

1 A bill to be entitled
 2 An act relating to juvenile delinquents; amending s.
 3 985.21, F.S.; requiring a juvenile probation officer to
 4 determine the country of citizenship of each child
 5 referred to the Department of Juvenile Justice; requiring
 6 the juvenile probation officer to report the information
 7 to the department and the United States Bureau of Customs
 8 and Border Protection; requiring the department to develop
 9 a centralized, automated database to collect information
 10 on the country of citizenship for children referred to the
 11 department; directing the department to make the
 12 information available to certain federal, state, and local
 13 agencies; requiring the department to adopt rules;
 14 amending s. 985.231, F.S.; requiring that a juvenile court
 15 under specified circumstances notify the United States
 16 Bureau of Customs and Border Protection of the
 17 adjudication of a child, order that the child be returned
 18 to his or her country of origin, and order the department
 19 to transfer the physical custody of the child to the
 20 United States Bureau of Customs and Border Protection for
 21 the appropriate processing to remove the child from this
 22 country; providing an effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Subsection (1) of section 985.21, Florida
 27 Statutes, is amended to read:

28 985.21 Intake and case management.--

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29 (1) (a) During the intake process, the juvenile probation
30 officer shall screen each child or shall cause each child to be
31 screened in order to determine:

32 1. Appropriateness for release, referral to a diversionary
33 program including, but not limited to, a teen-court program,
34 referral for community arbitration, or referral to some other
35 program or agency for the purpose of nonofficial or nonjudicial
36 handling.

37 2. The presence of medical, psychiatric, psychological,
38 substance abuse, educational, or vocational problems, or other
39 conditions that may have caused the child to come to the
40 attention of law enforcement or the department ~~of Juvenile~~
41 ~~Justice~~. The child shall also be screened to determine whether
42 the child poses a danger to himself or herself or others in the
43 community. The results of this screening shall be made available
44 to the court and to court officers. In cases where such
45 conditions are identified, and a nonjudicial handling of the
46 case is chosen, the juvenile probation officer shall attempt to
47 refer the child to a program or agency, together with all
48 available and relevant assessment information concerning the
49 child's precipitating condition.

50 3.a. Whether the child is, or is suspected of being, in
51 the United States illegally. If the child is found to be, or is
52 suspected of being, in the United States illegally,
53 notwithstanding any other law, the juvenile probation officer
54 shall report to the department and the United States Bureau of
55 Customs and Border Protection that the child is a juvenile who
56 is the subject of a petition alleging that he or she committed

57 an act that would be a crime if committed by an adult. The
58 report must include the nature of the offense the child is
59 alleged to have committed.

60 b. The department shall develop a centralized, automated
61 intake and screening database to collect information concerning
62 the country of citizenship for children referred to the
63 department in order to facilitate the exchange of information
64 pursuant to the intent and purpose of this chapter. The
65 department shall establish methods and parameters by which
66 citizenship information and data are collected from the United
67 States Bureau of Customs and Border Protection, the Department
68 of Law Enforcement, law enforcement agencies in this state, and
69 the state court system. Information developed in or through the
70 use of the database shall be made available to federal, state,
71 and local law enforcement agencies and prosecutors and courts in
72 a manner defined by the department and as allowed by state or
73 federal law or rule. The department shall adopt rules to
74 administer the provisions of this sub-subparagraph.

75 (b)3. ~~The department of Juvenile Justice~~ shall develop an
76 intake and a case management system whereby a child brought into
77 intake is assigned a juvenile probation officer if the child was
78 not released, referred to a diversionary program, referred for
79 community arbitration, or referred to some other program or
80 agency for the purpose of nonofficial or nonjudicial handling,
81 and shall make every reasonable effort to provide case
82 management services for the child; provided, however, that case
83 management for children committed to residential programs may be
84 transferred as provided in s. 985.316.

85 (c)4. In addition to duties specified in other sections
86 and through departmental rules, the assigned juvenile probation
87 officer shall be responsible for the following:

88 1.a. Ensuring that a risk assessment instrument
89 establishing the child's eligibility for detention has been
90 accurately completed and that the appropriate recommendation was
91 made to the court.

92 2.b. Inquiring as to whether the child understands his or
93 her rights to counsel and against self-incrimination.

94 3.e. Performing the preliminary screening and making
95 referrals for comprehensive assessment regarding the child's
96 need for substance abuse treatment services, mental health
97 services, retardation services, literacy services, or other
98 educational or treatment services.

99 4.d. Coordinating the multidisciplinary assessment when
100 required, which includes the classification and placement
101 process that determines the child's priority needs, risk
102 classification, and treatment plan. When sufficient evidence
103 exists to warrant a comprehensive assessment and the child fails
104 to voluntarily participate in the assessment efforts, it is the
105 responsibility of the juvenile probation officer to inform the
106 court of the need for the assessment and the refusal of the
107 child to participate in such assessment. This assessment,
108 classification, and placement process shall develop into the
109 predisposition report.

110 5.e. Making recommendations for services and facilitating
111 the delivery of those services to the child, including any
112 mental health services, educational services, family counseling

113 services, family assistance services, and substance abuse
114 services. The juvenile probation officer shall serve as the
115 primary case manager for the purpose of managing, coordinating,
116 and monitoring the services provided to the child. Each program
117 administrator within the Department of Children and Family
118 Services shall cooperate with the primary case manager in
119 carrying out the duties and responsibilities described in this
120 section.

121
122 The department of ~~Juvenile Justice~~ shall annually advise the
123 Legislature and the Executive Office of the Governor of the
124 resources needed in order for the intake and case management
125 system to maintain a staff-to-client ratio that is consistent
126 with accepted standards and allows the necessary supervision and
127 services for each child. The intake process and case management
128 system shall provide a comprehensive approach to assessing the
129 child's needs, relative risks, and most appropriate handling,
130 and shall be based on an individualized treatment plan.

131 (d) ~~(b)~~ The intake and case management system shall
132 facilitate consistency in the recommended placement of each
133 child, and in the assessment, classification, and placement
134 process, with the following purposes:

135 1. An individualized, multidisciplinary assessment process
136 that identifies the priority needs of each individual child for
137 rehabilitation and treatment and identifies any needs of the
138 child's parents or guardians for services that would enhance
139 their ability to provide adequate support, guidance, and
140 supervision for the child. This process shall begin with the

141 detention risk assessment instrument and decision, shall include
 142 the intake preliminary screening and comprehensive assessment
 143 for substance abuse treatment services, mental health services,
 144 retardation services, literacy services, and other educational
 145 and treatment services as components, additional assessment of
 146 the child's treatment needs, and classification regarding the
 147 child's risks to the community and, for a serious or habitual
 148 delinquent child, shall include the assessment for placement in
 149 a serious or habitual delinquent children program pursuant to s.
 150 985.31. The completed multidisciplinary assessment process shall
 151 result in the predisposition report.

152 2. A classification system that assigns a relative risk to
 153 the child and the community based upon assessments including the
 154 detention risk assessment results when available to classify the
 155 child's risk as it relates to placement and supervision
 156 alternatives.

157 3. An admissions process that facilitates for each child
 158 the utilization of the treatment plan and setting most
 159 appropriate to meet the child's programmatic needs and provide
 160 the minimum program security needed to ensure public safety.

161 Section 2. Paragraph (a) of subsection (1) of section
 162 985.231, Florida Statutes, is amended to read:

163 985.231 Powers of disposition in delinquency cases.--

164 (1)(a) The court that has jurisdiction of an adjudicated
 165 delinquent child may, by an order stating the facts upon which a
 166 determination of a sanction and rehabilitative program was made
 167 at the disposition hearing:

168 1. Place the child in a probation program or a

169 postcommitment probation program under the supervision of an
170 authorized agent of the department or of any other person or
171 agency specifically authorized and appointed by the court,
172 whether in the child's own home, in the home of a relative of
173 the child, or in some other suitable place under such reasonable
174 conditions as the court may direct. A probation program for an
175 adjudicated delinquent child must include a penalty component
176 such as restitution in money or in kind, community service, a
177 curfew, revocation or suspension of the driver's license of the
178 child, or other nonresidential punishment appropriate to the
179 offense and must also include a rehabilitative program component
180 such as a requirement of participation in substance abuse
181 treatment or in school or other educational program. If the
182 child is attending or is eligible to attend public school and
183 the court finds that the victim or a sibling of the victim in
184 the case is attending or may attend the same school as the
185 child, the court placement order shall include a finding
186 pursuant to the proceedings described in s. 985.23(1)(d). Upon
187 the recommendation of the department at the time of disposition,
188 or subsequent to disposition pursuant to the filing of a
189 petition alleging a violation of the child's conditions of
190 postcommitment probation, the court may order the child to
191 submit to random testing for the purpose of detecting and
192 monitoring the use of alcohol or controlled substances.

193 a. A classification scale for levels of supervision shall
194 be provided by the department, taking into account the child's
195 needs and risks relative to probation supervision requirements
196 to reasonably ensure the public safety. Probation programs for

197 children shall be supervised by the department or by any other
198 person or agency specifically authorized by the court. These
199 programs must include, but are not limited to, structured or
200 restricted activities as described in this subparagraph, and
201 shall be designed to encourage the child toward acceptable and
202 functional social behavior. If supervision or a program of
203 community service is ordered by the court, the duration of such
204 supervision or program must be consistent with any treatment and
205 rehabilitation needs identified for the child and may not exceed
206 the term for which sentence could be imposed if the child were
207 committed for the offense, except that the duration of such
208 supervision or program for an offense that is a misdemeanor of
209 the second degree, or is equivalent to a misdemeanor of the
210 second degree, may be for a period not to exceed 6 months. When
211 restitution is ordered by the court, the amount of restitution
212 may not exceed an amount the child and the parent or guardian
213 could reasonably be expected to pay or make. A child who
214 participates in any work program under this part is considered
215 an employee of the state for purposes of liability, unless
216 otherwise provided by law.

217 b. The court may conduct judicial review hearings for a
218 child placed on probation for the purpose of fostering
219 accountability to the judge and compliance with other
220 requirements, such as restitution and community service. The
221 court may allow early termination of probation for a child who
222 has substantially complied with the terms and conditions of
223 probation.

224 c. If the conditions of the probation program or the

225 | postcommitment probation program are violated, the department or
226 | the state attorney may bring the child before the court on a
227 | petition alleging a violation of the program. Any child who
228 | violates the conditions of probation or postcommitment probation
229 | must be brought before the court if sanctions are sought. A
230 | child taken into custody under s. 985.207 for violating the
231 | conditions of probation or postcommitment probation shall be
232 | held in a consequence unit if such a unit is available. The
233 | child shall be afforded a hearing within 24 hours after being
234 | taken into custody to determine the existence of probable cause
235 | that the child violated the conditions of probation or
236 | postcommitment probation. A consequence unit is a secure
237 | facility specifically designated by the department for children
238 | who are taken into custody under s. 985.207 for violating
239 | probation or postcommitment probation, or who have been found by
240 | the court to have violated the conditions of probation or
241 | postcommitment probation. If the violation involves a new charge
242 | of delinquency, the child may be detained under s. 985.215 in a
243 | facility other than a consequence unit. If the child is not
244 | eligible for detention for the new charge of delinquency, the
245 | child may be held in the consequence unit pending a hearing and
246 | is subject to the time limitations specified in s. 985.215. If
247 | the child denies violating the conditions of probation or
248 | postcommitment probation, the court shall appoint counsel to
249 | represent the child at the child's request. Upon the child's
250 | admission, or if the court finds after a hearing that the child
251 | has violated the conditions of probation or postcommitment
252 | probation, the court shall enter an order revoking, modifying,

253 or continuing probation or postcommitment probation. In each
 254 such case, the court shall enter a new disposition order and, in
 255 addition to the sanctions set forth in this paragraph, may
 256 impose any sanction the court could have imposed at the original
 257 disposition hearing. If the child is found to have violated the
 258 conditions of probation or postcommitment probation, the court
 259 may:

260 (I) Place the child in a consequence unit in that judicial
 261 circuit, if available, for up to 5 days for a first violation,
 262 and up to 15 days for a second or subsequent violation.

263 (II) Place the child on home detention with electronic
 264 monitoring. However, this sanction may be used only if a
 265 residential consequence unit is not available.

266 (III) Modify or continue the child's probation program or
 267 postcommitment probation program.

268 (IV) Revoke probation or postcommitment probation and
 269 commit the child to the department.

270 d. Notwithstanding s. 743.07 and paragraph (d), and except
 271 as provided in s. 985.31, the term of any order placing a child
 272 in a probation program must be until the child's 19th birthday
 273 unless he or she is released by the court, on the motion of an
 274 interested party or on its own motion.

275 2. Commit the child to a licensed child-caring agency
 276 willing to receive the child, but the court may not commit the
 277 child to a jail or to a facility used primarily as a detention
 278 center or facility or shelter.

279 3. Commit the child to the department at a restrictiveness
 280 level defined in s. 985.03. Such commitment must be for the

281 purpose of exercising active control over the child, including,
282 but not limited to, custody, care, training, urine monitoring,
283 and treatment of the child and release of the child from
284 residential commitment into the community in a postcommitment
285 nonresidential conditional release program. If the child is
286 eligible to attend public school following commitment and the
287 court finds that the victim or a sibling of the victim in the
288 case is or may be attending the same school as the child, the
289 commitment order shall include a finding pursuant to the
290 proceedings described in s. 985.23(1)(d). If the child is not
291 successful in the conditional release program, the department
292 may use the transfer procedure under s. 985.404. Notwithstanding
293 s. 743.07 and paragraph (d), and except as provided in s.
294 985.31, the term of the commitment must be until the child is
295 discharged by the department or until he or she reaches the age
296 of 21.

297 4. Revoke or suspend the driver's license of the child.

298 5. Require the child and, if the court finds it
299 appropriate, the child's parent or guardian together with the
300 child, to render community service in a public service program.

301 6. As part of the probation program to be implemented by
302 the department, or, in the case of a committed child, as part of
303 the community-based sanctions ordered by the court at the
304 disposition hearing or before the child's release from
305 commitment, order the child to make restitution in money,
306 through a promissory note cosigned by the child's parent or
307 guardian, or in kind for any damage or loss caused by the
308 child's offense in a reasonable amount or manner to be

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309 | determined by the court. The clerk of the circuit court shall be
310 | the receiving and dispensing agent. In such case, the court
311 | shall order the child or the child's parent or guardian to pay
312 | to the office of the clerk of the circuit court an amount not to
313 | exceed the actual cost incurred by the clerk as a result of
314 | receiving and dispensing restitution payments. The clerk shall
315 | notify the court if restitution is not made, and the court shall
316 | take any further action that is necessary against the child or
317 | the child's parent or guardian. A finding by the court, after a
318 | hearing, that the parent or guardian has made diligent and good
319 | faith efforts to prevent the child from engaging in delinquent
320 | acts absolves the parent or guardian of liability for
321 | restitution under this subparagraph.

322 | 7. Order the child and, if the court finds it appropriate,
323 | the child's parent or guardian together with the child, to
324 | participate in a community work project, either as an
325 | alternative to monetary restitution or as part of the
326 | rehabilitative or probation program.

327 | 8. Commit the child to the department for placement in a
328 | program or facility for serious or habitual juvenile offenders
329 | in accordance with s. 985.31. Any commitment of a child to a
330 | program or facility for serious or habitual juvenile offenders
331 | must be for an indeterminate period of time, but the time may
332 | not exceed the maximum term of imprisonment that an adult may
333 | serve for the same offense. The court may retain jurisdiction
334 | over such child until the child reaches the age of 21,
335 | specifically for the purpose of the child completing the
336 | program.

337 9. In addition to the sanctions imposed on the child,
338 order the parent or guardian of the child to perform community
339 service if the court finds that the parent or guardian did not
340 make a diligent and good faith effort to prevent the child from
341 engaging in delinquent acts. The court may also order the parent
342 or guardian to make restitution in money or in kind for any
343 damage or loss caused by the child's offense. The court shall
344 determine a reasonable amount or manner of restitution, and
345 payment shall be made to the clerk of the circuit court as
346 provided in subparagraph 6.

347 10. Subject to specific appropriation, commit the juvenile
348 sexual offender to the department for placement in a program or
349 facility for juvenile sexual offenders in accordance with s.
350 985.308. Any commitment of a juvenile sexual offender to a
351 program or facility for juvenile sexual offenders must be for an
352 indeterminate period of time, but the time may not exceed the
353 maximum term of imprisonment that an adult may serve for the
354 same offense. The court may retain jurisdiction over a juvenile
355 sexual offender until the juvenile sexual offender reaches the
356 age of 21, specifically for the purpose of completing the
357 program.

358 11. If the residence of a child adjudicated delinquent is
359 in a foreign country or if the child adjudicated delinquent is a
360 citizen of a foreign country and is not in this country in a
361 legal status, notify the United States Bureau of Customs and
362 Border Protection of the adjudication of the child, order that
363 the child be returned to his or her country of origin, and order
364 the department to transfer the physical custody of the child to

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365 | the United States Bureau of Customs and Border Protection for
366 | the appropriate processing to remove the child from this
367 | country.

368 | Section 3. This act shall take effect July 1, 2006.