

CHAMBER ACTION

1 The Juvenile Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to juvenile delinquents; amending s.
7 985.04, F.S.; authorizing disclosure of specified
8 confidential juvenile records to private school
9 principals; requiring the Department of Juvenile Justice,
10 law enforcement agencies, and state attorneys to provide
11 notice to private school principals of specified juvenile
12 offenders; providing criminal penalties for a private
13 school employee who improperly discloses specified
14 confidential information; requiring private school
15 principals to notify classroom teachers of specified
16 information; amending s. 985.207, F.S.; requiring the
17 arresting authority to provide notice to private school
18 principals of specified juvenile offenders; requiring
19 private school principals to notify classroom teachers of
20 specified information; amending s. 985.21, F.S.; requiring
21 the department, subject to appropriation, to establish
22 access to federal immigration databases; requiring the
23 department to screen each child brought into intake to

HB 27

2006
CS

24 | determine his or her citizenship; requiring the department
 25 | to screen specified children in federal immigration
 26 | databases to determine citizenship and whether they are
 27 | lawfully present in this country; requiring the department
 28 | to notify appropriate authorities within the federal
 29 | Department of Homeland Security of specified children
 30 | whose citizenship cannot be determined, who are not
 31 | lawfully present in this country, and who are deportable
 32 | aliens; requiring the department to maintain citizenship
 33 | information in a centralized database and to share that
 34 | information with specified entities; requiring the
 35 | department to adopt rules; amending s. 985.215, F.S.;
 36 | requiring detention staff to notify private school
 37 | personnel of a juvenile sexual offender's release;
 38 | amending ss. 985.228, 985.23, 985.231, and 985.233, F.S.;
 39 | providing for no-contact orders in cases in which the
 40 | victim and juvenile offender are, or may be, attending the
 41 | same public or private school; amending s. 985.308, F.S.;
 42 | requiring notification of a public or private school to
 43 | which a juvenile sexual offender is returning; requiring
 44 | the department to establish procedures for such notice;
 45 | providing an effective date.

46

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

48

49 | Section 1. Subsections (3) and (7) of section 985.04,
 50 | Florida Statutes, are amended to read:

51 | 985.04 Oaths; records; confidential information.--

HB 27

2006
CS

52 (3) (a) Except as provided in subsections (2), (4), (5),
53 and (6), ~~and s. 943.053,~~ all information obtained under this
54 part in the discharge of official duty by any judge, any
55 employee of the court, any authorized agent of the department ~~of~~
56 ~~Juvenile Justice~~, the Parole Commission, the Department of
57 Corrections, the juvenile justice circuit boards, any law
58 enforcement agent, or any licensed professional or licensed
59 community agency representative participating in the assessment
60 or treatment of a juvenile is confidential and may be disclosed
61 only to the authorized personnel of the court, the department ~~of~~
62 ~~Juvenile Justice~~ and its designees, the Department of
63 Corrections, the Parole Commission, law enforcement agents,
64 school superintendents and their designees, the principal of a
65 private school attended by the juvenile, any licensed
66 professional or licensed community agency representative
67 participating in the assessment or treatment of a juvenile, and
68 others entitled under this chapter to receive that information,
69 or upon order of the court. Within each county, the sheriff, the
70 chiefs of police, the district school superintendent, and the
71 department shall enter into an interagency agreement for the
72 purpose of sharing information about juvenile offenders among
73 all parties. The agreement must specify the conditions under
74 which summary criminal history information is to be made
75 available to appropriate school personnel, and the conditions
76 under which school records are to be made available to
77 appropriate department personnel. Such agreement shall require
78 notification to any classroom teacher of assignment to the
79 teacher's classroom of a juvenile who has been placed in a

HB 27

2006
CS

80 | probation or commitment program for a felony offense. The
81 | agencies entering into such agreement must comply with s.
82 | 943.0525, and must maintain the confidentiality of information
83 | that is otherwise exempt from s. 119.07(1), as provided by law.

84 | (b) The department shall disclose to the school
85 | superintendent and the principal of a private school attended by
86 | the child the presence of any child in the care and custody or
87 | under the jurisdiction or supervision of the department who has
88 | a known history of criminal sexual behavior with other
89 | juveniles; is an alleged juvenile sex offender, as defined in s.
90 | 39.01; or has pled guilty or nolo contendere to, or has been
91 | found to have committed, a violation of chapter 794, chapter
92 | 796, chapter 800, s. 827.071, or s. 847.0133, regardless of
93 | adjudication. Any employee of a district school board or private
94 | school who knowingly and willfully discloses such information to
95 | an unauthorized person commits a misdemeanor of the second
96 | degree, punishable as provided in s. 775.082 or s. 775.083.

97 | (7) (a) Notwithstanding any other provision of this
98 | section, when a child of any age is taken into custody by a law
99 | enforcement officer for an offense that would have been a felony
100 | if committed by an adult, or a crime of violence, the law
101 | enforcement agency must notify the superintendent of schools, if
102 | the child attends public school, or the principal of a private
103 | school attended by the child, that the child is alleged to have
104 | committed the delinquent act.

105 | (b) Notwithstanding paragraph (a) or any other provision
106 | of this section, when a child of any age is formally charged by
107 | a state attorney with a felony or a delinquent act that would be

HB 27

2006
CS

108 a felony if committed by an adult, the state attorney shall
109 notify the superintendent of schools, if the child attends
110 public school, or the principal of a private school attended by
111 the child, ~~the child's school~~ that the child has been charged
112 with such felony or delinquent act. The information obtained by
113 the superintendent of schools or private school principal
114 pursuant to this section must be released within 48 hours after
115 receipt to appropriate school personnel, including the principal
116 of the public school of the child. The public or private school
117 principal must immediately notify the child's immediate
118 classroom teachers. Upon notification, the principal is
119 authorized to begin disciplinary actions pursuant to s.
120 1006.09(1)-(4).

121 Section 2. Paragraph (b) of subsection (1) of section
122 985.207, Florida Statutes, is amended to read:

123 985.207 Taking a child into custody.--

124 (1) A child may be taken into custody under the following
125 circumstances:

126 (b) For a delinquent act or violation of law, pursuant to
127 Florida law pertaining to a lawful arrest. If such delinquent
128 act or violation of law would be a felony if committed by an
129 adult or involves a crime of violence, the arresting authority
130 shall immediately notify the district school superintendent, or
131 the superintendent's designee, of the school district with
132 educational jurisdiction of the child or the principal of a
133 private school attended by the child. Such notification shall
134 include other education providers such as the Florida School for
135 the Deaf and the Blind, university developmental research

HB 27

2006
CS

136 schools, and private elementary and secondary schools. The
137 information obtained by the superintendent of schools or a
138 private school principal pursuant to this section must be
139 released within 48 hours after receipt to appropriate school
140 personnel, including the principal of the child's public school,
141 or as otherwise provided by law. The public or private school
142 principal must immediately notify the child's immediate
143 classroom teachers. Information provided by an arresting
144 authority pursuant to this paragraph may not be placed in the
145 student's permanent record and shall be removed from all school
146 records no later than 9 months after the date of the arrest.

147

148 Nothing in this subsection shall be construed to allow the
149 detention of a child who does not meet the detention criteria in
150 s. 985.215.

151 Section 3. Subsection (6) is added to section 985.21,
152 Florida Statutes, to read:

153 985.21 Intake and case management.--

154 (6) Subject to appropriation, the department, as part of
155 its intake and case management system under this section, shall:

156 (a) Establish access to databases maintained by the Bureau
157 of Immigration and Customs Enforcement of the United States
158 Department of Homeland Security that permit law enforcement
159 agencies to screen alien records and immigration information.

160 (b) Screen each child brought into intake to determine the
161 child's citizenship based upon government documentation. If the
162 department determines that the child is not a United States
163 citizen or if the department is unable to determine whether the

HB 27

2006
CS

164 child is a United States citizen, the department shall use the
165 databases under paragraph (a) to determine the child's
166 citizenship and whether he or she is lawfully present in the
167 United States.

168 (c) Notify the appropriate authorities within the United
169 States Department of Homeland Security of any child:

170 1. Who is alleged pursuant to a probable cause affidavit
171 to have committed an act that would be crime if committed by an
172 adult when the department, after the screening required in
173 paragraph (b):

174 a. Is unable to determine whether the child is lawfully
175 present in the United States; or

176 b. Has determined that the child is not lawfully present
177 in the United States.

178 2. Who has been found to have committed an act that would
179 be a crime if committed by an adult when the department, after
180 the screening required in paragraph (b):

181 a. Is unable to determine whether the child is lawfully
182 present in the United States;

183 b. Has determined that the child is not lawfully present
184 in the United States; or

185 c. Has determined that the child is a lawful alien if the
186 crime committed by the child results in classification of the
187 child as a deportable alien under the applicable provisions of
188 the Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq.,
189 as amended.

190 (d) Maintain information collected under this subsection
191 in a centralized database and establish procedures to make this

HB 27

2006
CS

192 | information available to federal, state, and local law
 193 | enforcement agencies and the state court system.

194 |
 195 | The department shall adopt rules pursuant to ss. 120.536(1) and
 196 | 120.54 to implement this subsection.

197 | Section 4. Paragraph (b) of subsection (11) of section
 198 | 985.215, Florida Statutes, is amended to read:

199 | 985.215 Detention.--

200 | (11)

201 | (b) When a juvenile sexual offender, pursuant to this
 202 | subsection, is released from detention or transferred to home
 203 | detention or nonsecure detention, detention staff shall
 204 | immediately notify the appropriate law enforcement agency and
 205 | school personnel at the public or private school attended by the
 206 | offender.

207 | Section 5. Subsection (4) of section 985.228, Florida
 208 | Statutes, is amended to read:

209 | 985.228 Adjudicatory hearings; withheld adjudications;
 210 | orders of adjudication.--

211 | (4) If the court finds that the child named in the
 212 | petition has committed a delinquent act or violation of law, it
 213 | may, in its discretion, enter an order stating the facts upon
 214 | which its finding is based but withholding adjudication of
 215 | delinquency and placing the child in a probation program under
 216 | the supervision of the department or under the supervision of
 217 | any other person or agency specifically authorized and appointed
 218 | by the court. The court may, as a condition of the program,
 219 | impose as a penalty component restitution in money or in kind,

HB 27

2006
CS

220 community service, a curfew, urine monitoring, revocation or
 221 suspension of the driver's license of the child, or other
 222 nonresidential punishment appropriate to the offense, and may
 223 impose as a rehabilitative component a requirement of
 224 participation in substance abuse treatment, or school or other
 225 educational program attendance. If the child is attending public
 226 or private school and the court finds that the victim or a
 227 sibling of the victim in the case was assigned to attend or is
 228 eligible to attend the same school as the child, the court order
 229 shall include a finding pursuant to the proceedings described in
 230 s. 985.23(1)(d). If the court later finds that the child has not
 231 complied with the rules, restrictions, or conditions of the
 232 community-based program, the court may, after a hearing to
 233 establish the lack of compliance, but without further evidence
 234 of the state of delinquency, enter an adjudication of
 235 delinquency and shall thereafter have full authority under this
 236 chapter to deal with the child as adjudicated.

237 Section 6. Paragraph (d) of subsection (1) of section
 238 985.23, Florida Statutes, is amended to read:

239 985.23 Disposition hearings in delinquency cases.--When a
 240 child has been found to have committed a delinquent act, the
 241 following procedures shall be applicable to the disposition of
 242 the case:

243 (1) Before the court determines and announces the
 244 disposition to be imposed, it shall:

245 (d) Give all parties present at the hearing an opportunity
 246 to comment on the issue of disposition and any proposed
 247 rehabilitative plan. Parties to the case shall include the

HB 27

2006
CS

248 | parents, legal custodians, or guardians of the child; the
 249 | child's counsel; the state attorney; representatives of the
 250 | department; the victim if any, or his or her representative;
 251 | representatives of the school system; and the law enforcement
 252 | officers involved in the case. If the child is attending or is
 253 | eligible to attend public or private school and the court finds
 254 | that the victim or a sibling of the victim in the case is
 255 | attending or may attend the same school as the child, the court
 256 | shall, on its own motion or upon the request of any party or any
 257 | parent or legal guardian of the victim, determine whether it is
 258 | appropriate to enter a no-contact ~~no-contact~~ order in favor of
 259 | the victim or a sibling of the victim. If appropriate and
 260 | acceptable to the victim and the victim's parent or parents or
 261 | legal guardian, the court may reflect in the written disposition
 262 | order that the victim or the victim's parent stated in writing
 263 | or in open court that he or she did not object to the offender
 264 | being permitted to attend the same school or ride on the same
 265 | school bus as the victim or a sibling of the victim.

266 |
 267 | It is the intent of the Legislature that the criteria set forth
 268 | in subsection (2) are general guidelines to be followed at the
 269 | discretion of the court and not mandatory requirements of
 270 | procedure. It is not the intent of the Legislature to provide
 271 | for the appeal of the disposition made pursuant to this section.

272 | Section 7. Paragraph (a) of subsection (1) of section
 273 | 985.231, Florida Statutes, is amended to read:

274 | 985.231 Powers of disposition in delinquency cases.--

HB 27

2006
CS

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

279 1. Place the child in a probation program or a
280 postcommitment probation program under the supervision of an
281 authorized agent of the department or of any other person or
282 agency specifically authorized and appointed by the court,
283 whether in the child's own home, in the home of a relative of
284 the child, or in some other suitable place under such reasonable
285 conditions as the court may direct. A probation program for an
286 adjudicated delinquent child must include a penalty component
287 such as restitution in money or in kind, community service, a
288 curfew, revocation or suspension of the driver's license of the
289 child, or other nonresidential punishment appropriate to the
290 offense and must also include a rehabilitative program component
291 such as a requirement of participation in substance abuse
292 treatment or in school or other educational program. If the
293 child is attending or is eligible to attend public or private
294 school and the court finds that the victim or a sibling of the
295 victim in the case is attending or may attend the same school as
296 the child, the court placement order shall include a finding
297 pursuant to the proceedings described in s. 985.23(1)(d). Upon
298 the recommendation of the department at the time of disposition,
299 or subsequent to disposition pursuant to the filing of a
300 petition alleging a violation of the child's conditions of
301 postcommitment probation, the court may order the child to

HB 27

2006
CS

302 | submit to random testing for the purpose of detecting and
303 | monitoring the use of alcohol or controlled substances.

304 | a. A classification scale for levels of supervision shall
305 | be provided by the department, taking into account the child's
306 | needs and risks relative to probation supervision requirements
307 | to reasonably ensure the public safety. Probation programs for
308 | children shall be supervised by the department or by any other
309 | person or agency specifically authorized by the court. These
310 | programs must include, but are not limited to, structured or
311 | restricted activities as described in this subparagraph, and
312 | shall be designed to encourage the child toward acceptable and
313 | functional social behavior. If supervision or a program of
314 | community service is ordered by the court, the duration of such
315 | supervision or program must be consistent with any treatment and
316 | rehabilitation needs identified for the child and may not exceed
317 | the term for which sentence could be imposed if the child were
318 | committed for the offense, except that the duration of such
319 | supervision or program for an offense that is a misdemeanor of
320 | the second degree, or is equivalent to a misdemeanor of the
321 | second degree, may be for a period not to exceed 6 months. When
322 | restitution is ordered by the court, the amount of restitution
323 | may not exceed an amount the child and the parent or guardian
324 | could reasonably be expected to pay or make. A child who
325 | participates in any work program under this part is considered
326 | an employee of the state for purposes of liability, unless
327 | otherwise provided by law.

328 | b. The court may conduct judicial review hearings for a
329 | child placed on probation for the purpose of fostering

HB 27

2006
CS

330 | accountability to the judge and compliance with other
331 | requirements, such as restitution and community service. The
332 | court may allow early termination of probation for a child who
333 | has substantially complied with the terms and conditions of
334 | probation.

335 | c. If the conditions of the probation program or the
336 | postcommitment probation program are violated, the department or
337 | the state attorney may bring the child before the court on a
338 | petition alleging a violation of the program. Any child who
339 | violates the conditions of probation or postcommitment probation
340 | must be brought before the court if sanctions are sought. A
341 | child taken into custody under s. 985.207 for violating the
342 | conditions of probation or postcommitment probation shall be
343 | held in a consequence unit if such a unit is available. The
344 | child shall be afforded a hearing within 24 hours after being
345 | taken into custody to determine the existence of probable cause
346 | that the child violated the conditions of probation or
347 | postcommitment probation. A consequence unit is a secure
348 | facility specifically designated by the department for children
349 | who are taken into custody under s. 985.207 for violating
350 | probation or postcommitment probation, or who have been found by
351 | the court to have violated the conditions of probation or
352 | postcommitment probation. If the violation involves a new charge
353 | of delinquency, the child may be detained under s. 985.215 in a
354 | facility other than a consequence unit. If the child is not
355 | eligible for detention for the new charge of delinquency, the
356 | child may be held in the consequence unit pending a hearing and
357 | is subject to the time limitations specified in s. 985.215. If

HB 27

2006
CS

358 | the child denies violating the conditions of probation or
359 | postcommitment probation, the court shall appoint counsel to
360 | represent the child at the child's request. Upon the child's
361 | admission, or if the court finds after a hearing that the child
362 | has violated the conditions of probation or postcommitment
363 | probation, the court shall enter an order revoking, modifying,
364 | or continuing probation or postcommitment probation. In each
365 | such case, the court shall enter a new disposition order and, in
366 | addition to the sanctions set forth in this paragraph, may
367 | impose any sanction the court could have imposed at the original
368 | disposition hearing. If the child is found to have violated the
369 | conditions of probation or postcommitment probation, the court
370 | may:

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

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

377 | (III) Modify or continue the child's probation program or
378 | postcommitment probation program.

379 | (IV) Revoke probation or postcommitment probation and
380 | commit the child to the department.

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

HB 27

2006
CS

386 2. Commit the child to a licensed child-caring agency
387 willing to receive the child, but the court may not commit the
388 child to a jail or to a facility used primarily as a detention
389 center or facility or shelter.

390 3. Commit the child to the department at a restrictiveness
391 level defined in s. 985.03. Such commitment must be for the
392 purpose of exercising active control over the child, including,
393 but not limited to, custody, care, training, urine monitoring,
394 and treatment of the child and release of the child from
395 residential commitment into the community in a postcommitment
396 nonresidential conditional release program. If the child is
397 eligible to attend public or private school following commitment
398 and the court finds that the victim or a sibling of the victim
399 in the case is or may be attending the same school as the child,
400 the commitment order shall include a finding pursuant to the
401 proceedings described in s. 985.23(1)(d). If the child is not
402 successful in the conditional release program, the department
403 may use the transfer procedure under s. 985.404. Notwithstanding
404 s. 743.07 and paragraph (d), and except as provided in s.
405 985.31, the term of the commitment must be until the child is
406 discharged by the department or until he or she reaches the age
407 of 21.

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

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

412 6. As part of the probation program to be implemented by
413 the department, or, in the case of a committed child, as part of

HB 27

2006
CS

414 the community-based sanctions ordered by the court at the
415 disposition hearing or before the child's release from
416 commitment, order the child to make restitution in money,
417 through a promissory note cosigned by the child's parent or
418 guardian, or in kind for any damage or loss caused by the
419 child's offense in a reasonable amount or manner to be
420 determined by the court. The clerk of the circuit court shall be
421 the receiving and dispensing agent. In such case, the court
422 shall order the child or the child's parent or guardian to pay
423 to the office of the clerk of the circuit court an amount not to
424 exceed the actual cost incurred by the clerk as a result of
425 receiving and dispensing restitution payments. The clerk shall
426 notify the court if restitution is not made, and the court shall
427 take any further action that is necessary against the child or
428 the child's parent or guardian. A finding by the court, after a
429 hearing, that the parent or guardian has made diligent and good
430 faith efforts to prevent the child from engaging in delinquent
431 acts absolves the parent or guardian of liability for
432 restitution under this subparagraph.

433 7. Order the child and, if the court finds it appropriate,
434 the child's parent or guardian together with the child, to
435 participate in a community work project, either as an
436 alternative to monetary restitution or as part of the
437 rehabilitative or probation program.

438 8. Commit the child to the department for placement in a
439 program or facility for serious or habitual juvenile offenders
440 in accordance with s. 985.31. Any commitment of a child to a
441 program or facility for serious or habitual juvenile offenders

HB 27

2006
CS

442 must be for an indeterminate period of time, but the time may
443 not exceed the maximum term of imprisonment that an adult may
444 serve for the same offense. The court may retain jurisdiction
445 over such child until the child reaches the age of 21,
446 specifically for the purpose of the child completing the
447 program.

448 9. In addition to the sanctions imposed on the child,
449 order the parent or guardian of the child to perform community
450 service if the court finds that the parent or guardian did not
451 make a diligent and good faith effort to prevent the child from
452 engaging in delinquent acts. The court may also order the parent
453 or guardian to make restitution in money or in kind for any
454 damage or loss caused by the child's offense. The court shall
455 determine a reasonable amount or manner of restitution, and
456 payment shall be made to the clerk of the circuit court as
457 provided in subparagraph 6.

458 10. Subject to specific appropriation, commit the juvenile
459 sexual offender to the department for placement in a program or
460 facility for juvenile sexual offenders in accordance with s.
461 985.308. Any commitment of a juvenile sexual offender to a
462 program or facility for juvenile sexual offenders must be for an
463 indeterminate period of time, but the time may not exceed the
464 maximum term of imprisonment that an adult may serve for the
465 same offense. The court may retain jurisdiction over a juvenile
466 sexual offender until the juvenile sexual offender reaches the
467 age of 21, specifically for the purpose of completing the
468 program.

HB 27

2006
CS

469 Section 8. Paragraph (f) of subsection (4) of section
470 985.233, Florida Statutes, is amended to read:

471 985.233 Sentencing powers; procedures; alternatives for
472 juveniles prosecuted as adults.--

473 (4) SENTENCING ALTERNATIVES.--

474 (f) School attendance.--If the child is attending or is
475 eligible to attend public or private school and the court finds
476 that the victim or a sibling of the victim in the case is
477 attending or may attend the same school as the child, the court
478 placement order shall include a finding pursuant to the
479 proceeding described in s. 985.23(1)(d).

480

481 It is the intent of the Legislature that the criteria and
482 guidelines in this subsection are mandatory and that a
483 determination of disposition under this subsection is subject to
484 the right of the child to appellate review under s. 985.234.

485 Section 9. Paragraph (d) of subsection (1) and subsection
486 (6) of section 985.308, Florida Statutes, are amended to read:

487 985.308 Juvenile sexual offender commitment programs;
488 sexual abuse intervention networks.--

489 (1) In order to provide intensive treatment and
490 psychological services to a juvenile sexual offender committed
491 to the department, it is the intent of the Legislature to
492 establish programs and strategies to effectively respond to
493 juvenile sexual offenders. In designing programs for juvenile
494 sexual offenders, it is the further intent of the Legislature to
495 implement strategies that include:

HB 27

2006
CS

496 (d) Providing notification to the public or private school
497 to which the juvenile sexual offender is returning, the parents
498 or legal guardians of the victim, and law enforcement, when a
499 juvenile sexual offender returns into the community.

500 (6) The department shall establish protocol and procedures
501 to notify public or private schools, the appropriate law
502 enforcement agencies, and the court when a juvenile sexual
503 offender returns to the community.

504 Section 10. This act shall take effect October 1, 2006.