities operated under a

1630 contract with the Department of Juvenile Justice.

1631 Section 17. Section 984.05, Florida Statutes, is amended

1632 to read:

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1633 984.05 Rules relating to habitual truants; adoption by
1634 State Board of Education and Department of Juvenile
1635 Justice.--The Department of Juvenile Justice and the State Board
1636 of Education shall work together on the development of, and
1637 shall adopt, rules as necessary for the implementation of ss.
1638 984.03(27), 985.03(26)~~(25)~~, and 1003.27.

1639 Section 18. Paragraph (e) of subsection (3) and paragraph
1640 (a) of subsection (4) of section 985.31, Florida Statutes, are
1641 amended, and for the purpose of incorporating the amendment to
1642 section 985.231, Florida Statutes, in references thereto,
1643 paragraph (k) of subsection (3) of said section is reenacted to
1644 read:

1645 985.31 Serious or habitual juvenile offender.--

1646 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
1647 TREATMENT.--

1648 (e) After a child has been adjudicated delinquent pursuant
1649 to s. 985.228, the court shall determine whether the child meets
1650 the criteria for a serious or habitual juvenile offender
1651 pursuant to s. 985.03(49)~~(48)~~. If the court determines that the
1652 child does not meet such criteria, the provisions of s.
1653 985.231(1) shall apply.

1654 (k) Any commitment of a child to the department for
1655 placement in a serious or habitual juvenile offender program or
1656 facility shall be for an indeterminate period of time, but the
1657 time shall not exceed the maximum term of imprisonment which an
1658 adult may serve for the same offense. Notwithstanding the
1659 provisions of ss. 743.07 and 985.231(1)(d), a serious or
1660 habitual juvenile offender shall not be held under commitment

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1661 from a court pursuant to this section, s. 985.231, or s. 985.233
 1662 after becoming 21 years of age. This provision shall apply only
 1663 for the purpose of completing the serious or habitual juvenile
 1664 offender program pursuant to this chapter and shall be used
 1665 solely for the purpose of treatment.

1666 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

1667 (a) Pursuant to the provisions of this section, the
 1668 department shall implement the comprehensive assessment
 1669 instrument for the treatment needs of serious or habitual
 1670 juvenile offenders and for the assessment, which assessment
 1671 shall include the criteria under s. 985.03(49)(~~48~~) and shall
 1672 also include, but not be limited to, evaluation of the child's:

- 1673 1. Amenability to treatment.
- 1674 2. Proclivity toward violence.
- 1675 3. Tendency toward gang involvement.
- 1676 4. Substance abuse or addiction and the level thereof.
- 1677 5. History of being a victim of child abuse or sexual
 1678 abuse, or indication of sexual behavior dysfunction.
- 1679 6. Number and type of previous adjudications, findings of
 1680 guilt, and convictions.
- 1681 7. Potential for rehabilitation.

1682 Section 19. Subsection (2) of section 985.3141, Florida
 1683 Statutes, is amended to read:

1684 985.3141 Escapes from secure detention or residential
 1685 commitment facility.--An escape from:

1686 (2) Any residential commitment facility described in s.
 1687 985.03(46)(~~45~~), maintained for the custody, treatment,

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1688 | punishment, or rehabilitation of children found to have
 1689 | committed delinquent acts or violations of law; or
 1690 |
 1691 | constitutes escape within the intent and meaning of s. 944.40
 1692 | and is a felony of the third degree, punishable as provided in
 1693 | s. 775.082, s. 775.083, or s. 775.084.

1694 | Section 20. For the purpose of incorporating the amendment
 1695 | to section 985.231, Florida Statutes, in a reference thereto,
 1696 | paragraph (a) of subsection (4) of section 985.201, Florida
 1697 | Statutes, is reenacted to read:

1698 | 985.201 Jurisdiction.--

1699 | (4)(a) Notwithstanding ss. 743.07, 985.229, 985.23, and
 1700 | 985.231, and except as provided in ss. 985.31 and 985.313, when
 1701 | the jurisdiction of any child who is alleged to have committed a
 1702 | delinquent act or violation of law is obtained, the court shall
 1703 | retain jurisdiction, unless relinquished by its order, until the
 1704 | child reaches 19 years of age, with the same power over the
 1705 | child that the court had prior to the child becoming an adult.

1706 | Section 21. For the purpose of incorporating the amendment
 1707 | to section 985.231, Florida Statutes, in a reference thereto,
 1708 | paragraph (b) of subsection (4) of section 985.233, Florida
 1709 | Statutes, is reenacted to read:

1710 | 985.233 Sentencing powers; procedures; alternatives for
 1711 | juveniles prosecuted as adults.--

1712 | (4) SENTENCING ALTERNATIVES.--

1713 | (b) Sentencing to juvenile sanctions.--For juveniles
 1714 | transferred to adult court but who do not qualify for such
 1715 | transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or

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1716 (b), the court may impose juvenile sanctions under this
1717 paragraph. If juvenile sentences are imposed, the court shall,
1718 pursuant to this paragraph, adjudge the child to have committed
1719 a delinquent act. Adjudication of delinquency shall not be
1720 deemed a conviction, nor shall it operate to impose any of the
1721 civil disabilities ordinarily resulting from a conviction. The
1722 court shall impose an adult sanction or a juvenile sanction and
1723 may not sentence the child to a combination of adult and
1724 juvenile punishments. An adult sanction or a juvenile sanction
1725 may include enforcement of an order of restitution or probation
1726 previously ordered in any juvenile proceeding. However, if the
1727 court imposes a juvenile sanction and the department determines
1728 that the sanction is unsuitable for the child, the department
1729 shall return custody of the child to the sentencing court for
1730 further proceedings, including the imposition of adult
1731 sanctions. Upon adjudicating a child delinquent under subsection
1732 (1), the court may:

1733 1. Place the child in a probation program under the
1734 supervision of the department for an indeterminate period of
1735 time until the child reaches the age of 19 years or sooner if
1736 discharged by order of the court.

1737 2. Commit the child to the department for treatment in an
1738 appropriate program for children for an indeterminate period of
1739 time until the child is 21 or sooner if discharged by the
1740 department. The department shall notify the court of its intent
1741 to discharge no later than 14 days prior to discharge. Failure
1742 of the court to timely respond to the department's notice shall
1743 be considered approval for discharge.

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1744 3. Order disposition pursuant to s. 985.231 as an
1745 alternative to youthful offender or adult sentencing if the
1746 court determines not to impose youthful offender or adult
1747 sanctions.

1748
1749 It is the intent of the Legislature that the criteria and
1750 guidelines in this subsection are mandatory and that a
1751 determination of disposition under this subsection is subject to
1752 the right of the child to appellate review under s. 985.234.

1753 Section 22. For the purpose of incorporating the amendment
1754 to section 985.231, Florida Statutes, in a reference thereto,
1755 paragraph (e) of subsection (3) of section 985.311, Florida
1756 Statutes, is reenacted to read:

1757 985.311 Intensive residential treatment program for
1758 offenders less than 13 years of age.--

1759 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
1760 TREATMENT.--

1761 (e) After a child has been adjudicated delinquent pursuant
1762 to s. 985.228(5), the court shall determine whether the child is
1763 eligible for an intensive residential treatment program for
1764 offenders less than 13 years of age pursuant to s. 985.03(7). If
1765 the court determines that the child does not meet the criteria,
1766 the provisions of s. 985.231(1) shall apply.

1767 Section 23. This act shall take effect July 1, 2005.