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HB 1917, Engrossed 2

2005 Legislature

1 A bill to be entitled
2 An act relating to juvenile justice; amending s. 985.03,
3 F.S.; redefining terms relating to juvenile justice;
4 redefining the terms "day treatment" and "restrictiveness
5 level"; creating the minimum-risk nonresidential
6 restrictiveness level; providing that temporary release
7 may be granted under specified conditions to youth
8 committed to the high-risk residential restrictiveness
9 level; amending s. 985.207, F.S.; providing that a child
10 may be taken into custody for absconding from a
11 nonresidential commitment facility; amending s. 985.208,
12 F.S.; providing that a child may be taken into custody for
13 absconding from a nonresidential commitment facility;
14 amending s. 985.215, F.S.; providing for release from
15 detention for a child who has absconded; providing for
16 detention for committed children awaiting placement;
17 providing secure detention for children awaiting minimum-
18 risk placement who violate home or nonsecure detention or
19 electronic monitoring; providing for limited secure
20 detention for children being transported to residential
21 commitment programs; requiring the state to pay certain
22 detention care costs for juveniles in certain counties for
23 fiscal year 2005-2006; amending s. 985.231, F.S.; revising
24 provisions relating to powers of disposition; providing
25 the maximum length for a minimum-risk nonresidential
26 commitment for a second degree misdemeanor; providing that
27 the department or a provider report quarterly to the court
28 the child's treatment plan progress; making conforming

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

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29 | changes; amending s. 985.2311, F.S.; requiring parents to
30 | pay fees for costs of supervision related to minimum-risk
31 | nonresidential commitment; amending s. 985.316, F.S.;
32 | providing for assessment of residentially committed youth
33 | for conditional release services; repealing s. 985.403,
34 | F.S., relating to the Task Force on Juvenile Sexual
35 | Offenders and their Victims; creating a new task force on
36 | juvenile sexual offenders and their victims; providing
37 | powers and duties; providing membership; requiring a
38 | report; providing for administrative support; providing
39 | for dissolution of the task force; creating a task force
40 | to study the certification of professional staff working
41 | for a provider of juvenile justice services; providing
42 | membership; requiring the task force to consider the
43 | feasibility of implementing and operating a certification
44 | system for professional staff; requiring the task force to
45 | consider specified issues; directing the task force to
46 | recommend a process for testing and validating the
47 | effectiveness of the recommended staff development system;
48 | requiring the task force to prepare and submit a report of
49 | its deliberations and recommendations by a specified date;
50 | providing for administrative support; providing for
51 | dissolution of the task force; amending s. 985.4135, F.S.;
52 | providing for permissible representation on juvenile
53 | justice county councils or circuit boards; amending s.
54 | 985.407, F.S.; changing the level of background screening
55 | required for certain department and provider employees
56 | from level 1 to level 2; requiring federal criminal

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57 records checks every 5 years for certain department and
 58 provider employees; providing for electronic submission of
 59 specified fingerprint information; providing for retention
 60 of specified fingerprint information; providing for
 61 searches; requiring the adoption of rules; providing for
 62 an annual fee; providing for notice of changes in the
 63 employment status of persons whose fingerprint information
 64 is retained; requiring the removal of fingerprint
 65 information upon the occurrence of specified events;
 66 providing appropriations; amending ss. 784.075, 984.05,
 67 985.31, and 985.3141, F.S.; conforming cross references;
 68 reenacting ss. 985.201(4)(a), 985.233(4)(b), 985.31(3)(k),
 69 and 985.311(3)(e), F.S., relating to jurisdiction,
 70 sentencing alternatives, commitment of serious or habitual
 71 juvenile offenders, and eligibility for an intensive
 72 residential treatment program for offenders less than 13
 73 years of age, respectively, to incorporate the amendment
 74 to s. 985.231, F.S., in reference thereto; providing an
 75 effective date.

76
 77 Be It Enacted by the Legislature of the State of Florida:

78
 79 Section 1. Section 985.03, Florida Statutes, is amended to
 80 read:

81 985.03 Definitions.--As ~~When~~ used in this chapter, the
 82 term:

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

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

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

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

94 (5) "Authorized agent" or "designee" of the department
95 means a person or agency assigned or designated by the
96 department ~~of Juvenile Justice~~ or the Department of Children and
97 Family Services, as appropriate, to perform duties or exercise
98 powers under ~~pursuant to~~ this chapter and includes contract
99 providers and their employees for purposes of providing services
100 to and managing cases of children in need of services and
101 families in need of services.

102 (6) "Child" or "juvenile" or "youth" means any unmarried
103 person under the age of 18 who has not been emancipated by order
104 of the court and who has been found or alleged to be dependent,
105 in need of services, or from a family in need of services; or
106 any married or unmarried person who is charged with a violation
107 of law occurring prior to the time that person reached the age
108 of 18 years.

109 (7) "Child eligible for an intensive residential treatment
110 program for offenders less than 13 years of age" means a child
111 who has been found to have committed a delinquent act or a

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112 violation of law in the case currently before the court and who
 113 meets at least one of the following criteria:

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

- 117 1. Arson;
- 118 2. Sexual battery;
- 119 3. Robbery;
- 120 4. Kidnapping;
- 121 5. Aggravated child abuse;
- 122 6. Aggravated assault;
- 123 7. Aggravated stalking;
- 124 8. Murder;
- 125 9. Manslaughter;
- 126 10. Unlawful throwing, placing, or discharging of a
 127 destructive device or bomb;
- 128 11. Armed burglary;
- 129 12. Aggravated battery;
- 130 13. Any lewd or lascivious offense committed upon or in
 131 the presence of a person less than 16 years of age; or
- 132 14. Carrying, displaying, using, threatening, or
 133 attempting to use a weapon or firearm during the commission of a
 134 felony.

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

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

142 (8) "Child in need of services" means a child for whom
 143 there is no pending investigation into an allegation or
 144 suspicion of abuse, neglect, or abandonment; no pending referral
 145 alleging the child is delinquent; or no current supervision by
 146 the department ~~of Juvenile Justice~~ or the Department of Children
 147 and Family Services for an adjudication of dependency or
 148 delinquency. The child must also, under ~~pursuant to this~~
 149 chapter, be found by the court:

150 (a) To have persistently run away from the child's parents
 151 or legal custodians despite reasonable efforts of the child, the
 152 parents or legal custodians, and appropriate agencies to remedy
 153 the conditions contributing to the behavior. Reasonable efforts
 154 shall include voluntary participation by the child's parents or
 155 legal custodians and the child in family mediation, services,
 156 and treatment offered by the department ~~of Juvenile Justice~~ or
 157 the Department of Children and Family Services;

158 (b) To be habitually truant from school, while subject to
 159 compulsory school attendance, despite reasonable efforts to
 160 remedy the situation under ~~pursuant to~~ ss. 1003.26 and 1003.27
 161 and through voluntary participation by the child's parents or
 162 legal custodians and by the child in family mediation, services,
 163 and treatment offered by the Department of Juvenile Justice or
 164 the Department of Children and Family Services; or

165 (c) To have persistently disobeyed the reasonable and
 166 lawful demands of the child's parents or legal custodians, and

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167 | to be beyond their control despite efforts by the child's
 168 | parents or legal custodians and appropriate agencies to remedy
 169 | the conditions contributing to the behavior. Reasonable efforts
 170 | may include such things as good faith participation in family or
 171 | individual counseling.

172 | (9) "Child who has been found to have committed a
 173 | delinquent act" means a child who, under ~~pursuant to the~~
 174 | ~~provisions of~~ this chapter, is found by a court to have
 175 | committed a violation of law or to be in direct or indirect
 176 | contempt of court, except that this definition does ~~shall~~ not
 177 | include an act constituting contempt of court arising out of a
 178 | dependency proceeding or a proceeding under ~~pursuant to~~ part III
 179 | of this chapter.

180 | (10) "Child support" means a court-ordered obligation,
 181 | enforced under chapter 61 and ss. 409.2551-409.2597, for
 182 | monetary support for the care, maintenance, training, and
 183 | education of a child.

184 | (11) "Circuit" means any of the 20 judicial circuits as
 185 | set forth in s. 26.021.

186 | (12) "Comprehensive assessment" or "assessment" means the
 187 | gathering of information for the evaluation of a juvenile
 188 | offender's or a child's physical, psychological, educational,
 189 | vocational, and social condition and family environment as they
 190 | relate to the child's need for rehabilitative and treatment
 191 | services, including substance abuse treatment services, mental
 192 | health services, developmental services, literacy services,
 193 | medical services, family services, and other specialized
 194 | services, as appropriate.

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195 (13) "Conditional release" means the care, treatment,
 196 help, and supervision provided to a juvenile released from a
 197 residential commitment program which is intended to promote
 198 rehabilitation and prevent recidivism. The purpose of
 199 conditional release is to protect the public, reduce recidivism,
 200 increase responsible productive behavior, and provide for a
 201 successful transition of the youth from the department to the
 202 family. Conditional release includes, but is not limited to,
 203 nonresidential community-based programs.

204 (14) "Court," unless otherwise expressly stated, means the
 205 circuit court assigned to exercise jurisdiction under this
 206 chapter.

207 (15) "Day treatment" means a nonresidential, community-
 208 based program designed to provide therapeutic intervention to
 209 youth who are placed on probation or conditional release or are
 210 committed to the minimum-risk nonresidential level. A day
 211 treatment program may provide educational and vocational
 212 services and shall provide case-management services; individual,
 213 group, and family counseling; training designed to address
 214 delinquency risk factors; and monitoring of a youth's compliance
 215 with, and facilitation of a youth's completion of, sanctions if
 216 ordered by the court. Program types may include, but are not
 217 limited to, career programs, marine programs, juvenile justice
 218 alternative schools, training and rehabilitation programs, and
 219 gender-specific programs.

220 (16) (a) ~~(15) (a)~~ "Delinquency program" means any intake,
 221 probation, or similar program; regional detention center or
 222 facility; or community-based program, whether owned and operated

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223 | by or contracted by the department ~~of Juvenile Justice~~, or
 224 | institution owned and operated by or contracted by the
 225 | department ~~of Juvenile Justice~~, which provides intake,
 226 | supervision, or custody and care of children who are alleged to
 227 | be or who have been found to be delinquent under ~~pursuant to~~
 228 | part II.

229 | (b) "Delinquency program staff" means supervisory and
 230 | direct care staff of a delinquency program as well as support
 231 | staff who have direct contact with children in a delinquency
 232 | program.

233 | (c) "Delinquency prevention programs" means programs
 234 | designed for the purpose of reducing the occurrence of
 235 | delinquency, including youth and street gang activity, and
 236 | juvenile arrests. The term excludes arbitration, diversionary or
 237 | mediation programs, and community service work or other
 238 | treatment available subsequent to a child committing a
 239 | delinquent act.

240 | ~~(17)-(16)~~ "Department" means the Department of Juvenile
 241 | Justice.

242 | ~~(18)-(17)~~ "Designated facility" or "designated treatment
 243 | facility" means any facility designated by the department ~~of~~
 244 | ~~Juvenile Justice~~ to provide treatment to juvenile offenders.

245 | ~~(19)-(18)~~ "Detention care" means the temporary care of a
 246 | child in secure, nonsecure, or home detention, pending a court
 247 | adjudication or disposition or execution of a court order.

248 | There are three types of detention care, as follows:

249 | (a) "Secure detention" means temporary custody of the
 250 | child while the child is under the physical restriction of a

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251 detention center or facility pending adjudication, disposition,
252 or placement.

253 (b) "Nonsecure detention" means temporary custody of the
254 child while the child is in a residential home in the community
255 in a physically nonrestrictive environment under the supervision
256 of the Department of Juvenile Justice pending adjudication,
257 disposition, or placement.

258 (c) "Home detention" means temporary custody of the child
259 while the child is released to the custody of the parent,
260 guardian, or custodian in a physically nonrestrictive
261 environment under the supervision of the department ~~of Juvenile~~
262 ~~Justice~~ staff pending adjudication, disposition, or placement.

263 (20)~~(19)~~ "Detention center or facility" means a facility
264 used pending court adjudication or disposition or execution of
265 court order for the temporary care of a child alleged or found
266 to have committed a violation of law. A detention center or
267 facility may provide secure or nonsecure custody. A facility
268 used for the commitment of adjudicated delinquents shall not be
269 considered a detention center or facility.

270 (21)~~(20)~~ "Detention hearing" means a hearing for the court
271 to determine if a child should be placed in temporary custody,
272 as provided for under ss. 985.213 and 985.215 in delinquency
273 cases.

274 (22)~~(21)~~ "Disposition hearing" means a hearing in which
275 the court determines the most appropriate dispositional services
276 in the least restrictive available setting provided for under s.
277 985.231, in delinquency cases.

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278 | (23)~~(22)~~ "Family" means a collective of persons,
 279 | consisting of a child and a parent, guardian, adult custodian,
 280 | or adult relative, in which:

281 | (a) The persons reside in the same house or living unit;
 282 | or

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

286 | (24)~~(23)~~ "Family in need of services" means a family that
 287 | has a child for whom there is no pending investigation into an
 288 | allegation of abuse, neglect, or abandonment or no current
 289 | supervision by the department ~~of Juvenile Justice~~ or the
 290 | Department of Children and Family Services for an adjudication
 291 | of dependency or delinquency. The child must also have been
 292 | referred to a law enforcement agency or the department ~~of~~
 293 | ~~Juvenile Justice~~ for:

294 | (a) Running away from parents or legal custodians;

295 | (b) Persistently disobeying reasonable and lawful demands
 296 | of parents or legal custodians, and being beyond their control;
 297 | or

298 | (c) Habitual truancy from school.

299 | (25)~~(24)~~ "Foster care" means care provided a child in a
 300 | foster family or boarding home, group home, agency boarding
 301 | home, child care institution, or any combination thereof.

302 | (26)~~(25)~~ "Habitually truant" means that:

303 | (a) The child has 15 unexcused absences within 90 calendar
 304 | days with or without the knowledge or justifiable consent of the
 305 | child's parent or legal guardian, is subject to compulsory

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306 school attendance under s. 1003.21(1) and (2)(a), and is not
307 exempt under s. 1003.21(3), s. 1003.24, or any other exemptions
308 specified by law or the rules of the State Board of Education.

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

312

313 If a child who is subject to compulsory school attendance is
314 responsive to the interventions described in ss. 1003.26 and
315 1003.27 and has completed the necessary requirements to pass the
316 current grade as indicated in the district pupil progression
317 plan, the child shall not be determined to be habitually truant
318 and shall be passed. If a child within the compulsory school
319 attendance age has 15 unexcused absences within 90 calendar days
320 or fails to enroll in school, the state attorney may file a
321 child-in-need-of-services petition. Before ~~Prior to~~ filing a
322 petition, the child must be referred to the appropriate agency
323 for evaluation. After consulting with the evaluating agency,
324 the state attorney may elect to file a child-in-need-of-services
325 petition.

326 (c) A school representative, designated according to
327 school board policy, and a juvenile probation officer of the
328 department ~~of Juvenile Justice~~ have jointly investigated the
329 truancy problem or, if that was not feasible, have performed
330 separate investigations to identify conditions that could be
331 contributing to the truant behavior; and if, after a joint
332 staffing of the case to determine the necessity for services,
333 such services were determined to be needed, the persons who

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334 performed the investigations met jointly with the family and
335 child to discuss any referral to appropriate community agencies
336 for economic services, family or individual counseling, or other
337 services required to remedy the conditions that are contributing
338 to the truant behavior.

339 (d) The failure or refusal of the parent or legal guardian
340 or the child to participate, or make a good faith effort to
341 participate, in the activities prescribed to remedy the truant
342 behavior, or the failure or refusal of the child to return to
343 school after participation in activities required by this
344 subsection, or the failure of the child to stop the truant
345 behavior after the school administration and the department ~~of~~
346 ~~Juvenile Justice~~ have worked with the child as described in s.
347 1003.27(3) shall be handled as prescribed in s. 1003.27.

348 (27)~~(26)~~ "Halfway house" means a community-based
349 residential program for 10 or more committed delinquents at the
350 moderate-risk commitment level which is operated or contracted
351 by the department ~~of Juvenile Justice~~.

352 (28)~~(27)~~ "Intake" means the initial acceptance and
353 screening by the department ~~of Juvenile Justice~~ of a complaint
354 or a law enforcement report or probable cause affidavit of
355 delinquency, family in need of services, or child in need of
356 services to determine the recommendation to be taken in the best
357 interests of the child, the family, and the community. The
358 emphasis of intake is on diversion and the least restrictive
359 available services. Consequently, intake includes such
360 alternatives as:

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

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

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

368 (29)~~(28)~~ "Judge" means the circuit judge exercising
369 jurisdiction pursuant to this chapter.

370 (30)~~(29)~~ "Juvenile justice continuum" includes, but is not
371 limited to, delinquency prevention programs and services
372 designed for the purpose of preventing or reducing delinquent
373 acts, including criminal activity by youth gangs, and juvenile
374 arrests, as well as programs and services targeted at children
375 who have committed delinquent acts, and children who have
376 previously been committed to residential treatment programs for
377 delinquents. The term includes children-in-need-of-services and
378 families-in-need-of-services programs; conditional release;
379 substance abuse and mental health programs; educational and
380 career programs; recreational programs; community services
381 programs; community service work programs; and alternative
382 dispute resolution programs serving children at risk of
383 delinquency and their families, whether offered or delivered by
384 state or local governmental entities, public or private for-
385 profit or not-for-profit organizations, or religious or
386 charitable organizations.

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387 | ~~(31)-(30)~~ "Juvenile probation officer" means the authorized
 388 | agent of the department ~~of Juvenile Justice~~ who performs the
 389 | intake, case management, or supervision functions.

390 | ~~(32)-(31)~~ "Juvenile sexual offender" means:

391 | (a) A juvenile who has been found by the court under
 392 | ~~pursuant to~~ s. 985.228 to have committed a violation of chapter
 393 | 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;

394 | (b) A juvenile found to have committed any felony
 395 | violation of law or delinquent act involving juvenile sexual
 396 | abuse. "Juvenile sexual abuse" means any sexual behavior which
 397 | occurs without consent, without equality, or as a result of
 398 | coercion. For purposes of this subsection, the following
 399 | definitions apply:

400 | 1. "Coercion" means the exploitation of authority, use of
 401 | bribes, threats of force, or intimidation to gain cooperation or
 402 | compliance.

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

406 | 3. "Consent" means an agreement including all of the
 407 | following:

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

410 | b. Knowledge of societal standards for what is being
 411 | proposed.

412 | c. Awareness of potential consequences and alternatives.

413 | d. Assumption that agreement or disagreement will be
 414 | accepted equally.

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415 e. Voluntary decision.

416 f. Mental competence.

417

418 Juvenile sexual offender behavior ranges from noncontact sexual
 419 behavior such as making obscene phone calls, exhibitionism,
 420 voyeurism, and the showing or taking of lewd photographs to
 421 varying degrees of direct sexual contact, such as frottage,
 422 fondling, digital penetration, rape, fellatio, sodomy, and
 423 various other sexually aggressive acts.

424 (33)~~(32)~~ "Legal custody or guardian" means a legal status
 425 created by court order or letter of guardianship which vests in
 426 a custodian of the person or guardian, whether an agency or an
 427 individual, the right to have physical custody of the child and
 428 the right and duty to protect, train, and discipline the child
 429 and to provide him or her with food, shelter, education, and
 430 ordinary medical, dental, psychiatric, and psychological care.

431 (34)~~(33)~~ "Licensed child-caring agency" means a person,
 432 society, association, or agency licensed by the Department of
 433 Children and Family Services to care for, receive, and board
 434 children.

435 (35)~~(34)~~ "Licensed health care professional" means a
 436 physician licensed under chapter 458, an osteopathic physician
 437 licensed under chapter 459, a nurse licensed under part I of
 438 chapter 464, a physician assistant licensed under chapter 458 or
 439 chapter 459, or a dentist licensed under chapter 466.

440 (36)~~(35)~~ "Likely to injure oneself" means that, as
 441 evidenced by violent or other actively self-destructive
 442 behavior, it is more likely than not that within a 24-hour

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443 | period the child will attempt to commit suicide or inflict
444 | serious bodily harm on himself or herself.

445 | (37)~~(36)~~ "Likely to injure others" means that it is more
446 | likely than not that within a 24-hour period the child will
447 | inflict serious and unjustified bodily harm on another person.

448 | (38)~~(37)~~ "Mediation" means a process whereby a neutral
449 | third person called a mediator acts to encourage and facilitate
450 | the resolution of a dispute between two or more parties. It is
451 | an informal and nonadversarial process with the objective of
452 | helping the disputing parties reach a mutually acceptable and
453 | voluntary agreement. In mediation, decisionmaking authority
454 | rests with the parties. The role of the mediator includes, but
455 | is not limited to, assisting the parties in identifying issues,
456 | fostering joint problem solving, and exploring settlement
457 | alternatives.

458 | (39)~~(38)~~ "Necessary medical treatment" means care which is
459 | necessary within a reasonable degree of medical certainty to
460 | prevent the deterioration of a child's condition or to alleviate
461 | immediate pain of a child.

462 | (40)~~(39)~~ "Next of kin" means an adult relative of a child
463 | who is the child's brother, sister, grandparent, aunt, uncle, or
464 | first cousin.

465 | (41)~~(40)~~ "Parent" means a woman who gives birth to a child
466 | and a man whose consent to the adoption of the child would be
467 | required under s. 63.062(1). If a child has been legally
468 | adopted, the term "parent" means the adoptive mother or father
469 | of the child. The term does not include an individual whose
470 | parental relationship to the child has been legally terminated,

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471 or an alleged or prospective parent, unless the parental status
472 falls within the terms of either s. 39.503(1) or s. 63.062(1).

473 (42)~~(41)~~ "Preliminary screening" means the gathering of
474 preliminary information to be used in determining a child's need
475 for further evaluation or assessment or for referral for other
476 substance abuse services through means such as psychosocial
477 interviews; urine and breathalyzer screenings; and reviews of
478 available educational, delinquency, and dependency records of
479 the child.

480 (43)~~(42)~~ "Preventive services" means social services and
481 other supportive and rehabilitative services provided to the
482 parent of the child, the legal guardian of the child, or the
483 custodian of the child and to the child for the purpose of
484 averting the removal of the child from the home or disruption of
485 a family which will or could result in the placement of a child
486 in foster care. Social services and other supportive and
487 rehabilitative services shall promote the child's need for a
488 safe, continuous, stable living environment and shall promote
489 family autonomy and shall strengthen family life as the first
490 priority whenever possible.

491 (44)~~(43)~~ "Probation" means the legal status of probation
492 created by law and court order in cases involving a child who
493 has been found to have committed a delinquent act. Probation is
494 an individualized program in which the freedom of the child is
495 limited and the child is restricted to noninstitutional quarters
496 or restricted to the child's home in lieu of commitment to the
497 custody of the department ~~of Juvenile Justice~~. Youth on
498 probation may be assessed and classified for placement in day-

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499 treatment probation programs designed for youth who represent a
 500 minimum risk to themselves and public safety and do not require
 501 placement and services in a residential setting. ~~Program types~~
 502 ~~in this more intensive and structured day treatment probation~~
 503 ~~option include career programs, marine programs, juvenile~~
 504 ~~justice alternative schools, training and rehabilitation~~
 505 ~~programs, and gender specific programs.~~

506 (45)~~(44)~~ "Relative" means a grandparent, great-
 507 grandparent, sibling, first cousin, aunt, uncle, great-aunt,
 508 great-uncle, niece, or nephew, whether related by the whole or
 509 half blood, by affinity, or by adoption. The term does not
 510 include a stepparent.

511 (46)~~(45)~~ "Restrictiveness Residential Commitment level"
 512 means the level of programming and security provided by programs
 513 that service the supervision, custody, care, and treatment needs
 514 of committed children. Sections 985.3141 and 985.404(11) apply
 515 to children placed in programs at any residential commitment
 516 level. The restrictiveness levels of ~~residential~~ commitment are
 517 as follows:

518 (a) Minimum-risk nonresidential.--Programs or program
 519 models at this commitment level work with youth who remain in
 520 the community and participate at least 5 days per week in a day
 521 treatment program. Youth assessed and classified for programs at
 522 this commitment level represent a minimum risk to themselves and
 523 public safety and do not require placement and services in
 524 residential settings. Youth in this level have full access to,
 525 and reside in, the community. Youth who have been found to have
 526 committed delinquent acts that involve firearms, that are sexual

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527 offenses, or that would be life felonies or first-degree
528 felonies if committed by an adult may not be committed to a
529 program at this level.

530 (b)-(a) Low-risk residential.--Programs or program models
531 at this commitment level are residential but may allow youth to
532 have unsupervised access to the community. Youth assessed and
533 classified for placement in programs at this commitment level
534 represent a low risk to themselves and public safety but do
535 require placement and services in residential settings. Children
536 who have been found to have committed delinquent acts that
537 involve firearms, delinquent acts that are sexual offenses, or
538 delinquent acts that would be life felonies or first degree
539 felonies if committed by an adult shall not be committed to a
540 program at this level.

541 (c)-(b) Moderate-risk residential.--Programs or program
542 models at this commitment level are residential but may allow
543 youth to have supervised access to the community. Facilities are
544 either environmentally secure, staff secure, or are hardware-
545 secure with walls, fencing, or locking doors. Facilities shall
546 provide 24-hour awake supervision, custody, care, and treatment
547 of residents. Youth assessed and classified for placement in
548 programs at this commitment level represent a moderate risk to
549 public safety and require close supervision. The staff at a
550 facility at this commitment level may seclude a child who is a
551 physical threat to himself or herself or others. Mechanical
552 restraint may also be used when necessary.

553 (d)-(e) High-risk residential.--Programs or program models
554 at this commitment level are residential and do ~~shall~~ not allow

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555 | youth to have access to the community except that, temporary
 556 | release providing community access for up to 72 continuous hours
 557 | may be approved by a court for a youth who has made successful
 558 | progress in his or her program in order for the youth to attend
 559 | a family emergency or, during the final 60 days of his or her
 560 | placement, to visit his or her home, enroll in school or a
 561 | vocational program, complete a job interview, or participate in
 562 | a community service project. High-risk residential facilities
 563 | are hardware-secure with perimeter fencing and locking doors.
 564 | Facilities shall provide 24-hour awake supervision, custody,
 565 | care, and treatment of residents. Youth assessed and classified
 566 | for this level of placement require close supervision in a
 567 | structured residential setting. Placement in programs at this
 568 | level is prompted by a concern for public safety that outweighs
 569 | placement in programs at lower commitment levels. The staff at a
 570 | facility at this commitment level may seclude a child who is a
 571 | physical threat to himself or herself or others. Mechanical
 572 | restraint may also be used when necessary. The facility may
 573 | provide for single cell occupancy.

574 | (e)~~(d)~~ Maximum-risk residential.--Programs or program
 575 | models at this commitment level include juvenile correctional
 576 | facilities and juvenile prisons. The programs are long-term
 577 | residential and do ~~shall~~ not allow youth to have access to the
 578 | community. Facilities are maximum-custody hardware-secure with
 579 | perimeter security fencing and locking doors. Facilities shall
 580 | provide 24-hour awake supervision, custody, care, and treatment
 581 | of residents. The staff at a facility at this commitment level
 582 | may seclude a child who is a physical threat to himself or

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583 herself or others. Mechanical restraint may also be used when
 584 necessary. The facility shall provide for single cell occupancy,
 585 except that youth may be housed together during prerelease
 586 transition. Youth assessed and classified for this level of
 587 placement require close supervision in a maximum security
 588 residential setting. Placement in a program at this level is
 589 prompted by a demonstrated need to protect the public.

590 (47)~~(46)~~ "Respite" means a placement that is available for
 591 the care, custody, and placement of a youth charged with
 592 domestic violence as an alternative to secure detention or for
 593 placement of a youth when a shelter bed for a child in need of
 594 services or a family in need of services is unavailable.

595 (48)~~(47)~~ "Secure detention center or facility" means a
 596 physically restricting facility for the temporary care of
 597 children, pending adjudication, disposition, or placement.

598 (49)~~(48)~~ "Serious or habitual juvenile offender," for
 599 purposes of commitment to a residential facility and for
 600 purposes of records retention, means a child who has been found
 601 to have committed a delinquent act or a violation of law, in the
 602 case currently before the court, and who meets at least one of
 603 the following criteria:

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

- 607 1. Arson;
- 608 2. Sexual battery;
- 609 3. Robbery;
- 610 4. Kidnapping;

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- 611 5. Aggravated child abuse;
 612 6. Aggravated assault;
 613 7. Aggravated stalking;
 614 8. Murder;
 615 9. Manslaughter;
 616 10. Unlawful throwing, placing, or discharging of a
 617 destructive device or bomb;
 618 11. Armed burglary;
 619 12. Aggravated battery;
 620 13. Any lewd or lascivious offense committed upon or in
 621 the presence of a person less than 16 years of age; or
 622 14. Carrying, displaying, using, threatening, or
 623 attempting to use a weapon or firearm during the commission of a
 624 felony.
- 625 (b) The youth is at least 13 years of age at the time of
 626 the disposition, the current offense is a felony, and the child
 627 has previously been committed at least two times to a
 628 delinquency commitment program.
- 629 (c) The youth is at least 13 years of age and is currently
 630 committed for a felony offense and transferred from a moderate-
 631 risk or high-risk residential commitment placement.
- 632 (50)~~(49)~~ "Serious or habitual juvenile offender program"
 633 means the program established in s. 985.31.
- 634 (51)~~(50)~~ "Shelter" means a place for the temporary care of
 635 a child who is alleged to be or who has been found to be
 636 delinquent.

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637 | (52)~~(51)~~ "Shelter hearing" means a hearing provided for
 638 | under s. 984.14 in family-in-need-of-services cases or child-in-
 639 | need-of-services cases.

640 | (53)~~(52)~~ "Staff-secure shelter" means a facility in which
 641 | a child is supervised 24 hours a day by staff members who are
 642 | awake while on duty. The facility is for the temporary care and
 643 | assessment of a child who has been found to be dependent, who
 644 | has violated a court order and been found in contempt of court,
 645 | or whom the Department of Children and Family Services is unable
 646 | to properly assess or place for assistance within the continuum
 647 | of services provided for dependent children.

648 | (54)~~(53)~~ "Substance abuse" means using, without medical
 649 | reason, any psychoactive or mood-altering drug, including
 650 | alcohol, in such a manner as to induce impairment resulting in
 651 | dysfunctional social behavior.

652 | (55)~~(54)~~ "Taken into custody" means the status of a child
 653 | immediately when temporary physical control over the child is
 654 | attained by a person authorized by law, pending the child's
 655 | release, detention, placement, or other disposition as
 656 | authorized by law.

657 | (56)~~(55)~~ "Temporary legal custody" means the relationship
 658 | that a juvenile court creates between a child and an adult
 659 | relative of the child, adult non relative approved by the court,
 660 | or other person until a more permanent arrangement is ordered.
 661 | Temporary legal custody confers upon the custodian the right to
 662 | have temporary physical custody of the child and the right and
 663 | duty to protect, train, and discipline the child and to provide
 664 | the child with food, shelter, and education, and ordinary

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665 | medical, dental, psychiatric, and psychological care, unless
 666 | these rights and duties are otherwise enlarged or limited by the
 667 | court order establishing the temporary legal custody
 668 | relationship.

669 | ~~(57)-(56)~~ "Temporary release" means the terms and
 670 | conditions under which a child is temporarily released from a
 671 | residential commitment facility or allowed home visits. If the
 672 | temporary release is from a moderate-risk residential facility,
 673 | a high-risk residential facility, or a maximum-risk residential
 674 | facility, the terms and conditions of the temporary release must
 675 | be approved by the child, the court, and the facility. The term
 676 | includes periods during which the child is supervised pursuant
 677 | to a conditional release program or a period during which the
 678 | child is supervised by a juvenile probation officer or other
 679 | nonresidential staff of the department or staff employed by an
 680 | entity under contract with the department.

681 | ~~(58)-(57)~~ "Training school" means one of the following
 682 | facilities: the Arthur G. Dozier School or the Eckerd Youth
 683 | Development Center.

684 | ~~(59)-(58)~~ "Violation of law" or "delinquent act" means a
 685 | violation of any law of this state, the United States, or any
 686 | other state which is a misdemeanor or a felony or a violation of
 687 | a county or municipal ordinance which would be punishable by
 688 | incarceration if the violation were committed by an adult.

689 | ~~(60)-(59)~~ "Waiver hearing" means a hearing provided for
 690 | under s. 985.226(3).

691 | Section 2. Paragraph (d) of subsection (1) of section
 692 | 985.207, Florida Statutes, is amended to read:

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693 | 985.207 Taking a child into custody.--

694 | (1) A child may be taken into custody under the following
 695 | circumstances:

696 | (d) By a law enforcement officer who has probable cause to
 697 | believe that the child is in violation of the conditions of the
 698 | child's probation, home detention, post commitment probation, or
 699 | conditional release supervision, has absconded from
 700 | nonresidential commitment, or has escaped from residential
 701 | commitment.

702 |
 703 | Nothing in this subsection shall be construed to allow the
 704 | detention of a child who does not meet the detention criteria in
 705 | s. 985.215.

706 | Section 3. Section 985.208, Florida Statutes, is amended
 707 | to read:

708 | 985.208 Detention of escapee or absconder on authority of
 709 | the department.--

710 | (1) If an authorized agent of the department has
 711 | reasonable grounds to believe that any delinquent child
 712 | committed to the department has escaped from a residential
 713 | commitment facility ~~of the department~~ or from being lawfully
 714 | transported thereto or there from, or has absconded from a
 715 | nonresidential commitment facility, the agent may take the child
 716 | into active custody and may deliver the child to the facility
 717 | or, if it is closer, to a detention center for return to the
 718 | facility. However, a child may not be held in detention longer
 719 | than 24 hours, excluding Saturdays, Sundays, and legal holidays,
 720 | unless a special order so directing is made by the judge after a

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721 | detention hearing resulting in a finding that detention is
 722 | required based on the criteria in s. 985.215(2). The order shall
 723 | state the reasons for such finding. The reasons shall be
 724 | reviewable by appeal or in habeas corpus proceedings in the
 725 | district court of appeal.

726 | (2) Any sheriff or other law enforcement officer, upon the
 727 | request of the secretary of the department or duly authorized
 728 | agent, shall take a child who has escaped ~~or absconded~~ from a
 729 | residential commitment department facility ~~for committed~~
 730 | ~~delinquent children~~, or from being lawfully transported thereto
 731 | or there from, or has absconded from a nonresidential commitment
 732 | facility, into custody and deliver the child to the appropriate
 733 | juvenile probation officer ~~of the department~~.

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

736 | 985.215 Detention.--

737 | (2) Subject to the provisions of subsection (1), a child
 738 | taken into custody and placed into nonsecure or home detention
 739 | care or detained in secure detention care prior to a detention
 740 | hearing may continue to be detained by the court if:

741 | (a) The child is alleged to be an escapee from a
 742 | residential commitment program, or an absconder from a
 743 | nonresidential commitment program, a probation program, or
 744 | conditional release supervision, or is alleged to have escaped
 745 | while being lawfully transported to or from a residential
 746 | commitment ~~such program or supervision~~.

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

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

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

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

758 (f) The child is charged with a capital felony, a life
759 felony, a felony of the first degree, a felony of the second
760 degree that does not involve a violation of chapter 893, or a
761 felony of the third degree that is also a crime of violence,
762 including any such offense involving the use or possession of a
763 firearm.

764 (g) The child is charged with any second degree or third
765 degree felony involving a violation of chapter 893 or any third
766 degree felony that is not also a crime of violence, and the
767 child:

- 768 1. Has a record of failure to appear at court hearings
769 after being properly notified in accordance with the Rules of
770 Juvenile Procedure;
- 771 2. Has a record of law violations prior to court hearings;
- 772 3. Has already been detained or has been released and is
773 awaiting final disposition of the case;
- 774 4. Has a record of violent conduct resulting in physical
775 injury to others; or
- 776 5. Is found to have been in possession of a firearm.

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

783 (i) The child is detained on a judicial order for failure
784 to appear and has previously willfully failed to appear, after
785 proper notice, for an adjudicatory hearing on the same case
786 regardless of the results of the risk assessment instrument. A
787 child may be held in secure detention for up to 72 hours in
788 advance of the next scheduled court hearing pursuant to this
789 paragraph. The child's failure to keep the clerk of court and
790 defense counsel informed of a current and valid mailing address
791 where the child will receive notice to appear at court
792 proceedings does not provide an adequate ground for excusal of
793 the child's nonappearance at the hearings.

794 (j) The child is detained on a judicial order for failure
795 to appear and has previously willfully failed to appear, after
796 proper notice, at two or more court hearings of any nature on
797 the same case regardless of the results of the risk assessment
798 instrument. A child may be held in secure detention for up to 72
799 hours in advance of the next scheduled court hearing pursuant to
800 this paragraph. The child's failure to keep the clerk of court
801 and defense counsel informed of a current and valid mailing
802 address where the child will receive notice to appear at court
803 proceedings does not provide an adequate ground for excusal of
804 the child's nonappearance at the hearings.

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806 A child who meets any of these criteria and who is ordered to be
807 detained pursuant to this subsection shall be given a hearing
808 within 24 hours after being taken into custody. The purpose of
809 the detention hearing is to determine the existence of probable
810 cause that the child has committed the delinquent act or
811 violation of law with which he or she is charged and the need
812 for continued detention, except where the child is alleged to
813 have absconded from a nonresidential commitment program in which
814 case the court, at the detention hearing, shall order that the
815 child be released from detention and returned to his or her
816 nonresidential commitment program. Unless a child is detained
817 under paragraph (d) or paragraph (e), the court shall use
818 ~~utilize~~ the results of the risk assessment performed by the
819 juvenile probation officer and, based on the criteria in this
820 subsection, shall determine the need for continued detention. A
821 child placed into secure, nonsecure, or home detention care may
822 continue to be so detained by the court pursuant to this
823 subsection. If the court orders a placement more restrictive
824 than indicated by the results of the risk assessment instrument,
825 the court shall state, in writing, clear and convincing reasons
826 for such placement. Except as provided in s. 790.22(8) or in
827 subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c), or
828 paragraph (10)(d), when a child is placed into secure or
829 nonsecure detention care, or into a respite home or other
830 placement pursuant to a court order following a hearing, the
831 court order must include specific instructions that direct the
832 release of the child from such placement no later than 5 p.m. on

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833 | the last day of the detention period specified in paragraph
 834 | (5) (b) or paragraph (5) (c), or subparagraph (10) (a)1., whichever
 835 | is applicable, unless the requirements of such applicable
 836 | provision have been met or an order of continuance has been
 837 | granted pursuant to paragraph (5) (f).

838 | (5)

839 | (d) Except as provided in paragraph (g), a child may not
 840 | be held in secure, nonsecure, or home detention care for more
 841 | than 15 days following the entry of an order of adjudication.

842 | (g) Upon good cause being shown that the nature of the
 843 | charge requires additional time for the prosecution or defense
 844 | of the case, the court may extend the time limits for detention
 845 | specified in paragraph (c) an additional 9 days if the child is
 846 | charged with an offense that would be, if committed by an adult,
 847 | a capital felony, a life felony, a felony of the first degree,
 848 | or a felony of the second degree involving violence against any
 849 | individual.

850 | (10) (a)1. When a child is committed to the Department of
 851 | Juvenile Justice awaiting dispositional placement, removal of
 852 | the child from detention care shall occur within 5 days,
 853 | excluding Saturdays, Sundays, and legal holidays. Any child held
 854 | in secure detention during the 5 days must meet detention
 855 | admission criteria pursuant to this section. If the child is
 856 | committed to a moderate-risk residential program, the department
 857 | may seek an order from the court authorizing continued detention
 858 | for a specific period of time necessary for the appropriate
 859 | residential placement of the child. However, such continued
 860 | detention in secure detention care may not exceed 15 days after

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861 | commitment, excluding Saturdays, Sundays, and legal holidays,
862 | and except as otherwise provided in this subsection.

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

867 | (b) A child who is placed in home detention care,
868 | nonsecure detention care, or home or nonsecure detention care
869 | with electronic monitoring, while awaiting placement in a
870 | minimum-risk, low-risk, or moderate-risk program, may be held in
871 | secure detention care for 5 days, if the child violates the
872 | conditions of the home detention care, the nonsecure detention
873 | care, or the electronic monitoring agreement. For any subsequent
874 | violation, the court may impose an additional 5 days in secure
875 | detention care.

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

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

882 | (e) Upon specific appropriation, the department may obtain
883 | comprehensive evaluations, including, but not limited to,
884 | medical, academic, psychological, behavioral, sociological, and
885 | vocational needs of a youth with multiple arrests for all level
886 | criminal acts or a youth committed to a minimum-risk or low-risk
887 | commitment program.

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888 (f) Regardless of detention status, a child being
 889 transported by the department to a residential commitment
 890 facility of the department may be placed in secure detention
 891 overnight, not to exceed a 24-hour period, for the specific
 892 purpose of ensuring the safe delivery of the child to his or her
 893 residential commitment program, court, appointment, transfer, or
 894 release.

895 Section 5. Notwithstanding s. 985.2155, Florida Statutes,
 896 as amended by ch. 2004-473, Laws of Florida, the state, subject
 897 to appropriation, shall pay all costs of detention care for
 898 juveniles for Highlands County, Sumter County, and Wakulla
 899 County for fiscal year 2005-2006.

900 Section 6. Paragraphs (a) and (d) of subsection (1) and
 901 subsection (2) of section 985.231, Florida Statutes, are amended
 902 to read:

903 985.231 Powers of disposition in delinquency cases.--

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

908 1. Place the child in a probation program or a
 909 postcommitment probation program under the supervision of an
 910 authorized agent of the department ~~of Juvenile Justice~~ or of any
 911 other person or agency specifically authorized and appointed by
 912 the court, whether in the child's own home, in the home of a
 913 relative of the child, or in some other suitable place under
 914 such reasonable conditions as the court may direct. A probation
 915 program for an adjudicated delinquent child must include a

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916 penalty component such as restitution in money or in kind,
917 community service, a curfew, revocation or suspension of the
918 driver's license of the child, or other nonresidential
919 punishment appropriate to the offense and must also include a
920 rehabilitative program component such as a requirement of
921 participation in substance abuse treatment or in school or other
922 educational program. If the child is attending or is eligible to
923 attend public school and the court finds that the victim or a
924 sibling of the victim in the case is attending or may attend the
925 same school as the child, the court placement order shall
926 include a finding pursuant to the proceedings described in s.
927 985.23(1)(d). Upon the recommendation of the department at the
928 time of disposition, or subsequent to disposition pursuant to
929 the filing of a petition alleging a violation of the child's
930 conditions of postcommitment probation, the court may order the
931 child to submit to random testing for the purpose of detecting
932 and monitoring the use of alcohol or controlled substances.

933 a. A ~~restrictiveness level~~ classification scale for levels
934 of supervision shall be provided by the department, taking into
935 account the child's needs and risks relative to probation
936 supervision requirements to reasonably ensure the public safety.
937 Probation programs for children shall be supervised by the
938 department or by any other person or agency specifically
939 authorized by the court. These programs must include, but are
940 not limited to, structured or restricted activities as described
941 in this subparagraph, and shall be designed to encourage the
942 child toward acceptable and functional social behavior. If
943 supervision or a program of community service is ordered by the

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944 | court, the duration of such supervision or program must be
945 | consistent with any treatment and rehabilitation needs
946 | identified for the child and may not exceed the term for which
947 | sentence could be imposed if the child were committed for the
948 | offense, except that the duration of such supervision or program
949 | for an offense that is a misdemeanor of the second degree, or is
950 | equivalent to a misdemeanor of the second degree, may be for a
951 | period not to exceed 6 months. When restitution is ordered by
952 | the court, the amount of restitution may not exceed an amount
953 | the child and the parent or guardian could reasonably be
954 | expected to pay or make. A child who participates in any work
955 | program under this part is considered an employee of the state
956 | for purposes of liability, unless otherwise provided by law.

957 | b. The court may conduct judicial review hearings for a
958 | child placed on probation for the purpose of fostering
959 | accountability to the judge and compliance with other
960 | requirements, such as restitution and community service. The
961 | court may allow early termination of probation for a child who
962 | has substantially complied with the terms and conditions of
963 | probation.

964 | c. If the conditions of the probation program or the
965 | postcommitment probation program are violated, the department or
966 | the state attorney may bring the child before the court on a
967 | petition alleging a violation of the program. Any child who
968 | violates the conditions of probation or postcommitment probation
969 | must be brought before the court if sanctions are sought. A
970 | child taken into custody under s. 985.207 for violating the
971 | conditions of probation or postcommitment probation shall be

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972 | held in a consequence unit if such a unit is available. The
973 | child shall be afforded a hearing within 24 hours after being
974 | taken into custody to determine the existence of probable cause
975 | that the child violated the conditions of probation or
976 | postcommitment probation. A consequence unit is a secure
977 | facility specifically designated by the department for children
978 | who are taken into custody under s. 985.207 for violating
979 | probation or postcommitment probation, or who have been found by
980 | the court to have violated the conditions of probation or
981 | postcommitment probation. If the violation involves a new charge
982 | of delinquency, the child may be detained under s. 985.215 in a
983 | facility other than a consequence unit. If the child is not
984 | eligible for detention for the new charge of delinquency, the
985 | child may be held in the consequence unit pending a hearing and
986 | is subject to the time limitations specified in s. 985.215. If
987 | the child denies violating the conditions of probation or
988 | postcommitment probation, the court shall appoint counsel to
989 | represent the child at the child's request. Upon the child's
990 | admission, or if the court finds after a hearing that the child
991 | has violated the conditions of probation or postcommitment
992 | probation, the court shall enter an order revoking, modifying,
993 | or continuing probation or postcommitment probation. In each
994 | such case, the court shall enter a new disposition order and, in
995 | addition to the sanctions set forth in this paragraph, may
996 | impose any sanction the court could have imposed at the original
997 | disposition hearing. If the child is found to have violated the
998 | conditions of probation or postcommitment probation, the court
999 | may:

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1000 (I) Place the child in a consequence unit in that judicial
 1001 circuit, if available, for up to 5 days for a first violation,
 1002 and up to 15 days for a second or subsequent violation.

1003 (II) Place the child on home detention with electronic
 1004 monitoring. However, this sanction may be used only if a
 1005 residential consequence unit is not available.

1006 (III) Modify or continue the child's probation program or
 1007 postcommitment probation program.

1008 (IV) Revoke probation or postcommitment probation and
 1009 commit the child to the department.

1010 d. Notwithstanding s. 743.07 and paragraph (d), and except
 1011 as provided in s. 985.31, the term of any order placing a child
 1012 in a probation program must be until the child's 19th birthday
 1013 unless he or she is released by the court, on the motion of an
 1014 interested party or on its own motion.

1015 2. Commit the child to a licensed child-caring agency
 1016 willing to receive the child, but the court may not commit the
 1017 child to a jail or to a facility used primarily as a detention
 1018 center or facility or shelter.

1019 3. Commit the child to the department ~~of Juvenile Justice~~
 1020 at a restrictiveness ~~residential commitment~~ level defined in s.
 1021 985.03. Such commitment must be for the purpose of exercising
 1022 active control over the child, including, but not limited to,
 1023 custody, care, training, urine monitoring, and treatment of the
 1024 child and release of the child from residential commitment into
 1025 the community in a postcommitment nonresidential conditional
 1026 release program. If the child is eligible to attend public
 1027 school following ~~residential~~ commitment and the court finds that

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1028 | the victim or a sibling of the victim in the case is or may be
 1029 | attending the same school as the child, the commitment order
 1030 | shall include a finding pursuant to the proceedings described in
 1031 | s. 985.23(1)(d). If the child is not successful in the
 1032 | conditional release program, the department may use the transfer
 1033 | procedure under s. 985.404. Notwithstanding s. 743.07 and
 1034 | paragraph (d), and except as provided in s. 985.31, the term of
 1035 | the commitment must be until the child is discharged by the
 1036 | department or until he or she reaches the age of 21.

1037 | 4. Revoke or suspend the driver's license of the child.

1038 | 5. Require the child and, if the court finds it
 1039 | appropriate, the child's parent or guardian together with the
 1040 | child, to render community service in a public service program.

1041 | 6. As part of the probation program to be implemented by
 1042 | the department ~~of Juvenile Justice~~, or, in the case of a
 1043 | committed child, as part of the community-based sanctions
 1044 | ordered by the court at the disposition hearing or before the
 1045 | child's release from commitment, order the child to make
 1046 | restitution in money, through a promissory note cosigned by the
 1047 | child's parent or guardian, or in kind for any damage or loss
 1048 | caused by the child's offense in a reasonable amount or manner
 1049 | to be determined by the court. The clerk of the circuit court
 1050 | shall be the receiving and dispensing agent. In such case, the
 1051 | court shall order the child or the child's parent or guardian to
 1052 | pay to the office of the clerk of the circuit court an amount
 1053 | not to exceed the actual cost incurred by the clerk as a result
 1054 | of receiving and dispensing restitution payments. The clerk
 1055 | shall notify the court if restitution is not made, and the court

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1056 shall take any further action that is necessary against the
 1057 child or the child's parent or guardian. A finding by the court,
 1058 after a hearing, that the parent or guardian has made diligent
 1059 and good faith efforts to prevent the child from engaging in
 1060 delinquent acts absolves the parent or guardian of liability for
 1061 restitution under this subparagraph.

1062 7. Order the child and, if the court finds it appropriate,
 1063 the child's parent or guardian together with the child, to
 1064 participate in a community work project, either as an
 1065 alternative to monetary restitution or as part of the
 1066 rehabilitative or probation program.

1067 8. Commit the child to the department ~~of Juvenile Justice~~
 1068 for placement in a program or facility for serious or habitual
 1069 juvenile offenders in accordance with s. 985.31. Any commitment
 1070 of a child to a program or facility for serious or habitual
 1071 juvenile offenders must be for an indeterminate period of time,
 1072 but the time may not exceed the maximum term of imprisonment
 1073 that an adult may serve for the same offense. The court may
 1074 retain jurisdiction over such child until the child reaches the
 1075 age of 21, specifically for the purpose of the child completing
 1076 the program.

1077 9. In addition to the sanctions imposed on the child,
 1078 order the parent or guardian of the child to perform community
 1079 service if the court finds that the parent or guardian did not
 1080 make a diligent and good faith effort to prevent the child from
 1081 engaging in delinquent acts. The court may also order the parent
 1082 or guardian to make restitution in money or in kind for any
 1083 damage or loss caused by the child's offense. The court shall

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1084 determine a reasonable amount or manner of restitution, and
 1085 payment shall be made to the clerk of the circuit court as
 1086 provided in subparagraph 6.

1087 10. Subject to specific appropriation, commit the juvenile
 1088 sexual offender to the department ~~of Juvenile Justice~~ for
 1089 placement in a program or facility for juvenile sexual offenders
 1090 in accordance with s. 985.308. Any commitment of a juvenile
 1091 sexual offender to a program or facility for juvenile sexual
 1092 offenders must be for an indeterminate period of time, but the
 1093 time may not exceed the maximum term of imprisonment that an
 1094 adult may serve for the same offense. The court may retain
 1095 jurisdiction over a juvenile sexual offender until the juvenile
 1096 sexual offender reaches the age of 21, specifically for the
 1097 purpose of completing the program.

1098 (d) Any commitment of a delinquent child to the department
 1099 ~~of Juvenile Justice~~ must be for an indeterminate period of time,
 1100 which may include periods of temporary release; however, but the
 1101 period of time may not exceed the maximum term of imprisonment
 1102 that an adult may serve for the same offense, except that the
 1103 duration of a minimum-risk nonresidential commitment for an
 1104 offense that is a misdemeanor of the second degree, or is
 1105 equivalent to a misdemeanor of the second degree, may be for a
 1106 period not to exceed 6 months. The duration of the child's
 1107 placement in a ~~residential~~ commitment program of any
 1108 restrictiveness level shall be based on objective performance-
 1109 based treatment planning. The child's treatment plan progress
 1110 and adjustment-related issues shall be reported to the court
 1111 quarterly, unless the court requests monthly reports each month.

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1112 The child's length of stay in a ~~residential~~ commitment program
 1113 may be extended if the child fails to comply with or participate
 1114 in treatment activities. The child's length of stay in the ~~such~~
 1115 program shall not be extended for purposes of sanction or
 1116 punishment. Any temporary release from such program must be
 1117 approved by the court. Any child so committed may be discharged
 1118 from institutional confinement or a program upon the direction
 1119 of the department with the concurrence of the court. The child's
 1120 treatment plan progress and adjustment-related issues must be
 1121 communicated to the court at the time the department requests
 1122 the court to consider releasing the child from the ~~residential~~
 1123 commitment program. Notwithstanding s. 743.07 and this
 1124 subsection, and except as provided in ss. 985.201 and 985.31, a
 1125 child may not be held under a commitment from a court under
 1126 ~~pursuant to~~ this section after becoming 21 years of age. The
 1127 department shall give the court that committed the child to the
 1128 department reasonable notice, in writing, of its desire to
 1129 discharge the child from a commitment facility. The court that
 1130 committed the child may thereafter accept or reject the request.
 1131 If the court does not respond within 10 days after receipt of
 1132 the notice, the request of the department shall be deemed
 1133 granted. This section does not limit the department's authority
 1134 to revoke a child's temporary release status and return the
 1135 child to a commitment facility for any violation of the terms
 1136 and conditions of the temporary release.

1137 (2) Following a delinquency adjudicatory hearing pursuant
 1138 to s. 985.228 and a delinquency disposition hearing pursuant to
 1139 s. 985.23 which results in a commitment determination, the court

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1140 shall, on its own or upon request by the state or the
 1141 department, determine whether the protection of the public
 1142 requires that the child be placed in a program for serious or
 1143 habitual juvenile offenders and whether the particular needs of
 1144 the child would be best served by a program for serious or
 1145 habitual juvenile offenders as provided in s. 985.31. The
 1146 determination shall be made pursuant to ss. 985.03 (49) ~~(48)~~ and
 1147 985.23(3).

1148 Section 7. Paragraph (a) of subsection (1) of section
 1149 985.2311, Florida Statutes, is amended to read:

1150 985.2311 Cost of supervision; cost of care.--

1151 (1) Except as provided in subsection (3) or subsection
 1152 (4):

1153 (a) When any child is placed into home detention,
 1154 probation, or other supervision status with the department of
 1155 ~~Juvenile Justice~~, or is committed to the minimum-risk
 1156 nonresidential restrictiveness level, the court shall order the
 1157 parent of such child to pay to the department a fee for the cost
 1158 of the supervision of such child in the amount of \$1 per day for
 1159 each day that the child is in such ~~supervision~~ status.

1160 Section 8. Subsection (3) of section 985.316, Florida
 1161 Statutes, is amended to read:

1162 985.316 Conditional release.--

1163 (3) For juveniles referred or committed to the department,
 1164 the function of the department may include, but shall not be
 1165 limited to, assessing each ~~committed~~ juvenile placed in a
 1166 residential commitment program to determine the need for
 1167 conditional release services upon release from the ~~a commitment~~

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1168 program, supervising the juvenile when released into the
1169 community from a residential commitment facility of the
1170 department, providing such counseling and other services as may
1171 be necessary for the families and assisting their preparations
1172 for the return of the child. Subject to specific appropriation,
1173 the department shall provide for outpatient sexual offender
1174 counseling for any juvenile sexual offender released from a
1175 residential commitment program as a component of conditional
1176 release.

1177 Section 9. Section 985.403, Florida Statutes, is repealed.

1178 Section 10. Task Force on Juvenile Sexual Offenders and
1179 their Victims.--

1180 (1) On or before August 1, 2005, there shall be created a
1181 task force to review and evaluate the state's laws that define
1182 and address juvenile sex offenders and the Department of
1183 Juvenile Justice's practices and procedures for serving these
1184 offenders and their victims. The task force shall make findings
1185 that include, but are not limited to: identification of statutes
1186 that address juvenile sexual offenders; a profile of the acts
1187 committed by each juvenile placed in juvenile sexual offender
1188 programming in this state between July 2000 and June 2005 and an
1189 assessment of the appropriateness of those placements based upon
1190 the acts committed; identification of community-based and
1191 residential commitment programming available for juvenile sexual
1192 offenders and an assessment of such programming's effectiveness;
1193 and identification of qualifications required for staff who
1194 serve juvenile sexual offenders. Based on its findings, the task
1195 force shall make recommendations for the improvement of the

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1196 state's laws, policies, programs, and funding for juvenile
 1197 sexual offenders, and such recommendations shall specifically
 1198 include, but are not limited to, identification of criteria that
 1199 should be satisfied prior to placement of a juvenile in juvenile
 1200 sexual offender programming.

1201 (2) The Governor shall appoint up to 12 members to the
 1202 task force. The task force shall be composed of representatives
 1203 who shall include, but are not limited to: a circuit court judge
 1204 with at least 1 year's experience in the juvenile division, a
 1205 state attorney with at least 1 year's experience in the juvenile
 1206 division, a public defender with at least 1 year's experience in
 1207 the juvenile division, one representative of the Department of
 1208 Juvenile Justice, two representatives of providers of juvenile
 1209 sexual offender services, one member of the Florida Juvenile
 1210 Justice Association, one member of the Florida Association for
 1211 the Treatment of Sexual Abusers, and one victim of a juvenile
 1212 sexual offense.

1213 (3) The task force shall submit a written report of its
 1214 findings and recommendations to the Governor, the President of
 1215 the Senate, and the Speaker of the House of Representatives by
 1216 December 1, 2005.

1217 (4) Administrative support for the task force shall be
 1218 provided by the Department of Juvenile Justice. Members of the
 1219 task force shall receive no salary from the state beyond the
 1220 salary already received from their sponsoring agency, if any,
 1221 and are not entitled to reimbursement for travel and per diem
 1222 expenses.

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1223 (5) The task force shall be dissolved upon submission of
 1224 its report.

1225 Section 11. Task force to study certification for juvenile
 1226 justice provider staff.--

1227 (1) On or before August 1, 2005, there shall be created a
 1228 task force to study the feasibility of establishing a
 1229 certification process for staff employed by a provider under
 1230 contract with the Department of Juvenile Justice to provide
 1231 juvenile justice services to youth.

1232 (2) The Governor shall appoint up to 12 members to the
 1233 task force. The task force shall be composed of representatives
 1234 who shall include, but are not limited to, the following: two
 1235 representatives of the Department of Juvenile Justice, two
 1236 representatives of providers of juvenile justice services, two
 1237 members of the Florida Juvenile Justice Association, two
 1238 provider employees who provide direct care services, and two
 1239 representatives of the Florida Certification Board.

1240 (3) The task force shall consider the feasibility of
 1241 implementing and operating a certification system for staff who
 1242 work in juvenile justice facilities, services, or programs. At a
 1243 minimum, the task force shall consider and make recommendations
 1244 concerning: per diem levels, the occupational levels of staff
 1245 subject to certification, the criteria that may be used to
 1246 certify staff, the levels of certification, and a process for
 1247 testing and validating the effectiveness of any recommended
 1248 staff certification system. In making its recommendations, the
 1249 task force shall make findings regarding the benefits of a staff

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1250 certification system for the state's juvenile justice
 1251 programming and the cost to implement such a system.

1252 (4) The task force shall submit a written report of its
 1253 findings and recommendations to the Governor, the President of
 1254 the Senate, and the Speaker of the House of Representatives by
 1255 January 1, 2006.

1256 (5) Administrative support for the task force shall be
 1257 provided by the Department of Juvenile Justice. Members of the
 1258 task force shall receive no salary from the state beyond the
 1259 salary already received from their sponsoring agency, if any,
 1260 and are not entitled to reimbursement for travel and per diem
 1261 expenses.

1262 (6) The task force shall be dissolved upon submission of
 1263 its report.

1264 Section 12. Subsection (10) of section 985.4135, Florida
 1265 Statutes, is amended to read:

1266 985.4135 Juvenile justice circuit boards and juvenile
 1267 justice county councils.--

1268 (10) Membership of the juvenile justice county councils,
 1269 or juvenile justice circuit boards established under subsection
 1270 (9), may ~~must~~ include representatives from the following
 1271 entities:

1272 (a) Representatives from the school district, which may
 1273 include elected school board officials, the school
 1274 superintendent, school or district administrators, teachers, and
 1275 counselors.

1276 (b) Representatives of the board of county commissioners.

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- 1277 (c) Representatives of the governing bodies of local
- 1278 municipalities within the county.
- 1279 (d) A representative of the corresponding circuit or
- 1280 regional entity of the Department of Children and Family
- 1281 Services.
- 1282 (e) Representatives of local law enforcement agencies,
- 1283 including the sheriff or the sheriff's designee.
- 1284 (f) Representatives of the judicial system.
- 1285 (g) Representatives of the business community.
- 1286 (h) Representatives of other interested officials, groups,
- 1287 or entities, including, but not limited to, a children's
- 1288 services council, public or private providers of juvenile
- 1289 justice programs and services, students, parents, and advocates.
- 1290 Private providers of juvenile justice programs may not exceed
- 1291 one-third of the voting membership.
- 1292 (i) Representatives of the faith community.
- 1293 (j) Representatives of victim-service programs and victims
- 1294 of crimes.
- 1295 (k) Representatives of the Department of Corrections.

1296 Section 13. Subsection (4) of section 985.407, Florida
 1297 Statutes, is amended to read:

1298 985.407 Departmental contracting powers; personnel
 1299 standards and screening.--

1300 (4) (a) For any person employed by the department, or by a
 1301 provider under contract with the department, in delinquency
 1302 facilities, services, or programs, the department shall require:

1303 1. A level 2 employment screening pursuant to chapter 435
 1304 prior to employment, using the level 1 standards for screening

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1305 ~~set forth in that chapter, for personnel in delinquency~~
1306 ~~facilities, services, and programs.~~

1307 2. A federal criminal records check by the Federal Bureau
1308 of Investigation every 5 years following the date of the
1309 person's employment.

1310 (b) Except for law enforcement, correctional, and
1311 correctional probation officers, to whom s. 943.13(5) applies,
1312 the department shall electronically submit to the Department of
1313 Law Enforcement:

1314 1. Fingerprint information obtained during the employment
1315 screening required by subparagraph (a)1.

1316 2. Beginning on December 15, 2005, fingerprint information
1317 for all persons employed by the department, or by a provider
1318 under contract with the department, in delinquency facilities,
1319 services, or programs if such fingerprint information has not
1320 previously been electronically submitted to the Department of
1321 Law Enforcement under this paragraph.

1322 (c) All fingerprint information electronically submitted
1323 to the Department of Law Enforcement under paragraph (b) shall
1324 be retained by the Department of Law Enforcement and entered
1325 into the statewide automated fingerprint identification system
1326 authorized by s. 943.05(2)(b). Thereafter, such fingerprint
1327 information shall be available for all purposes and uses
1328 authorized for arrest fingerprint information entered into the
1329 statewide automated fingerprint identification system pursuant
1330 to s. 943.051 until the fingerprint information is removed
1331 pursuant to paragraph (e). The Department of Law Enforcement
1332 shall search all arrest fingerprint information received

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1333 pursuant to s. 943.051 against the fingerprint information
 1334 entered into the statewide automated fingerprint system pursuant
 1335 to this subsection. Any arrest records identified as a result of
 1336 the search shall be reported to the department in the manner and
 1337 timeframe established by the Department of Law Enforcement by
 1338 rule.

1339 (d) The department shall pay an annual fee to the
 1340 Department of Law Enforcement for its costs resulting from the
 1341 fingerprint information retention services required by this
 1342 subsection. The amount of the annual fee and procedures for the
 1343 submission and retention of fingerprint information and for the
 1344 dissemination of search results shall be established by the
 1345 Department of Law Enforcement by a rule that is applicable to
 1346 the department individually pursuant to this subsection or that
 1347 is applicable to the department and other employing agencies
 1348 pursuant to rulemaking authority otherwise provided by law.

1349 (e) The department shall notify the Department of Law
 1350 Enforcement when a person whose fingerprint information is
 1351 retained by the Department of Law Enforcement under this
 1352 subsection is no longer employed by the department, or by a
 1353 provider under contract with the department, in a delinquency
 1354 facility, service, or program. This notice shall be provided by
 1355 the department to the Department of Law Enforcement no later
 1356 than 6 months after the date of the change in the person's
 1357 employment status. Fingerprint information for persons
 1358 identified by the department in the notice shall be removed from
 1359 the statewide automated fingerprint system.

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1360 Section 14. The sums of \$36,834 in recurring funds and
 1361 \$86,407 in nonrecurring funds are appropriated from the General
 1362 Revenue Fund to the Department of Juvenile Justice for expenses
 1363 for the 2005-2006 fiscal year. The sum of \$133,335 in recurring
 1364 funds is appropriated from the Administrative Trust Fund to the
 1365 Department of Juvenile Justice for expenses for the 2005-2006
 1366 fiscal year.

1367 Section 15. Section 784.075, Florida Statutes, is amended
 1368 to read:

1369 784.075 Battery on detention or commitment facility staff
 1370 or a juvenile probation officer.--A person who commits a battery
 1371 on a juvenile probation officer, as defined in s. 984.03 or s.
 1372 985.03, on other staff of a detention center or facility as
 1373 defined in s. 984.03(19) or s. 985.03~~(19)~~, or on a staff member
 1374 of a commitment facility as defined in s. 985.03~~(45)~~, commits a
 1375 felony of the third degree, punishable as provided in s.
 1376 775.082, s. 775.083, or s. 775.084. For purposes of this
 1377 section, a staff member of the facilities listed includes
 1378 persons employed by the Department of Juvenile Justice, persons
 1379 employed at facilities licensed by the Department of Juvenile
 1380 Justice, and persons employed at facilities operated under a
 1381 contract with the Department of Juvenile Justice.

1382 Section 16. Section 984.05, Florida Statutes, is amended
 1383 to read:

1384 984.05 Rules relating to habitual truants; adoption by
 1385 State Board of Education and Department of Juvenile
 1386 Justice.--The Department of Juvenile Justice and the State Board
 1387 of Education shall work together on the development of, and

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1388 shall adopt, rules as necessary for the implementation of ss.
 1389 984.03(27), 985.03 (26) ~~(25)~~, and 1003.27.

1390 Section 17. Paragraph (e) of subsection (3) and paragraph
 1391 (a) of subsection (4) of section 985.31, Florida Statutes, are
 1392 amended, and for the purpose of incorporating the amendment to
 1393 section 985.231, Florida Statutes, in references thereto,
 1394 paragraph (k) of subsection (3) of said section is reenacted to
 1395 read:

1396 985.31 Serious or habitual juvenile offender.--

1397 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
 1398 TREATMENT.--

1399 (e) After a child has been adjudicated delinquent pursuant
 1400 to s. 985.228, the court shall determine whether the child meets
 1401 the criteria for a serious or habitual juvenile offender
 1402 pursuant to s. 985.03 (49) ~~(48)~~. If the court determines that the
 1403 child does not meet such criteria, the provisions of s.
 1404 985.231(1) shall apply.

1405 (k) Any commitment of a child to the department for
 1406 placement in a serious or habitual juvenile offender program or
 1407 facility shall be for an indeterminate period of time, but the
 1408 time shall not exceed the maximum term of imprisonment which an
 1409 adult may serve for the same offense. Notwithstanding the
 1410 provisions of ss. 743.07 and 985.231(1)(d), a serious or
 1411 habitual juvenile offender shall not be held under commitment
 1412 from a court pursuant to this section, s. 985.231, or s. 985.233
 1413 after becoming 21 years of age. This provision shall apply only
 1414 for the purpose of completing the serious or habitual juvenile

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1415 offender program pursuant to this chapter and shall be used
 1416 solely for the purpose of treatment.

1417 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

1418 (a) Pursuant to the provisions of this section, the
 1419 department shall implement the comprehensive assessment
 1420 instrument for the treatment needs of serious or habitual
 1421 juvenile offenders and for the assessment, which assessment
 1422 shall include the criteria under s. 985.03 (49)~~(48)~~ and shall
 1423 also include, but not be limited to, evaluation of the child's:

- 1424 1. Amenability to treatment.
- 1425 2. Proclivity toward violence.
- 1426 3. Tendency toward gang involvement.
- 1427 4. Substance abuse or addiction and the level thereof.
- 1428 5. History of being a victim of child abuse or sexual
 1429 abuse, or indication of sexual behavior dysfunction.
- 1430 6. Number and type of previous adjudications, findings of
 1431 guilt, and convictions.
- 1432 7. Potential for rehabilitation.

1433 Section 18. Subsection (2) of section 985.3141, Florida
 1434 Statutes, is amended to read:

1435 985.3141 Escapes from secure detention or residential
 1436 commitment facility.--An escape from:

1437 (2) Any residential commitment facility described in s.
 1438 985.03 (46)~~(45)~~, maintained for the custody, treatment,
 1439 punishment, or rehabilitation of children found to have
 1440 committed delinquent acts or violations of law; or
 1441

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1442 constitutes escape within the intent and meaning of s. 944.40
 1443 and is a felony of the third degree, punishable as provided in
 1444 s. 775.082, s. 775.083, or s. 775.084.

1445 Section 19. For the purpose of incorporating the amendment
 1446 to section 985.231, Florida Statutes, in a reference thereto,
 1447 paragraph (a) of subsection (4) of section 985.201, Florida
 1448 Statutes, is reenacted to read:

1449 985.201 Jurisdiction.--

1450 (4) (a) Notwithstanding ss. 743.07, 985.229, 985.23, and
 1451 985.231, and except as provided in ss. 985.31 and 985.313, when
 1452 the jurisdiction of any child who is alleged to have committed a
 1453 delinquent act or violation of law is obtained, the court shall
 1454 retain jurisdiction, unless relinquished by its order, until the
 1455 child reaches 19 years of age, with the same power over the
 1456 child that the court had prior to the child becoming an adult.

1457 Section 20. For the purpose of incorporating the amendment
 1458 to section 985.231, Florida Statutes, in a reference thereto,
 1459 paragraph (b) of subsection (4) of section 985.233, Florida
 1460 Statutes, is reenacted to read:

1461 985.233 Sentencing powers; procedures; alternatives for
 1462 juveniles prosecuted as adults.--

1463 (4) SENTENCING ALTERNATIVES.--

1464 (b) Sentencing to juvenile sanctions.--For juveniles
 1465 transferred to adult court but who do not qualify for such
 1466 transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or
 1467 (b), the court may impose juvenile sanctions under this
 1468 paragraph. If juvenile sentences are imposed, the court shall,
 1469 pursuant to this paragraph, adjudge the child to have committed

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1470 a delinquent act. Adjudication of delinquency shall not be
 1471 deemed a conviction, nor shall it operate to impose any of the
 1472 civil disabilities ordinarily resulting from a conviction. The
 1473 court shall impose an adult sanction or a juvenile sanction and
 1474 may not sentence the child to a combination of adult and
 1475 juvenile punishments. An adult sanction or a juvenile sanction
 1476 may include enforcement of an order of restitution or probation
 1477 previously ordered in any juvenile proceeding. However, if the
 1478 court imposes a juvenile sanction and the department determines
 1479 that the sanction is unsuitable for the child, the department
 1480 shall return custody of the child to the sentencing court for
 1481 further proceedings, including the imposition of adult
 1482 sanctions. Upon adjudicating a child delinquent under subsection
 1483 (1), the court may:

1484 1. Place the child in a probation program under the
 1485 supervision of the department for an indeterminate period of
 1486 time until the child reaches the age of 19 years or sooner if
 1487 discharged by order of the court.

1488 2. Commit the child to the department for treatment in an
 1489 appropriate program for children for an indeterminate period of
 1490 time until the child is 21 or sooner if discharged by the
 1491 department. The department shall notify the court of its intent
 1492 to discharge no later than 14 days prior to discharge. Failure
 1493 of the court to timely respond to the department's notice shall
 1494 be considered approval for discharge.

1495 3. Order disposition pursuant to s. 985.231 as an
 1496 alternative to youthful offender or adult sentencing if the

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1497 | court determines not to impose youthful offender or adult
 1498 | sanctions.

1499 |
 1500 | It is the intent of the Legislature that the criteria and
 1501 | guidelines in this subsection are mandatory and that a
 1502 | determination of disposition under this subsection is subject to
 1503 | the right of the child to appellate review under s. 985.234.

1504 | Section 21. For the purpose of incorporating the amendment
 1505 | to section 985.231, Florida Statutes, in a reference thereto,
 1506 | paragraph (e) of subsection (3) of section 985.311, Florida
 1507 | Statutes, is reenacted to read:

1508 | 985.311 Intensive residential treatment program for
 1509 | offenders less than 13 years of age.--

1510 | (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
 1511 | TREATMENT.--

1512 | (e) After a child has been adjudicated delinquent pursuant
 1513 | to s. 985.228(5), the court shall determine whether the child is
 1514 | eligible for an intensive residential treatment program for
 1515 | offenders less than 13 years of age pursuant to s. 985.03(7). If
 1516 | the court determines that the child does not meet the criteria,
 1517 | the provisions of s. 985.231(1) shall apply.

1518 | Section 22. This act shall take effect July 1, 2005.

1519 |