

By Senator Wilson

33-16A-06

1 A bill to be entitled

2 An act relating to the sentencing of juveniles;

3 amending s. 985.233, F.S.; authorizing the

4 court to sentence a juvenile using a

5 combination of juvenile and adult sanctions;

6 authorizing the court to impose juvenile and

7 adult sanctions if the juvenile commits certain

8 specified offenses; directing the court to

9 sentence the juvenile to any sentence

10 authorized by ch. 948, F.S.; requiring the

11 juvenile to successfully complete a juvenile

12 residential commitment program; authorizing the

13 court to treat a juvenile as if he or she were

14 an adult violating community control or

15 probation; reenacting s. 985.226(1), F.S.,

16 relating to the volunteer waiver of juvenile

17 court jurisdiction, to incorporate the

18 amendments made to s. 985.233, F.S., in a

19 reference thereto; providing an effective date.

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

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23 Section 1. Paragraph (b) of subsection (1) and

24 paragraph (b) of subsection (4) of section 985.233, Florida

25 Statutes, are amended to read:

26 985.233 Sentencing powers; procedures; alternatives

27 for juveniles prosecuted as adults.--

28 (1) POWERS OF DISPOSITION.--

29 (b) In determining whether to impose juvenile

30 sanctions or a combination of adult and juvenile sanctions

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1 | instead of adult sanctions, the court shall consider the
2 | following criteria:

3 | 1. The seriousness of the offense to the community and
4 | whether the community would best be protected by juvenile or
5 | adult sanctions.

6 | 2. Whether the offense was committed in an aggressive,
7 | violent, premeditated, or willful manner.

8 | 3. Whether the offense was against persons or against
9 | property, with greater weight being given to offenses against
10 | persons, especially if personal injury resulted.

11 | 4. The sophistication and maturity of the offender.

12 | 5. The record and previous history of the offender,
13 | including:

14 | a. Previous contacts with the Department of
15 | Corrections, the Department of Juvenile Justice, the former
16 | Department of Health and Rehabilitative Services, the
17 | Department of Children and Family Services, law enforcement
18 | agencies, and the courts.

19 | b. Prior periods of probation.

20 | c. Prior adjudications that the offender committed a
21 | delinquent act or violation of law as a child.

22 | d. Prior commitments to the Department of Juvenile
23 | Justice, the former Department of Health and Rehabilitative
24 | Services, the Department of Children and Family Services, or
25 | other facilities or institutions.

26 | 6. The prospects for adequate protection of the public
27 | and the likelihood of deterrence and reasonable rehabilitation
28 | of the offender if assigned to services and facilities of the
29 | Department of Juvenile Justice.

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1 7. Whether the Department of Juvenile Justice has
2 appropriate programs, facilities, and services immediately
3 available.

4 8. Whether adult sanctions would provide more
5 appropriate punishment and deterrence to further violations of
6 law than the imposition of juvenile sanctions.

7 (4) SENTENCING ALTERNATIVES.--

8 (b) Sentencing to juvenile sanctions.--For juveniles
9 transferred to adult court but who do not qualify for ~~such~~
10 transfer under ~~pursuant to~~ s. 985.226(2)(b) or s.

11 985.227(2)(a) or (b), the court may impose juvenile sanctions
12 under this paragraph. If juvenile sentences are imposed, the
13 court shall, pursuant to this paragraph, adjudge the child to
14 have committed a delinquent act. Adjudication of delinquency
15 ~~is shall not be~~ deemed a conviction and it does not, nor shall

16 ~~it~~ operate to impose any of the civil disabilities ordinarily
17 resulting from a conviction. The court shall impose an adult
18 sanction, ~~or~~ a juvenile sanction, or ~~and may not sentence the~~
19 ~~child to~~ a combination of adult and juvenile sanctions in
20 accordance with subparagraph 4 ~~punishments~~.

21 ~~An adult sanction,~~
22 or a juvenile sanction, or a combination of adult and juvenile
23 punishments may include enforcement of an order of restitution
24 or probation previously ordered in any juvenile proceeding.

25 However, if the court imposes a juvenile sanction and the
26 department determines that the sanction is unsuitable for the
27 child, the department shall return custody of the child to the
28 sentencing court for further proceedings, including the
29 imposition of adult sanctions. Upon adjudicating a child
30 delinquent under subsection (1), the court may:

31 1. Place the child in a probation program under the
supervision of the department for an indeterminate period of

1 time until the child reaches the age of 19 years or sooner if
2 discharged by order of the court.

3 2. Commit the child to the department for treatment in
4 an appropriate program for children for an indeterminate
5 period of time until the child is 21 or sooner if discharged
6 by the department. The department shall notify the court of
7 its intent to discharge no later than 14 days prior to
8 discharge. Failure of the court to timely respond to the
9 department's notice shall be considered approval for
10 discharge.

11 3. Order disposition pursuant to s. 985.231 as an
12 alternative to youthful offender or adult sentencing if the
13 court determines not to impose youthful offender or adult
14 sanctions.

15 4. Impose a combination of juvenile and adult
16 sanctions if the child is found to have committed a violation
17 of s. 810.02(3)(a) or s. 812.13(2)(b) or (c), and was 17 years
18 of age or older at the time the violation was committed or at
19 the time the child was arrested for the violation. If the
20 court imposes a combination of juvenile and adult sanctions,
21 the juvenile is deemed to be convicted of the crimes as an
22 adult and shall be sentenced to any sentence authorized by
23 chapter 948, with a special condition that the juvenile
24 successfully complete a juvenile residential commitment
25 program during the first year of the sentence. If the juvenile
26 violates any provision of the juvenile residential commitment
27 program, the court may sanction the juvenile as though the
28 juvenile had violated adult community control or probation.

29 Section 2. For the purpose of incorporating the
30 amendments made by this act to section 985.233, Florida
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1 Statutes, in a reference thereto, subsection (1) of section
2 985.226, Florida Statutes, is reenacted to read:

3 985.226 Criteria for waiver of juvenile court
4 jurisdiction; hearing on motion to transfer for prosecution as
5 an adult.--

6 (1) VOLUNTARY WAIVER.--The court shall transfer and
7 certify a child's criminal case for trial as an adult if the
8 child is alleged to have committed a violation of law and,
9 prior to the commencement of an adjudicatory hearing, the
10 child, joined by a parent or, in the absence of a parent, by
11 the guardian or guardian ad litem, demands in writing to be
12 tried as an adult. Once a child has been transferred for
13 criminal prosecution pursuant to a voluntary waiver hearing
14 and has been found to have committed the presenting offense or
15 a lesser included offense, the child shall be handled
16 thereafter in every respect as an adult for any subsequent
17 violation of state law, unless the court imposes juvenile
18 sanctions under s. 985.233(4)(b).

19 Section 3. This act shall take effect October 1, 2006.

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22 SENATE SUMMARY

23 Authorizes a court to sentence a juvenile using a
24 combination of juvenile and adult sanctions. Permits the
25 court to impose juvenile and adult sanctions if the
26 juvenile commits certain specified offenses. Directs the
27 court to sentence the juvenile to any sentence authorized
28 by ch. 948, F.S. Requires the juvenile to successfully
29 complete a juvenile residential commitment program.
30 Authorizes the court to treat a juvenile as if he or she
31 were an adult violating community control or probation.