

By the Committee on Criminal Justice; and Senator Wise

591-2072-06

1 A bill to be entitled
2 An act relating to juvenile sexual offenders;
3 amending s. 985.03, F.S.; defining the terms
4 "psychosexual evaluation" and "qualified sexual
5 offender practitioner"; amending s. 985.229,
6 F.S.; requiring the court to order a
7 psychosexual evaluation for a juvenile sexual
8 offender; specifying requirements for provision
9 of the psychosexual evaluation results and
10 recommendations to the court; amending s.
11 985.23, F.S.; requiring a predisposition report
12 to include an evaluation of the results and
13 recommendations of a psychosexual evaluation;
14 amending s. 985.231, F.S.; conforming a
15 cross-reference; requiring the court to
16 consider the psychosexual evaluation prior to
17 requiring that an offender be treated by a
18 community-based juvenile sexual offender
19 treatment program; deleting provisions
20 authorizing a comprehensive assessment of
21 sexually deviant behavior; revising provisions
22 to conform; amending ss. 985.31 and 985.3141,
23 F.S.; conforming cross-references; creating a
24 task force on juvenile sexual offenders and
25 their victims; providing for membership;
26 providing duties; requiring that the task force
27 submit a report to the Governor and the
28 Legislature; providing for administrative
29 support; authorizing payment of per diem and
30 travel expenses; providing for dissolution of
31 the task force; providing an effective date.

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

2

3 Section 1. Present subsections (45) through (60) of
4 section 985.03, Florida Statutes, are renumbered as
5 subsections (47) through (62), respectively, and new
6 subsections (45) and (46) are added to that section, to read:

7 985.03 Definitions.--As used in this chapter, the
8 term:

9 (45) "Psychosexual evaluation" means an evaluation by
10 a qualified sexual offender practitioner which addresses, at a
11 minimum, a juvenile sexual offender's:

12 (a) Account of the incident and the official report of
13 the investigation.

14 (b) Sexual development and sexual delinquency history
15 and treatment.

16 (c) Behavioral and delinquency history.

17 (d) Substance abuse and mental health history and
18 treatment.

19 (e) Intellectual, personality, and trauma assessment.

20 (f) Physiological assessment, if appropriate.

21 (g) Family, social, educational, and employment
22 situation, including identification of the sources of this
23 information.

24 (h) Risk for committing a future act of sexual
25 delinquency or physical harm to himself, herself, the victim,
26 or other persons.

27 (i) Culpability assessment.

28 (j) Diagnosis.

29 (k) Amenability to treatment, including treatment
30 recommendations specific to his or her needs.

31

1 (4) "Qualified sexual offender practitioner" means a
2 professional who is eligible to practice juvenile sexual
3 offender therapy under s. 490.0145 or s. 491.0144, and who:

4 (a) Possesses at least:

5 1. Fifty-five hours of postgraduate continuing
6 education courses in the following areas: DSM-IV diagnoses
7 related to sexual offenders; etiology of sexual deviance;
8 science-based sexually delinquent evaluation and risk
9 assessment and treatment techniques; use of plethysmographs,
10 visual reaction time, and polygraphs in the evaluation,
11 treatment, and monitoring of juveniles who have committed
12 sexually delinquent acts; evaluation and treatment of special
13 populations; and legal and ethical issues in the evaluation
14 and treatment of juveniles who have committed sexually
15 delinquent acts; or

16 2. Two thousand hours of postgraduate level practice
17 in the evaluation and treatment of persons who have committed
18 sexually delinquent acts which was directly supervised by a
19 professional who is eligible to practice juvenile sexual
20 offender therapy under s. 490.0145 or s. 491.0144; or

21 (b) Is supervised by a professional who satisfies the
22 requirements of paragraph (a).

23 Section 2. Subsection (4) is added to section 985.229,
24 Florida Statutes, to read:

25 985.229 Predisposition report; other evaluations.--

26 (4) Following a delinquency adjudicatory hearing under
27 s. 985.228 for a juvenile sexual offender, the court shall
28 order the department to conduct or arrange for a psychosexual
29 evaluation of the offender. The results and recommendations of
30 the psychosexual evaluation shall be:

- 1 (a) Included in the offender's predisposition report;
2 or
3 (b) Provided to the court in writing at least 48 hours
4 prior to the disposition hearing if a predisposition report is
5 not ordered in the juvenile sexual offender's case.

6 Section 3. Paragraph (i) is added to subsection (2) of
7 section 985.23, Florida Statutes, to read:

8 985.23 Disposition hearings in delinquency
9 cases.--When a child has been found to have committed a
10 delinquent act, the following procedures shall be applicable
11 to the disposition of the case:

12 (2) The first determination to be made by the court is
13 a determination of the suitability or nonsuitability for
14 adjudication and commitment of the child to the department.
15 This determination shall include consideration of the
16 recommendations of the department, which may include a
17 predisposition report. The predisposition report shall
18 include, whether as part of the child's multidisciplinary
19 assessment, classification, and placement process components
20 or separately, evaluation of the following criteria:

21 (i) The results and recommendations of a psychosexual
22 evaluation for a juvenile sexual offender.

23
24 At the time of disposition, the court may make recommendations
25 to the department as to specific treatment approaches to be
26 employed.

27 Section 4. Subsections (2) and (3) of section 985.231,
28 Florida Statutes, are 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) ~~985.03(49)~~ and 985.23(3).

10 (3)~~(a)~~ Following a delinquency adjudicatory hearing
11 pursuant to s. 985.228 for a juvenile sexual offender, the
12 court, after consideration of the psychosexual evaluation
13 required by s. 985.229(4), may on its own or upon request by
14 the state or the department and subject to specific
15 appropriation, determine whether treatment by a
16 community-based juvenile sexual offender treatment program
17 would protect ~~placement is required for the protection of the~~
18 public and ~~what would~~ be the best approach to address the
19 offender's treatment needs ~~of the juvenile sexual offender~~.
20 ~~When the court determines that a juvenile has no history of a~~
21 ~~recent comprehensive assessment focused on sexually deviant~~
22 ~~behavior, the court may, subject to specific appropriation,~~
23 ~~order the department to conduct or arrange for an examination~~
24 ~~to determine whether the juvenile sexual offender is amenable~~
25 ~~to community based treatment.~~

26 ~~(a) The report of the examination shall include, at a~~
27 ~~minimum, the following:~~

28 1. ~~The juvenile sexual offender's account of the~~
29 ~~incident and the official report of the investigation.~~

30 2. ~~The juvenile sexual offender's offense history.~~

31

1 3. ~~A multidisciplinary assessment of the sexually~~
2 ~~deviant behaviors, including an assessment by a certified~~
3 ~~psychologist, therapist, or psychiatrist.~~

4 4. ~~An assessment of the juvenile sexual offender's~~
5 ~~family, social, educational, and employment situation. The~~
6 ~~report shall set forth the sources of the evaluator's~~
7 ~~information.~~

8 ~~(b) The report shall assess the juvenile sexual~~
9 ~~offender's amenability to treatment and relative risk to the~~
10 ~~victim and the community.~~

11 ~~(b)(c)~~ The department shall provide a proposed plan to
12 the court which must that shall include, at a minimum for the
13 community-based juvenile sexual offender treatment program:

14 1. The frequency and type of contact between the
15 offender and therapist.

16 2. The specific issues and behaviors to be addressed
17 in the treatment and description of planned treatment methods.

18 3. Monitoring plans, including any requirements
19 regarding living conditions, school attendance and
20 participation, lifestyle, and monitoring by family members,
21 legal guardians, or others.

22 4. Anticipated length of treatment.

23 5. Recommended crime-related prohibitions and curfew.

24 6. Reasonable restrictions on the contact between the
25 ~~juvenile sexual~~ offender and either the victim or alleged
26 victim.

27 ~~(c)(d)~~ After receipt of the ~~report on the~~ proposed
28 plan under paragraph (b) of treatment, the court shall
29 consider whether the community and the offender will benefit
30 from treatment proved by a community-based use of juvenile
31 sexual offender community-based treatment program alternative

1 ~~disposition~~ and consider the opinion of the victim or the
2 victim's family as to whether the offender should receive this
3 ~~a community based treatment~~ alternative disposition ~~under this~~
4 ~~subsection~~.

5 (d)(e) If the court determines that a community-based
6 ~~this~~ juvenile sexual offender ~~community based~~ treatment
7 program ~~alternative~~ is appropriate, the court may place the
8 offender on probation ~~community supervision~~ for up to 3 years.
9 As a condition of probation ~~community treatment and~~
10 ~~supervision~~, the court may order the offender to:

11 1. Undergo available community-based ~~outpatient~~
12 juvenile sexual offender treatment for up to 3 years. A
13 program or provider may not be used for such treatment unless
14 it has an appropriate program designed for juvenile sexual
15 offender treatment. The department shall not change the
16 treatment provider without first notifying the state
17 attorney's office.

18 2. Remain within described geographical boundaries and
19 notify the court or the department ~~counselor~~ prior to any
20 change in the offender's address, educational program, or
21 employment.

22 3. Comply with all requirements of the treatment plan.

23 (e)(f) The community-based juvenile sexual offender
24 treatment provider shall submit quarterly reports on the
25 offender's ~~respondent's~~ progress in treatment to the court and
26 the parties to the proceedings. The quarterly ~~juvenile sexual~~
27 ~~offender~~ reports shall reference the treatment plan and
28 include, at a minimum, the following:

29 1. Dates of attendance.

30 2. The ~~juvenile sexual~~ offender's compliance with the
31 requirements of treatment.

1 3. A description of the treatment activities.

2 4. The ~~sexual~~ offender's relative progress in
3 treatment.

4 5. The offender's family support of the treatment
5 objectives.

6 6. Any other material specified by the court at the
7 time of the disposition.

8 ~~(f)(g)~~ At the disposition hearing, the court may set
9 case review hearings as the court considers appropriate.

10 ~~(g)(h)~~ If the ~~juvenile sexual~~ offender violates any
11 condition of the disposition or the court finds that the
12 ~~juvenile sexual~~ offender is failing to make satisfactory
13 progress in treatment, the court may revoke the offender's
14 probation ~~community based treatment alternative~~ and order
15 commitment to the department pursuant to subsection (1).

16 ~~(h)(i)~~ If the court determines that the ~~juvenile~~
17 ~~sexual~~ offender is not amenable to a community-based juvenile
18 sexual offender treatment program, the court shall proceed
19 with a juvenile sexual offender disposition hearing pursuant
20 to subsection (1).

21 Section 5. Paragraph (e) of subsection (3) and
22 paragraph (a) of subsection (4) of section 985.31, Florida
23 Statutes, are amended to read:

24 985.31 Serious or habitual juvenile offender.--

25 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
26 TREATMENT.--

27 (e) After a child has been adjudicated delinquent
28 pursuant to s. 985.228, the court shall determine whether the
29 child meets the criteria for a serious or habitual juvenile
30 offender pursuant to s. 985.03(51) ~~s. 985.03(49)~~. If the court
31

1 determines that the child does not meet such criteria, the
2 provisions of s. 985.231(1) shall apply.

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

4 (a) Pursuant to the provisions of this section, the
5 department shall implement the comprehensive assessment
6 instrument for the treatment needs of serious or habitual
7 juvenile offenders and for the assessment, which assessment
8 shall include the criteria under s. 985.03(51) ~~s. 985.03(49)~~
9 and shall also include, but not be limited to, evaluation of
10 the child's:

- 11 1. Amenability to treatment.
- 12 2. Proclivity toward violence.
- 13 3. Tendency toward gang involvement.
- 14 4. Substance abuse or addiction and the level thereof.
- 15 5. History of being a victim of child abuse or sexual
16 abuse, or indication of sexual behavior dysfunction.
- 17 6. Number and type of previous adjudications, findings
18 of guilt, and convictions.
- 19 7. Potential for rehabilitation.

20 Section 6. Section 985.3141, Florida Statutes, is
21 amended to read:

22 985.3141 Escapes from secure detention or residential
23 commitment facility.--An escape from:

24 (1) Any secure detention facility maintained for the
25 temporary detention of children, pending adjudication,
26 disposition, or placement;

27 (2) Any residential commitment facility described in
28 s. 985.03(48) and ~~s. 985.03(46)~~, maintained for the custody,
29 treatment, punishment, or rehabilitation of children found to
30 have committed delinquent acts or violations of law; or
31

1 (3) Lawful transportation to or from any such secure
2 detention facility or residential commitment facility,
3
4 constitutes escape within the intent and meaning of s. 944.40
5 and is a felony of the third degree, punishable as provided in
6 s. 775.082, s. 775.083, or s. 775.084.

7 Section 7. Task Force on Juvenile Sexual Offenders and
8 Their Victims.--

9 (1) As used in this section, the term:

10 (a) "Department" means the Department of Juvenile
11 Justice.

12 (b) "Task force" means the 2006 Task Force on Juvenile
13 Sexual Offenders and Their Victims.

14 (2) By August 1, 2006, a task force shall be created
15 to continue the evaluation of the state's juvenile sexual
16 offender laws which was conducted by the 2005 Task Force on
17 Juvenile Sexual Offenders and Their Victims, as created in
18 chapter 2005-263, Laws of Florida.

19 (3) The Secretary of Juvenile Justice shall appoint up
20 to 12 members to the task force, including, but not limited
21 to, a circuit court judge who has at least 1 year of
22 experience in the juvenile division, a state attorney who has
23 at least 1 year of experience in the juvenile division, a
24 public defender who has at least 1 year of experience in the
25 juvenile division, two representatives of the department, one
26 member from the Florida Juvenile Justice Association, two
27 members from providers of juvenile sexual offender services,
28 one member from the Florida Association for the Treatment of
29 Sexual Abusers, and one victim advocate.

30 (4) The task force shall:
31

1 (a) Review the findings and recommendations contained
2 in the final report of the 2005 Task Force on Juvenile Sexual
3 Offenders and Their Victims, including the recommendations
4 specified in Appendix II of that report, and identify each
5 recommendation that has not yet been implemented.

6 (b) Determine which recommendations reviewed under
7 paragraph (a) remain appropriate for implementation.

8 (c) Make additional recommendations, if warranted, for
9 the improvement of the state's laws, policies, programs, and
10 funding for juvenile sexual offenders.

11 (d) Submit a written report to the Governor and the
12 appropriate substantive and fiscal committees of the
13 Legislature by January 1, 2007, which discusses each state law
14 addressing juvenile sexual offenders; specifically identifies
15 statutory criteria that should be satisfied before a juvenile
16 is classified as a sexual offender or placed in
17 sexual-offender programming; and sets forth detailed findings
18 in support of each recommendation under paragraphs (b) and (c)
19 and a comprehensive plan for implementing these
20 recommendations, including proposed amendments to statutes to
21 redefine the term "juvenile sexual offender" and modifications
22 of state agency rules, practices, and procedures.

23 (5) The department shall provide administrative
24 support for the task force. Members of the task force shall
25 receive no salary from the state beyond the salary already
26 received from their sponsoring agencies, but are entitled to
27 reimbursement by the department for travel and per diem
28 expenses under s. 112.061, Florida Statutes.

29 (6) The task force shall be dissolved upon submission
30 of its report.

31 Section 8. This act shall take effect July 1, 2006.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1454

4 The bill implements selected recommendations made by the Task
5 Force on Juvenile Sexual Offenders and their Victims (Task
6 Force) in its January 2006 final report to the Governor and
7 Legislature. Specifically, the bill:

- 8 - Requires courts to order and consider the results and
9 recommendations of psychosexual evaluations of all
10 juvenile sexual offenders (current law is discretionary,
11 subject to appropriation).
- 12 - Specifies more comprehensive requirements for
13 psychosexual evaluations than those provided in current
14 law (e.g., the evaluation must address the juvenile's
15 substance abuse and mental health history and include an
16 intellectual, personality, trauma, and physiological
17 assessment).
- 18 - Requires that psychosexual evaluations be conducted by
19 statutorily certified juvenile sexual offender therapists
20 (current law specifies that such evaluations may be
21 conducted by psychologists, therapists, or
22 psychiatrists).
- 23 - Recreates the Task Force so that it may continue its
24 review of the state's juvenile sexual offender laws and
25 submit a second report that discusses each state law
26 addressing juvenile sexual offenders, identifies specific
27 statutory criteria that must be met before a juvenile
28 sexual offender can be classified and placed, and
29 provides a comprehensive plan for implementation of its
30 recommendations.
- 31