

1 prohibited from juvenile justice facilities and
2 programs; creating s. 985.4061, F.S.; requiring
3 the Department of Juvenile Justice to establish
4 a workgroup to study the certification of
5 professional staff working for a provider of
6 juvenile justice services; providing for
7 membership; requiring the workgroup to consider
8 the feasibility of implementing and operating a
9 certification system for professional staff;
10 requiring the workgroup to consider, at a
11 minimum, certain specified issues; directing
12 the workgroup to recommend a process for
13 testing and validating the effectiveness of the
14 recommended professional staff development
15 system; requiring the workgroup to prepare a
16 report of its deliberations and recommendations
17 and to submit the report to the Governor, the
18 President of the Senate, and the Speaker of the
19 House of Representatives by a specified date;
20 amending s. 985.407, F.S.; providing
21 legislative intent relating to the Department
22 of Juvenile Justice contracting with private
23 providers; amending s. 985.412, F.S.; providing
24 that quality assurance standards for providers
25 under contract with the department shall remain
26 unchanged; providing exceptions; amending ss.
27 784.075, 984.05, 985.231, 985.31, and 985.3141,
28 F.S.; conforming cross-references; providing an
29 effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 985.03, Florida Statutes, is
2 amended to read:

3 985.03 Definitions.--~~As when~~ used in this chapter, the
4 term:

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

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

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

13 (4) "Arbitration" means a process whereby a neutral
14 third person or panel, called an arbitrator or an arbitration
15 panel, considers the facts and arguments presented by the
16 parties and renders a decision which may be binding or
17 nonbinding.

18 (5) "Authorized agent" or "designee" of the department
19 means a person or agency assigned or designated by the
20 Department of Juvenile Justice or the Department of Children
21 and Family Services, as appropriate, to perform duties or
22 exercise powers under ~~pursuant to~~ this chapter and includes
23 contract providers and their employees for purposes of
24 providing services to and managing cases of children in need
25 of services and families in need of services.

26 (6) "Child" or "juvenile" or "youth" means any
27 unmarried person under the age of 18 who has not been
28 emancipated by order of the court and who has been found or
29 alleged to be dependent, in need of services, or from a family
30 in need of services; or any married or unmarried person who is
31

1 | charged with a violation of law occurring prior to the time
2 | that person reached the age of 18 years.

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

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

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

30 | (b) The child is less than 13 years of age at the time
31 | of the disposition, the current offense is a felony, and the

1 child has previously been committed at least once to a
2 delinquency commitment program.

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

6 (8) "Child in need of services" means a child for whom
7 there is no pending investigation into an allegation or
8 suspicion of abuse, neglect, or abandonment; no pending
9 referral alleging the child is delinquent; or no current
10 supervision by the Department of Juvenile Justice or the
11 Department of Children and Family Services for an adjudication
12 of dependency or delinquency. The child must also, under
13 ~~pursuant to~~ this chapter, be found by the court:

14 (a) To have persistently run away from the child's
15 parents or legal custodians despite reasonable efforts of the
16 child, the parents or legal custodians, and appropriate
17 agencies to remedy the conditions contributing to the
18 behavior. Reasonable efforts shall include voluntary
19 participation by the child's parents or legal custodians and
20 the child in family mediation, services, and treatment offered
21 by the Department of Juvenile Justice or the Department of
22 Children and Family Services;

23 (b) To be habitually truant from school, while subject
24 to compulsory school attendance, despite reasonable efforts to
25 remedy the situation under ~~pursuant to~~ ss. 1003.26 and 1003.27
26 and through voluntary participation by the child's parents or
27 legal custodians and by the child in family mediation,
28 services, and treatment offered by the Department of Juvenile
29 Justice or the Department of Children and Family Services; or

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

1 | to be beyond their control despite efforts by the child's
2 | parents or legal custodians and appropriate agencies to remedy
3 | the conditions contributing to the behavior. Reasonable
4 | efforts may include such things as good faith participation in
5 | family or individual counseling.

6 | (9) "Child who has been found to have committed a
7 | delinquent act" means a child who, under ~~pursuant to the~~
8 | ~~provisions of~~ this chapter, is found by a court to have
9 | committed a violation of law or to be in direct or indirect
10 | contempt of court, except that this definition does ~~shall~~ not
11 | include an act constituting contempt of court arising out of a
12 | dependency proceeding or a proceeding under ~~pursuant to~~ part
13 | III of this chapter.

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

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

20 | (12) "Comprehensive assessment" or "assessment" means
21 | the gathering of information for the evaluation of a juvenile
22 | offender's or a child's physical, psychological, educational,
23 | vocational, and social condition and family environment as
24 | they relate to the child's need for rehabilitative and
25 | treatment services, including substance abuse treatment
26 | services, mental health services, developmental services,
27 | literacy services, medical services, family services, and
28 | other specialized services, as appropriate.

29 | (13) "Conditional release" means the care, treatment,
30 | help, and supervision provided to a juvenile released from a
31 | residential commitment program which is intended to promote

1 rehabilitation and prevent recidivism. The purpose of
2 conditional release is to protect the public, reduce
3 recidivism, increase responsible productive behavior, and
4 provide for a successful transition of the youth from the
5 department to the family. Conditional release includes, but is
6 not limited to, nonresidential community-based programs.

7 (14) "Court," unless otherwise expressly stated, means
8 the circuit court assigned to exercise jurisdiction under this
9 chapter.

10 (15) "Day treatment" means a community-based program
11 designed to provide therapeutic intervention while the youth
12 remains in a community setting. This program is targeted to
13 youth on probation, control release, or in commitment status.
14 Day treatment offers supervision, counseling, and family
15 services, and may provide educational services.

16 (16)(a)~~(15)(a)~~ "Delinquency program" means any intake,
17 probation, or similar program; regional detention center or
18 facility; or community-based program, whether owned and
19 operated by or contracted by the Department of Juvenile
20 Justice, or institution owned and operated by or contracted by
21 the Department of Juvenile Justice, which provides intake,
22 supervision, or custody and care of children who are alleged
23 to be or who have been found to be delinquent under ~~pursuant~~
24 ~~to~~ part II.

25 (b) "Delinquency program staff" means supervisory and
26 direct care staff of a delinquency program as well as support
27 staff who have direct contact with children in a delinquency
28 program.

29 (c) "Delinquency prevention programs" means programs
30 designed for the purpose of reducing the occurrence of
31 delinquency, including youth and street gang activity, and

1 juvenile arrests. The term excludes arbitration, diversionary
2 or mediation programs, and community service work or other
3 treatment available subsequent to a child committing a
4 delinquent act.

5 ~~(17)~~~~(16)~~ "Department" means the Department of Juvenile
6 Justice.

7 ~~(18)~~~~(17)~~ "Designated facility" or "designated
8 treatment facility" means any facility designated by the
9 Department of Juvenile Justice to provide treatment to
10 juvenile offenders.

11 ~~(19)~~~~(18)~~ "Detention care" means the temporary care of
12 a child in secure, nonsecure, or home detention, pending a
13 court adjudication or disposition or execution of a court
14 order. There are three types of detention care, as follows:

15 (a) "Secure detention" means temporary custody of the
16 child while the child is under the physical restriction of a
17 detention center or facility pending adjudication,
18 disposition, or placement.

19 (b) "Nonsecure detention" means temporary custody of
20 the child while the child is in a residential home in the
21 community in a physically nonrestrictive environment under the
22 supervision of the Department of Juvenile Justice pending
23 adjudication, disposition, or placement.

24 (c) "Home detention" means temporary custody of the
25 child while the child is released to the custody of the
26 parent, guardian, or custodian in a physically nonrestrictive
27 environment under the supervision of the Department of
28 Juvenile Justice staff pending adjudication, disposition, or
29 placement.

30 ~~(20)~~~~(19)~~ "Detention center or facility" means a
31 facility used pending court adjudication or disposition or

1 execution of court order for the temporary care of a child
2 alleged or found to have committed a violation of law. A
3 detention center or facility may provide secure or nonsecure
4 custody. A facility used for the commitment of adjudicated
5 delinquents shall not be considered a detention center or
6 facility.

7 ~~(21)~~(20) "Detention hearing" means a hearing for the
8 court to determine if a child should be placed in temporary
9 custody, as provided for under ss. 985.213 and 985.215 in
10 delinquency cases.

11 ~~(22)~~(21) "Disposition hearing" means a hearing in
12 which the court determines the most appropriate dispositional
13 services in the least restrictive available setting provided
14 for under s. 985.231, in delinquency cases.

15 ~~(23)~~(22) "Family" means a collective of persons,
16 consisting of a child and a parent, guardian, adult custodian,
17 or adult relative, in which:

18 (a) The persons reside in the same house or living
19 unit; or

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

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

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

1 (b) Persistently disobeying reasonable and lawful
2 demands of parents or legal custodians, and being beyond their
3 control; or

4 (c) Habitual truancy from school.

5 ~~(25)~~~~(24)~~ "Foster care" means care provided a child in
6 a foster family or boarding home, group home, agency boarding
7 home, child care institution, or any combination thereof.

8 ~~(26)~~~~(25)~~ "Habitually truant" means that:

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

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

19
20 If a child who is subject to compulsory school attendance is
21 responsive to the interventions described in ss. 1003.26 and
22 1003.27 and has completed the necessary requirements to pass
23 the current grade as indicated in the district pupil
24 progression plan, the child shall not be determined to be
25 habitually truant and shall be passed. If a child within the
26 compulsory school attendance age has 15 unexcused absences
27 within 90 calendar days or fails to enroll in school, the
28 state attorney may file a child-in-need-of-services petition.
29 ~~Before~~ ~~Prior to~~ filing a petition, the child must be referred
30 to the appropriate agency for evaluation. After consulting
31

1 with the evaluating agency, the state attorney may elect to
2 file a child-in-need-of-services petition.

3 (c) A school representative, designated according to
4 school board policy, and a juvenile probation officer of the
5 Department of Juvenile Justice have jointly investigated the
6 truancy problem or, if that was not feasible, have performed
7 separate investigations to identify conditions that could be
8 contributing to the truant behavior; and if, after a joint
9 staffing of the case to determine the necessity for services,
10 such services were determined to be needed, the persons who
11 performed the investigations met jointly with the family and
12 child to discuss any referral to appropriate community
13 agencies for economic services, family or individual
14 counseling, or other services required to remedy the
15 conditions that are contributing to the truant behavior.

16 (d) The failure or refusal of the parent or legal
17 guardian or the child to participate, or make a good faith
18 effort to participate, in the activities prescribed to remedy
19 the truant behavior, or the failure or refusal of the child to
20 return to school after participation in activities required by
21 this subsection, or the failure of the child to stop the
22 truant behavior after the school administration and the
23 Department of Juvenile Justice have worked with the child as
24 described in s. 1003.27(3) shall be handled as prescribed in
25 s. 1003.27.

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

30 ~~(28)~~~~(27)~~ "Intake" means the initial acceptance and
31 screening by the Department of Juvenile Justice of a complaint

1 or a law enforcement report or probable cause affidavit of
2 delinquency, family in need of services, or child in need of
3 services to determine the recommendation to be taken in the
4 best interests of the child, the family, and the community.
5 The emphasis of intake is on diversion and the least
6 restrictive available services. Consequently, intake includes
7 such alternatives as:

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

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

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

15 (29) "Intensive delinquency diversion program" means a
16 community-based diversion program to intervene with arrested
17 youth, most of whom are younger than 16 years of age, who
18 exhibit risk factors that may cause the youth to participate
19 further in delinquency activities.

20 (30) "Independent living" means a program designed to
21 assist the transition of the youth from a commitment status
22 back to the community. These programs provide supportive
23 housing and support services.

24 ~~(31)(28)~~ "Judge" means the circuit judge exercising
25 jurisdiction pursuant to this chapter.

26 ~~(32)(29)~~ "Juvenile justice continuum" includes, but is
27 not limited to, delinquency prevention programs and services
28 designed for the purpose of preventing or reducing delinquent
29 acts, including criminal activity by youth gangs, and juvenile
30 arrests, as well as programs and services targeted at children
31 who have committed delinquent acts, and children who have

1 | previously been committed to residential treatment programs
2 | for delinquents. The term includes
3 | children-in-need-of-services and families-in-need-of-services
4 | programs; conditional release; substance abuse and mental
5 | health programs; educational and career programs; recreational
6 | programs; community services programs; community service work
7 | programs; and alternative dispute resolution programs serving
8 | children at risk of delinquency and their families, whether
9 | offered or delivered by state or local governmental entities,
10 | public or private for-profit or not-for-profit organizations,
11 | or religious or charitable organizations.

12 | ~~(33)~~~~(30)~~ "Juvenile probation officer" means the
13 | authorized agent of the Department of Juvenile Justice who
14 | performs the intake, case management, or supervision
15 | functions.

16 | ~~(34)~~~~(31)~~ "Juvenile sexual offender" means:

17 | (a) A juvenile who has been found by the court under
18 | ~~pursuant to~~ s. 985.228 to have committed a violation of
19 | chapter 794, chapter 796, chapter 800, s. 827.071, or s.
20 | 847.0133;

21 | (b) A juvenile found to have committed any felony
22 | violation of law or delinquent act involving juvenile sexual
23 | abuse. "Juvenile sexual abuse" means any sexual behavior which
24 | occurs without consent, without equality, or as a result of
25 | coercion. For purposes of this subsection, the following
26 | definitions apply:

27 | 1. "Coercion" means the exploitation of authority, use
28 | of bribes, threats of force, or intimidation to gain
29 | cooperation or compliance.
30 |
31 |

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

4 3. "Consent" means an agreement including all of the
5 following:

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

8 b. Knowledge of societal standards for what is being
9 proposed.

10 c. Awareness of potential consequences and
11 alternatives.

12 d. Assumption that agreement or disagreement will be
13 accepted equally.

14 e. Voluntary decision.

15 f. Mental competence.

16
17 Juvenile sexual offender behavior ranges from noncontact
18 sexual behavior such as making obscene phone calls,
19 exhibitionism, voyeurism, and the showing or taking of lewd
20 photographs to varying degrees of direct sexual contact, such
21 as frottage, fondling, digital penetration, rape, fellatio,
22 sodomy, and various other sexually aggressive acts.

23 ~~(35)(32)~~ "Legal custody or guardian" means a legal
24 status created by court order or letter of guardianship which
25 vests in a custodian of the person or guardian, whether an
26 agency or an individual, the right to have physical custody of
27 the child and the right and duty to protect, train, and
28 discipline the child and to provide him or her with food,
29 shelter, education, and ordinary medical, dental, psychiatric,
30 and psychological care.

31

1 ~~(36)~~(33) "Licensed child-caring agency" means a
2 person, society, association, or agency licensed by the
3 Department of Children and Family Services to care for,
4 receive, and board children.

5 ~~(37)~~(34) "Licensed health care professional" means a
6 physician licensed under chapter 458, an osteopathic physician
7 licensed under chapter 459, a nurse licensed under part I of
8 chapter 464, a physician assistant licensed under chapter 458
9 or chapter 459, or a dentist licensed under chapter 466.

10 ~~(38)~~(35) "Likely to injure oneself" means that, as
11 evidenced by violent or other actively self-destructive
12 behavior, it is more likely than not that within a 24-hour
13 period the child will attempt to commit suicide or inflict
14 serious bodily harm on himself or herself.

15 ~~(39)~~(36) "Likely to injure others" means that it is
16 more likely than not that within a 24-hour period the child
17 will inflict serious and unjustified bodily harm on another
18 person.

19 ~~(40)~~(37) "Mediation" means a process whereby a neutral
20 third person called a mediator acts to encourage and
21 facilitate the resolution of a dispute between two or more
22 parties. It is an informal and nonadversarial process with
23 the objective of helping the disputing parties reach a
24 mutually acceptable and voluntary agreement. In mediation,
25 decisionmaking authority rests with the parties. The role of
26 the mediator includes, but is not limited to, assisting the
27 parties in identifying issues, fostering joint problem
28 solving, and exploring settlement alternatives.

29 ~~(41)~~(38) "Necessary medical treatment" means care
30 which is necessary within a reasonable degree of medical
31

1 | certainty to prevent the deterioration of a child's condition
2 | or to alleviate immediate pain of a child.

3 | ~~(42)~~~~(39)~~ "Next of kin" means an adult relative of a
4 | child who is the child's brother, sister, grandparent, aunt,
5 | uncle, or first cousin.

6 | ~~(43)~~~~(40)~~ "Parent" means a woman who gives birth to a
7 | child and a man whose consent to the adoption of the child
8 | would be required under s. 63.062(1). If a child has been
9 | legally adopted, the term "parent" means the adoptive mother
10 | or father of the child. The term does not include an
11 | individual whose parental relationship to the child has been
12 | legally terminated, or an alleged or prospective parent,
13 | unless the parental status falls within the terms of either s.
14 | 39.503(1) or s. 63.062(1).

15 | ~~(44)~~~~(41)~~ "Preliminary screening" means the gathering
16 | of preliminary information to be used in determining a child's
17 | need for further evaluation or assessment or for referral for
18 | other substance abuse services through means such as
19 | psychosocial interviews; urine and breathalyzer screenings;
20 | and reviews of available educational, delinquency, and
21 | dependency records of the child.

22 | ~~(45)~~~~(42)~~ "Preventive services" means social services
23 | and other supportive and rehabilitative services provided to
24 | the parent of the child, the legal guardian of the child, or
25 | the custodian of the child and to the child for the purpose of
26 | averting the removal of the child from the home or disruption
27 | of a family which will or could result in the placement of a
28 | child in foster care. Social services and other supportive
29 | and rehabilitative services shall promote the child's need for
30 | a safe, continuous, stable living environment and shall
31 |

1 | promote family autonomy and shall strengthen family life as
2 | the first priority whenever possible.

3 | ~~(46)~~~~(43)~~ "Probation" means the legal status of
4 | probation created by law and court order in cases involving a
5 | child who has been found to have committed a delinquent act.
6 | Probation is an individualized program in which the freedom of
7 | the child is limited and the child is restricted to
8 | noninstitutional quarters or restricted to the child's home in
9 | lieu of commitment to the custody of the Department of
10 | Juvenile Justice. Youth on probation may be assessed and
11 | classified for placement in day-treatment probation programs
12 | designed for youth who represent a minimum risk to themselves
13 | and public safety and do not require placement and services in
14 | a residential setting. Program types in this more intensive
15 | and structured day-treatment probation option include career
16 | programs, marine programs, juvenile justice alternative
17 | schools, training and rehabilitation programs, and
18 | gender-specific programs.

19 | ~~(47)~~~~(44)~~ "Relative" means a grandparent,
20 | great-grandparent, sibling, first cousin, aunt, uncle,
21 | great-aunt, great-uncle, niece, or nephew, whether related by
22 | the whole or half blood, by affinity, or by adoption. The term
23 | does not include a stepparent.

24 | ~~(48)~~~~(45)~~ "~~Residential~~ Commitment level" means the
25 | level of programming and security provided by programs that
26 | service the supervision, custody, care, and treatment needs of
27 | committed children. Sections 985.3141 and 985.404(11) apply to
28 | children placed in programs at any ~~residential~~ commitment
29 | level. The levels of ~~residential~~ commitment are as follows:

30 | (a) Community commitment.--Programs at this commitment
31 | level work with youth who remain in the community and

1 participate daily in a structured day treatment program,
2 residential substance abuse treatment program, or juvenile sex
3 offender day treatment program. Youth in this level have full
4 access to, and reside in, the community.

5 **(b)**~~(a)~~ Low-risk residential.--Programs or program
6 models at this commitment level are residential but may allow
7 youth to have unsupervised access to the community. Youth
8 assessed and classified for placement in programs at this
9 commitment level represent a low risk to themselves and public
10 safety but do require placement and services in residential
11 settings. Children who have been found to have committed
12 delinquent acts that involve firearms, delinquent acts that
13 are sexual offenses, or delinquent acts that would be life
14 felonies or first degree felonies if committed by an adult
15 shall not be committed to a program at this level.

16 **(c)**~~(b)~~ Moderate-risk residential.--Programs or program
17 models at this commitment level are residential but may allow
18 youth to have supervised access to the community. Facilities
19 are either environmentally secure, staff secure, or are
20 hardware-secure with walls, fencing, or locking doors.
21 Facilities shall provide 24-hour awake supervision, custody,
22 care, and treatment of residents. Youth assessed and
23 classified for placement in programs at this commitment level
24 represent a moderate risk to public safety and require close
25 supervision. The staff at a facility at this commitment level
26 may seclude a child who is a physical threat to himself or
27 herself or others. Mechanical restraint may also be used when
28 necessary.

29 **(d)**~~(c)~~ High-risk residential.--Programs or program
30 models at this commitment level are residential and ~~do shall~~
31 not allow youth to have access to the community except for

1 family emergencies and the final 120 days of placement. A
2 youth at this level who has made satisfactory progress in his
3 or her treatment may, with court approval, participate in
4 prerelease home visits for school or vocational program
5 enrollment, job interviews, visits to transition the youth
6 back to the family or other alternative living arrangement,
7 and community service projects. Facilities are hardware-secure
8 with perimeter fencing and locking doors. Facilities shall
9 provide 24-hour awake supervision, custody, care, and
10 treatment of residents. Youth assessed and classified for
11 this level of placement require close supervision in a
12 structured residential setting. Placement in programs at this
13 level is prompted by a concern for public safety that
14 outweighs placement in programs at lower commitment levels.
15 The staff at a facility at this commitment level may seclude a
16 child who is a physical threat to himself or herself or
17 others. Mechanical restraint may also be used when necessary.
18 The facility may provide for single cell occupancy.

19 (e)(d) Maximum-risk residential.--Programs or program
20 models at this commitment level include juvenile correctional
21 facilities ~~and juvenile prisons~~. The programs are long-term
22 residential and shall not allow youth to have access to the
23 community. Facilities are maximum-custody hardware-secure
24 with perimeter security fencing and locking doors. Facilities
25 shall provide 24-hour awake supervision, custody, care, and
26 treatment of residents. The staff at a facility at this
27 commitment level may seclude a child who is a physical threat
28 to himself or herself or others. Mechanical restraint may
29 also be used when necessary. The facility shall provide for
30 single cell occupancy, except that youth may be housed
31 together during prerelease transition. Youth assessed and

1 classified for this level of placement require close
2 supervision in a maximum security residential setting.
3 Placement in a program at this level is prompted by a
4 demonstrated need to protect the public.

5 ~~(49)~~~~(46)~~ "Respite" means a placement that is available
6 for the care, custody, and placement of a youth charged with
7 domestic violence as an alternative to secure detention or for
8 placement of a youth when a shelter bed for a child in need of
9 services or a family in need of services is unavailable.

10 ~~(50)~~~~(47)~~ "Secure detention center or facility" means a
11 physically restricting facility for the temporary care of
12 children, pending adjudication, disposition, or placement.

13 ~~(51)~~~~(48)~~ "Serious or habitual juvenile offender," for
14 purposes of commitment to a residential facility and for
15 purposes of records retention, means a child who has been
16 found to have committed a delinquent act or a violation of
17 law, in the case currently before the court, and who meets at
18 least one of the following criteria:

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

- 22 1. Arson;
- 23 2. Sexual battery;
- 24 3. Robbery;
- 25 4. Kidnapping;
- 26 5. Aggravated child abuse;
- 27 6. Aggravated assault;
- 28 7. Aggravated stalking;
- 29 8. Murder;
- 30 9. Manslaughter;
- 31

1 10. Unlawful throwing, placing, or discharging of a
2 destructive device or bomb;

3 11. Armed burglary;

4 12. Aggravated battery;

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

7 14. Carrying, displaying, using, threatening, or
8 attempting to use a weapon or firearm during the commission of
9 a felony.

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

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

17 ~~(52)~~~~(49)~~ "Serious or habitual juvenile offender
18 program" means the program established in s. 985.31.

19 ~~(53)~~~~(50)~~ "Shelter" means a place for the temporary
20 care of a child who is alleged to be or who has been found to
21 be delinquent.

22 ~~(54)~~~~(51)~~ "Shelter hearing" means a hearing provided
23 for under s. 984.14 in family-in-need-of-services cases or
24 child-in-need-of-services cases.

25 ~~(55)~~~~(52)~~ "Staff-secure shelter" means a facility in
26 which a child is supervised 24 hours a day by staff members
27 who are awake while on duty. The facility is for the temporary
28 care and assessment of a child who has been found to be
29 dependent, who has violated a court order and been found in
30 contempt of court, or whom the Department of Children and
31 Family Services is unable to properly assess or place for

1 assistance within the continuum of services provided for
2 dependent children.

3 ~~(56)~~~~(53)~~ "Substance abuse" means using, without
4 medical reason, any psychoactive or mood-altering drug,
5 including alcohol, in such a manner as to induce impairment
6 resulting in dysfunctional social behavior.

7 ~~(57)~~~~(54)~~ "Taken into custody" means the status of a
8 child immediately when temporary physical control over the
9 child is attained by a person authorized by law, pending the
10 child's release, detention, placement, or other disposition as
11 authorized by law.

12 ~~(58)~~~~(55)~~ "Temporary legal custody" means the
13 relationship that a juvenile court creates between a child and
14 an adult relative of the child, adult nonrelative approved by
15 the court, or other person until a more permanent arrangement
16 is ordered. Temporary legal custody confers upon the custodian
17 the right to have temporary physical custody of the child and
18 the right and duty to protect, train, and discipline the child
19 and to provide the child with food, shelter, and education,
20 and ordinary medical, dental, psychiatric, and psychological
21 care, unless these rights and duties are otherwise enlarged or
22 limited by the court order establishing the temporary legal
23 custody relationship.

24 ~~(59)~~~~(56)~~ "Temporary release" means the terms and
25 conditions under which a child is temporarily released from a
26 commitment facility or allowed home visits. If the temporary
27 release is from a moderate-risk residential facility, a
28 high-risk residential facility, or a maximum-risk residential
29 facility, the terms and conditions of the temporary release
30 must be approved by the child, the court, and the facility.
31 The term includes periods during which the child is supervised

1 pursuant to a conditional release program or a period during
2 which the child is supervised by a juvenile probation officer
3 or other nonresidential staff of the department or staff
4 employed by an entity under contract with the department.

5 ~~(60)(57)~~ "Training school" means one of the following
6 facilities: the Arthur G. Dozier School or the Eckerd Youth
7 Development Center.

8 ~~(61)(58)~~ "Violation of law" or "delinquent act" means
9 a violation of any law of this state, the United States, or
10 any other state which is a misdemeanor or a felony or a
11 violation of a county or municipal ordinance which would be
12 punishable by incarceration if the violation were committed by
13 an adult.

14 ~~(62)(59)~~ "Waiver hearing" means a hearing provided for
15 under s. 985.226(3).

16 Section 2. Paragraph (d) of subsection (1) of section
17 985.231, Florida Statutes, is amended to read:

18 985.231 Powers of disposition in delinquency cases.--

19 (1)

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

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

25 Section 3. Section 985.3052, Florida Statutes, is
26 created to read:

27 985.3052 Intensive delinquency diversion program.--
28 (1) The department shall, contingent upon a specific
29 appropriation and with the cooperation of local law
30 enforcement agencies, the judiciary, the office of the state
31 attorney, and the office of the public defender, create an

1 intensive delinquency diversion program, a diversion program
2 for young offenders who are most at-risk of becoming chronic
3 delinquent offenders.

4 (2) The components of the program shall include, but
5 are not limited to:

6 (a) A risk assessment to determine whether the
7 offenders, who are younger than 16 years of age, appear to be
8 at risk of becoming serious and chronic delinquent offenders;

9 (b) More intensive supervision and services than are
10 available in other delinquency diversion programs;

11 (c) Face-to-face contacts by professional staff with
12 each youth no less than once each week; and

13 (d) Sanctions applied to the delinquent that may
14 include, but are not limited to, community service,
15 restitution, urinalysis, and curfew.

16 Section 4. Section 985.314, Florida Statutes, is
17 amended to read:

18 985.314 Commitment programs for juvenile felony
19 offenders.--

20 (1) Notwithstanding any other law and regardless of
21 the child's age, a child who is adjudicated delinquent, or for
22 whom adjudication is withheld, for an act that would be a
23 felony if committed by an adult, shall be committed to:

24 (a) A program at one of the five levels of commitment
25 status as defined in s. 985.03(45).

26 ~~(b)(a)~~ A boot camp program under s. 985.309 if the
27 child has participated in an early delinquency intervention
28 program as provided in s. 985.305.

29 ~~(c)(b)~~ A program for serious or habitual juvenile
30 offenders under s. 985.31 or an intensive residential
31 treatment program for offenders less than 13 years of age

1 under s. 985.311, if the child has participated in an early
2 delinquency intervention program and has completed a boot camp
3 program.

4 ~~(d)(e)~~ A maximum-risk residential program, if the
5 child has participated in an early delinquency intervention
6 program, has completed a boot camp program, and has completed
7 a program for serious or habitual juvenile offenders or an
8 intensive residential treatment program for offenders less
9 than 13 years of age. The commitment of a child to a
10 maximum-risk residential program must be for an indeterminate
11 period, but may not exceed the maximum term of imprisonment
12 that an adult may serve for the same offense.

13 (2) In committing a child to the appropriate program,
14 the court may consider an equivalent program of similar
15 intensity as being comparable to a program required under
16 subsection (1).

17 Section 5. Section 985.318, Florida Statutes, is
18 created to read:

19 985.318 Independent living programs.--The department,
20 contingent upon a specific appropriation, shall establish an
21 independent living program designed to provide a transitional
22 living arrangement for juveniles whose home environment is a
23 barrier to a crime-free return to the community, juveniles who
24 are homeless, and juveniles who cannot return to their home.

25 Section 6. Subsection (3) is added to section 985.403,
26 Florida Statutes, to read:

27 985.403 Task Force on Juvenile Sexual Offenders and
28 their Victims.--

29 (3) The task force shall, under the coordination of
30 the department, meet to re-evaluate the laws, practices, and
31 procedures for serving juvenile sex offenders and their

1 victims. The review shall include, but is not limited to, a
2 profile of juvenile sex offenders, a review of programing for
3 these youth in the community and in commitment level, a review
4 of staff qualifications to serve these youth, the
5 appropriateness of placing these youth in secure commitment
6 programs, and a review of the statutes that define juvenile
7 sex offenders. The task force shall draft a report on its
8 findings and recommendations for improvements and file the
9 report with the President of the Senate and the Speaker of the
10 House of Representatives by December 1, 2005. For the purposes
11 of this subsection, the task force shall include, at a
12 minimum, a judge of juvenile court, a state attorney, a public
13 defender, a representative of the department, two providers of
14 services to juvenile sex offenders, a licensed sex offender
15 therapist, and a representative of the Florida Juvenile
16 Justice Association.

17 Section 7. Paragraph (a) of subsection (1) of section
18 985.4046, Florida Statutes, is amended to read:

19 985.4046 Introduction, removal, or possession of
20 certain articles unlawful; penalty.--

21 (1)(a) Except as authorized through program policy or
22 operating procedure or as authorized by the facility
23 superintendent, program director, or manager, a person may not
24 introduce into or upon the grounds of a juvenile detention
25 facility or commitment program, or take or send, or attempt to
26 take or send, from a juvenile detention facility or commitment
27 program, any of the following articles, which are declared to
28 be contraband under this section:

- 29 1. Any unauthorized article of ~~food~~ or clothing.
- 30 2. Any intoxicating beverage or any beverage that
31 causes or may cause an intoxicating effect.

1 3. Any controlled substance, as defined in s.
2 893.02(4), or any prescription or nonprescription drug that
3 has a hypnotic, stimulating, or depressing effect.

4 4. Any firearm or weapon of any kind or any explosive
5 substance.

6 Section 8. Section 985.4061, Florida Statutes, is
7 created to read:

8 985.4061 Certification for juvenile justice provider
9 staff.--

10 (1) The Department of Juvenile Justice shall establish
11 a workgroup to study the feasibility of a certification system
12 for professional staff working for a provider of juvenile
13 justice services.

14 (2) The membership shall include, but is not limited
15 to, two representatives of the department, two representatives
16 of providers of juvenile justice services, two members of the
17 Florida Juvenile Justice Association, and two representatives
18 of the Florida Certification Board. Other interested parties
19 may also participate.

20 (3) The workgroup shall consider the feasibility of
21 implementing and operating a certification system for
22 professional staff who work at juvenile justice facilities or
23 in juvenile justice programs. The workgroup shall consider, at
24 a minimum, the occupational levels of professional staff
25 subject to certification, the criteria that may be used to
26 certify staff, the levels of certification, the benefits that
27 will be derived for the juvenile justice system, and the cost
28 to implement the proposed certification system. The workgroup
29 shall also recommend a process for testing and validating the
30 effectiveness of the recommended professional staff
31 development system.

1 (4) The workgroup shall prepare a report of its
2 deliberations and recommendations. The workgroup shall submit
3 the report to the Governor, the President of the Senate, and
4 the Speaker of the House of Representatives by January 1,
5 2006.

6 Section 9. Section 985.407, Florida Statutes, is
7 amended to read:

8 985.407 Departmental contracting powers; personnel
9 standards and screening; legislative intent.--

10 (1) The department may contract with the Federal
11 Government, other state departments and agencies, county and
12 municipal governments and agencies, public and private
13 agencies, and private individuals and corporations in carrying
14 out the purposes and the responsibilities of the delinquency
15 services and programs of the department.

16 (2) The department shall adopt a rule under ~~pursuant~~
17 ~~to~~ chapter 120 establishing a procedure to provide notice of
18 policy changes that affect contracted delinquency services and
19 programs. A policy is defined as an operational requirement
20 that applies to only the specified contracted delinquency
21 service or program. The procedure shall include:

22 (a) Public notice of policy development.

23 (b) Opportunity for public comment on the proposed
24 policy.

25 (c) Assessment for fiscal impact upon the department
26 and providers.

27 (d) The department's response to comments received.

28 (3) When the department contracts with a provider for
29 any delinquency service or program, all personnel, including
30 all owners, operators, employees, and volunteers in the
31 facility or providing the service or program shall be of good

1 moral character. A volunteer who assists on an intermittent
2 basis for less than 40 hours per month is not required to be
3 screened if the volunteer is under direct and constant
4 supervision by persons who meet the screening requirements.

5 (4) The department shall require employment screening
6 ~~under pursuant to~~ chapter 435, using the level 1 standards for
7 screening set forth in that chapter, for personnel in
8 delinquency facilities, services, and programs.

9 (5) The department may grant exemptions from
10 disqualification from working with children as provided in s.
11 435.07.

12 (6) It is the intent of the Legislature to encourage
13 the department to contract with community-based providers in
14 order to provide flexibility, efficiency, and creativity when
15 delivering services to youth. Further, it is the intent of the
16 Legislature to have the department select a competent
17 provider, negotiate with the provider performance measures and
18 outcomes, and then measure the progress of the provider in
19 accomplishing the performance measures and agreed-upon
20 outcomes. When managing contracts, it is the intent of the
21 Legislature that the department not manage the day-to-day
22 activities or operations of the provider. It is the intent of
23 the Legislature that the department focus its efforts on
24 monitoring the outcomes promised by the provider.

25 Section 10. Subsection (8) is added to section
26 985.412, Florida Statutes, to read:

27 985.412 Quality assurance and cost-effectiveness.--

28 (8) Quality assurance standards shall remain constant
29 for a 3-year cycle unless there is a new law or pressing youth
30 safety need that necessitates a change in standards. The youth
31 safety need must be a declared state of emergency by the

1 secretary of the department before the change may be
2 implemented.

3 Section 11. Section 784.075, Florida Statutes, is
4 amended to read:

5 784.075 Battery on detention or commitment facility
6 staff or a juvenile probation officer.--A person who commits a
7 battery on a juvenile probation officer, as defined in s.
8 984.03 or s. 985.03, on other staff of a detention center or
9 facility as defined in s. 984.03(19) or s. 985.03(20) ~~s.~~
10 ~~985.03(19)~~, or on a staff member of a commitment facility as
11 defined in s. 985.03(48) ~~s. 985.03(45)~~, commits a felony of
12 the third degree, punishable as provided in s. 775.082, s.
13 775.083, or s. 775.084. For purposes of this section, a staff
14 member of the facilities listed includes persons employed by
15 the Department of Juvenile Justice, persons employed at
16 facilities licensed by the Department of Juvenile Justice, and
17 persons employed at facilities operated under a contract with
18 the Department of Juvenile Justice.

19 Section 12. Section 984.05, Florida Statutes, is
20 amended to read:

21 984.05 Rules relating to habitual truants; adoption by
22 State Board of Education and Department of Juvenile
23 Justice.--The Department of Juvenile Justice and the State
24 Board of Education shall work together on the development of,
25 and shall adopt, rules as necessary for the implementation of
26 ss. 984.03(27), 985.03(26) ~~985.03(25)~~, and 1003.27.

27 Section 13. Subsection (2) of section 985.231, Florida
28 Statutes, is amended to read:

29 985.231 Powers of disposition in delinquency cases.--

30 (2) Following a delinquency adjudicatory hearing
31 pursuant to s. 985.228 and a delinquency disposition hearing

1 pursuant to s. 985.23 which results in a commitment
2 determination, the court shall, on its own or upon request by
3 the state or the department, determine whether the protection
4 of the public requires that the child be placed in a program
5 for serious or habitual juvenile offenders and whether the
6 particular needs of the child would be best served by a
7 program for serious or habitual juvenile offenders as provided
8 in s. 985.31. The determination shall be made pursuant to ss.
9 985.03(51) ~~ss. 985.03(48)~~ and 985.23(3).

10 Section 14. Paragraph (e) of subsection (3) and
11 paragraph (a) of subsection (4) of section 985.31, Florida
12 Statutes, are amended to read:

13 985.31 Serious or habitual juvenile offender.--

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

16 (e) After a child has been adjudicated delinquent
17 pursuant to s. 985.228, the court shall determine whether the
18 child meets the criteria for a serious or habitual juvenile
19 offender pursuant to s. 985.03(51) ~~s. 985.03(48)~~. If the court
20 determines that the child does not meet such criteria, the
21 provisions of s. 985.231(1) shall apply.

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

23 (a) Pursuant to the provisions of this section, the
24 department shall implement the comprehensive assessment
25 instrument for the treatment needs of serious or habitual
26 juvenile offenders and for the assessment, which assessment
27 shall include the criteria under s. 985.03(51) ~~s. 985.03(48)~~
28 and shall also include, but not be limited to, evaluation of
29 the child's:

- 30 1. Amenability to treatment.
31 2. Proclivity toward violence.

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

8 Section 15. Section 985.3141, Florida Statutes, is
9 amended to read:

10 985.3141 Escapes from secure detention or residential
11 commitment facility.--An escape from:

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

15 (2) Any residential commitment facility described in
16 s. 985.03(48) ~~s. 985.03(45)~~, maintained for the custody,
17 treatment, punishment, or rehabilitation of children found to
18 have committed delinquent acts or violations of law; or

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

25 Section 16. This act shall take effect July 1, 2005.

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SENATE SUMMARY

Requires that a youth adjudicated delinquent for an act that would be a felony if committed by an adult must be committed to certain specified programs. Requires the Task Force on Juvenile Sex Offenders to convene meetings to consider specified topics. Requires the task force to draft a report and recommendations and to submit the report to the Legislature by a specified date. Provides legislative intent relating to the Department of Juvenile Justice contracting with private providers. Provides that quality assurance standards for providers under contract with the department shall remain unchanged. Provides exceptions. (See bill for details.)