

Bill No. CS for CS for SB 1978

Barcode 495400

CHAMBER ACTION

Senate

House

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Senator Crist moved the following amendment:

**Senate Amendment (with title amendment)**

On page 23, line 23, through  
page 24, line 17, delete those lines

and insert: postcommitment probation, or conditional release  
supervision, has absconded from nonresidential commitment, or  
has escaped from residential commitment.

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

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

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

(1) If an authorized agent of the department has  
reasonable grounds to believe that any delinquent child  
committed to the department has escaped from a residential  
commitment facility ~~of the department~~ or from being lawfully

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1 transported thereto or therefrom, or has absconded from a  
 2 nonresidential commitment facility, the agent may take the  
 3 child into active custody and may deliver the child to the  
 4 facility or, if it is closer, to a detention center for return  
 5 to the facility. However, a child may not be held in detention  
 6 longer than 24 hours, excluding Saturdays, Sundays, and legal  
 7 holidays, unless a special order so directing is made by the  
 8 judge after a detention hearing resulting in a finding that  
 9 detention is required based on the criteria in s. 985.215(2).  
 10 The order shall state the reasons for such finding. The  
 11 reasons shall be reviewable by appeal or in habeas corpus  
 12 proceedings in the district court of appeal.

13 (2) Any sheriff or other law enforcement officer, upon  
 14 the request of the secretary of the department or duly  
 15 authorized agent, shall take a child who has escaped ~~or~~  
 16 ~~absconded~~ from a residential commitment ~~department~~ facility  
 17 ~~for committed delinquent children~~, or from being lawfully  
 18 transported thereto or therefrom, or has absconded from a  
 19 nonresidential commitment facility, into custody and deliver  
 20 the child to the appropriate juvenile probation officer ~~of the~~  
 21 ~~department~~.

22 Section 4. Subsections (2) and (10) of section  
 23 985.215, Florida Statutes, are amended to read:

24 985.215 Detention.--

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

29 (a) The child is alleged to be an escapee from a  
 30 residential commitment program or an absconder from a  
 31 nonresidential commitment program, a probation program, or

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1 conditional release supervision, or is alleged to have escaped  
2 while being lawfully transported to or from a residential  
3 commitment ~~such program or supervision.~~

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

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

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

13 (e) The child is charged with possession or  
14 discharging a firearm on school property in violation of s.  
15 790.115.

16 (f) The child is charged with a capital felony, a life  
17 felony, a felony of the first degree, a felony of the second  
18 degree that does not involve a violation of chapter 893, or a  
19 felony of the third degree that is also a crime of violence,  
20 including any such offense involving the use or possession of  
21 a firearm.

22 (g) The child is charged with any second degree or  
23 third degree felony involving a violation of chapter 893 or  
24 any third degree felony that is not also a crime of violence,  
25 and the child:

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

29 2. Has a record of law violations prior to court  
30 hearings;

31 3. Has already been detained or has been released and

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1 is awaiting final disposition of the case;

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

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

5 (h) The child is alleged to have violated the  
6 conditions of the child's probation or conditional release  
7 supervision. However, a child detained under this paragraph  
8 may be held only in a consequence unit as provided in s.  
9 985.231(1)(a)1.c. If a consequence unit is not available, the  
10 child shall be placed on home detention with electronic  
11 monitoring.

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

24 (j) The child is detained on a judicial order for  
25 failure to appear and has previously willfully failed to  
26 appear, after proper notice, at two or more court hearings of  
27 any nature on the same case regardless of the results of the  
28 risk assessment instrument. A child may be held in secure  
29 detention for up to 72 hours in advance of the next scheduled  
30 court hearing pursuant to this paragraph. The child's failure  
31 to keep the clerk of court and defense counsel informed of a

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1 current and valid mailing address where the child will receive  
2 notice to appear at court proceedings does not provide an  
3 adequate ground for excusal of the child's nonappearance at  
4 the hearings.

5  
6 A child who meets any of these criteria and who is ordered to  
7 be detained pursuant to this subsection shall be given a  
8 hearing within 24 hours after being taken into custody. The  
9 purpose of the detention hearing is to determine the existence  
10 of probable cause that the child has committed the delinquent  
11 act or violation of law with which he or she is charged and  
12 the need for continued detention, except when the child is  
13 alleged to have absconded from a nonresidential commitment  
14 program, in which case the court, at the detention hearing,  
15 shall order that the child be released from detention and  
16 returned to his or her nonresidential commitment program.

17 Unless a child is detained under paragraph (d) or paragraph  
18 (e), the court shall use ~~utilize~~ the results of the risk  
19 assessment performed by the juvenile probation officer and,  
20 based on the criteria in this subsection, shall determine the  
21 need for continued detention. A child placed into secure,  
22 nonsecure, or home detention care may continue to be so  
23 detained by the court pursuant to this subsection. If the  
24 court orders a placement more restrictive than indicated by  
25 the results of the risk assessment instrument, the court shall  
26 state, in writing, clear and convincing reasons for such  
27 placement. Except as provided in s. 790.22(8) or in  
28 subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c),  
29 or paragraph (10)(d), when a child is placed into secure or  
30 nonsecure detention care, or into a respite home or other  
31 placement pursuant to a court order following a hearing, the

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1 court order must include specific instructions that direct the  
 2 release of the child from such placement no later than 5 p.m.  
 3 on the last day of the detention period specified in paragraph  
 4 (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1.,  
 5 whichever is applicable, unless the requirements of such  
 6 applicable provision have been met or an order of continuance  
 7 has been granted pursuant to paragraph (5)(f).

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

22 2. The court must place all children who are  
 23 adjudicated and awaiting placement in a ~~residential~~ commitment  
 24 program in detention care. Children who are in home detention  
 25 care or nonsecure detention care may be placed on electronic  
 26 monitoring.

27 (b) A child who is placed in home detention care,  
 28 nonsecure detention care, or home or nonsecure detention care  
 29 with electronic monitoring, while awaiting placement in a  
 30 minimum-risk, low-risk, or moderate-risk program, may be held  
 31 in secure detention care for 5 days, if the child violates the

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1 conditions of the home detention care, the nonsecure detention  
2 care, or the electronic monitoring agreement. For any  
3 subsequent violation, the court may impose an additional 5  
4 days in secure detention care.

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

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

11 (e) Upon specific appropriation, the department may  
12 obtain comprehensive evaluations, including, but not limited  
13 to, medical, academic, psychological, behavioral,  
14 sociological, and vocational needs of a youth with multiple  
15 arrests for all level criminal acts or a youth committed to a  
16 minimum-risk or low-risk commitment program.

17 (f) Regardless of detention status, a child being  
18 transported by the department to a residential commitment  
19 facility of the department may be placed in secure detention  
20 overnight, not to exceed a 24-hour period, for the specific  
21 purpose of ensuring the safe delivery of the child to his or  
22 her residential commitment program, court, appointment,  
23 transfer, or release.

24  
25 (Redesignate subsequent sections.)

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

29 And the title is amended as follows:

30 On page 1, lines 7-12, delete those lines

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1 and insert:

2 child who escapes from a residential commitment  
3 or absconds from a nonresidential commitment  
4 may be taken into custody; amending s. 985.208,  
5 F.S.; providing that a child may be taken into  
6 custody for absconding from a nonresidential  
7 commitment facility; amending s. 985.215, F.S.;  
8 providing for release from detention for a  
9 child who has absconded; providing for  
10 detention for committed children awaiting  
11 placement; providing secure detention for  
12 children awaiting minimum-risk placement who  
13 violate home or nonsecure detention or  
14 electronic monitoring; providing for secure  
15 detention for children being transported to  
16 residential commitment programs; amending s.

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