

By Senator Siplin

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A bill to be entitled

An act relating to the use of restraints on a child during juvenile proceedings; amending s. 985.228, F.S.; prohibiting the use of instruments of restraint on a child during an adjudicatory hearing or elsewhere in a courthouse; providing specified exceptions; amending s. 985.311, F.S.; correcting a cross-reference; providing an effective date.

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

Section 1. Present subsections (3), (4), (5), (6), and (7) of section 985.228, Florida Statutes, are redesignated as subsections (4), (5), (6), (7), and (8), respectively, a new subsection (3) is added to that section, and present subsection (5) of that section is amended, to read:

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

(3) Instruments of restraint, such as handcuffs, chains, irons, or straitjackets, may not be used on a child during an adjudicatory hearing or elsewhere in a courthouse and must be removed when the child appears before the court unless the child:

(a) Is likely to attempt to escape during a transfer or a hearing;

(b) Is charged with a capital offense; or

(c) Has a history of disruptive behavior and there is a likelihood that the child will cause bodily harm to himself, herself, or others.

1 ~~(6)~~(5) If the court finds that the child named in a
2 petition has committed a delinquent act or violation of law,
3 but elects not to proceed under subsection~~(5)~~(4), it shall
4 incorporate that finding in an order of adjudication of
5 delinquency entered in the case, briefly stating the facts
6 upon which the finding is made, and the court shall thereafter
7 have full authority under this chapter to deal with the child
8 as adjudicated.

9 Section 2. Paragraph (e) of subsection (3) of section
10 985.311, Florida Statutes, is amended to read:

11 985.311 Intensive residential treatment program for
12 offenders less than 13 years of age.--

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

15 (e) After a child has been adjudicated delinquent
16 ~~under s. 985.228(6) pursuant to s. 985.228(5)~~, the court shall
17 determine whether the child is eligible for an intensive
18 residential treatment program for offenders less than 13 years
19 of age under ~~pursuant to~~ s. 985.03(7). If the court
20 determines that the child does not meet the criteria, the
21 provisions of s. 985.231(1) shall apply.

22 Section 3. This act shall take effect July 1, 2005.

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25 SENATE SUMMARY

26 Prohibits the use of instruments of restraint on a child
27 in an adjudicatory hearing or elsewhere in a courthouse.
28 Provides specified exceptions.
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