

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

.
.
.

1 Representative Culp offered the following:

3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Paragraph (e) is added to subsection (1) of
6 section 985.207, Florida Statutes, to read:

7 985.207 Taking a child into custody.--

8 (1) A child may be taken into custody under the following
9 circumstances:

10 (e) When a law enforcement officer has probable cause to
11 believe that a child who is awaiting disposition has violated
12 conditions imposed by the court under s. 985.228(5) in his or
13 her order of adjudication of delinquency.

14
15 Nothing in this subsection shall be construed to allow the
16 detention of a child who does not meet the detention criteria in
17 s. 985.215.

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

18 Section 2. Subsection (2) and paragraphs (d) and (g) of
19 subsection (5) of section 985.215, Florida Statutes, are amended
20 to read:

21 985.215 Detention.--

22 (2) Subject to the provisions of subsection (1), a child
23 taken into custody and placed into nonsecure or home detention
24 care or detained in secure detention care prior to a detention
25 hearing may continue to be detained by the court if:

26 (a) The child is alleged to be an escapee from a
27 residential commitment program, or an absconder from a
28 nonresidential commitment program, a probation program, or
29 conditional release supervision, or is alleged to have escaped
30 while being lawfully transported to or from a residential
31 commitment program.

32 (b) The child is wanted in another jurisdiction for an
33 offense which, if committed by an adult, would be a felony.

34 (c) The child is charged with a delinquent act or
35 violation of law and requests in writing through legal counsel
36 to be detained for protection from an imminent physical threat
37 to his or her personal safety.

38 (d) The child is charged with committing an offense of
39 domestic violence as defined in s. 741.28 and is detained as
40 provided in s. 985.213(2)(b)3.

41 (e) The child is charged with possession or discharging a
42 firearm on school property in violation of s. 790.115.

43 (f) The child is charged with a capital felony, a life
44 felony, a felony of the first degree, a felony of the second
45 degree that does not involve a violation of chapter 893, or a
46 felony of the third degree that is also a crime of violence,
159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

47 including any such offense involving the use or possession of a
48 firearm.

49 (g) The child is charged with any second degree or third
50 degree felony involving a violation of chapter 893 or any third
51 degree felony that is not also a crime of violence, and the
52 child:

53 1. Has a record of failure to appear at court hearings
54 after being properly notified in accordance with the Rules of
55 Juvenile Procedure;

56 2. Has a record of law violations prior to court hearings;

57 3. Has already been detained or has been released and is
58 awaiting final disposition of the case;

59 4. Has a record of violent conduct resulting in physical
60 injury to others; or

61 5. Is found to have been in possession of a firearm.

62 (h) The child is alleged to have violated the conditions
63 of the child's probation or conditional release supervision.
64 However, a child detained under this paragraph may be held only
65 in a consequence unit as provided in s. 985.231(1)(a)1.c. If a
66 consequence unit is not available, the child shall be placed on
67 home detention with electronic monitoring.

68 (i) The child is detained on a judicial order for failure
69 to appear and has previously willfully failed to appear, after
70 proper notice, for an adjudicatory hearing on the same case
71 regardless of the results of the risk assessment instrument. A
72 child may be held in secure detention for up to 72 hours in
73 advance of the next scheduled court hearing pursuant to this
74 paragraph. The child's failure to keep the clerk of court and
75 defense counsel informed of a current and valid mailing address
159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

76 | where the child will receive notice to appear at court
77 | proceedings does not provide an adequate ground for excusal of
78 | the child's nonappearance at the hearings.

79 | (j) The child is detained on a judicial order for failure
80 | to appear and has previously willfully failed to appear, after
81 | proper notice, at two or more court hearings of any nature on
82 | the same case regardless of the results of the risk assessment
83 | instrument. A child may be held in secure detention for up to 72
84 | hours in advance of the next scheduled court hearing pursuant to
85 | this paragraph. The child's failure to keep the clerk of court
86 | and defense counsel informed of a current and valid mailing
87 | address where the child will receive notice to appear at court
88 | proceedings does not provide an adequate ground for excusal of
89 | the child's nonappearance at the hearings.

90 | (k) At his or her adjudicatory hearing, the child has been
91 | found to have committed a delinquent act or violation of law and
92 | has previously willfully failed to appear, after proper notice,
93 | for other delinquency court proceedings of any nature regardless
94 | of the results of the risk assessment instrument. A child may be
95 | held in secure detention or, at the discretion of the court and
96 | if available, placed on home detention with electronic
97 | monitoring until the child's disposition order is entered in his
98 | or her case. The child's failure to keep the clerk of court and
99 | defense counsel informed of a current and valid mailing address
100 | where the child will receive notice to appear at court
101 | proceedings does not provide an adequate ground for excusal of
102 | the child's nonappearance at the hearings.

103 |

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

104 A child who meets any of these criteria and who is ordered to be
105 detained pursuant to this subsection shall be given a hearing
106 within 24 hours after being taken into custody. The purpose of
107 the detention hearing is to determine the existence of probable
108 cause that the child has committed the delinquent act or
109 violation of law with which he or she is charged and the need
110 for continued detention, except where the child is alleged to
111 have absconded from a nonresidential commitment program in which
112 case the court, at the detention hearing, shall order that the
113 child be released from detention and returned to his or her
114 nonresidential commitment program. Unless a child is detained
115 under paragraph (d), ~~or~~ paragraph (e), or paragraph (k), the
116 court shall use the results of the risk assessment performed by
117 the juvenile probation officer and, based on the criteria in
118 this subsection, shall determine the need for continued
119 detention. A child placed into secure, nonsecure, or home
120 detention care may continue to be so detained by the court
121 pursuant to this subsection. If the court orders a placement
122 more restrictive than indicated by the results of the risk
123 assessment instrument, the court shall state, in writing, clear
124 and convincing reasons for such placement. Except as provided in
125 s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b),
126 paragraph (10)(c), or paragraph (10)(d), when a child is placed
127 into secure or nonsecure detention care, or into a respite home
128 or other placement pursuant to a court order following a
129 hearing, the court order must include specific instructions that
130 direct the release of the child from such placement no later
131 than 5 p.m. on the last day of the detention period specified in
132 paragraph (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1.,
159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

133 whichever is applicable, unless the requirements of such
134 applicable provision have been met or an order of continuance
135 has been granted pursuant to paragraph (5) (f).

136 (5)

137 (d) Except as provided in paragraph (2) (k), paragraph (g),
138 or s. 985.228(5), a child may not be held in secure, nonsecure,
139 or home detention care for more than 15 days following the entry
140 of an order of adjudication.

141 (g) Upon good cause being shown that the nature of the
142 charge requires additional time for the prosecution or defense
143 of the case, the court may extend the time limits for detention
144 specified in paragraph (c) or paragraph (d) an additional 9 days
145 if the child is charged with an offense that would be, if
146 committed by an adult, a capital felony, a life felony, a felony
147 of the first degree, or a felony of the second degree involving
148 violence against any individual.

149 Section 3. Subsection (5) of section 985.228, Florida
150 Statutes, is amended to read:

151 985.228 Adjudicatory hearings; withheld adjudications;
152 orders of adjudication.--

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

160 (b) The order of adjudication of delinquency under
161 paragraph (a) shall also include conditions that must be

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

162 followed by the child until a disposition order is entered in
163 his or her case. These conditions must include, but are not
164 limited to, specifying that the child, during any period of time
165 that he or she:

166 1. Is not in secure detention, must comply with a curfew;
167 must attend school or another educational program, if eligible;
168 and is prohibited from engaging in ungovernable behavior.

169 2. Is in secure detention, is prohibited from engaging in
170 ungovernable behavior.

171 (c) For purposes of this subsection, the term
172 "ungovernable behavior" means:

173 1. The child's failing to obey the reasonable and lawful
174 demands of the child's parent or legal guardian and, where
175 applicable, the reasonable and lawful demands of a person
176 responsible for supervising the child while he or she is in
177 school, another educational program, or secure detention.

178 2. The child engaging in behavior that evidences a risk
179 that the child may fail to appear for future court proceedings
180 or may inflict harm upon others or the property of others.

181 3. Other behavior of the child as specified in writing by
182 the court in the order of adjudication of delinquency.

183 (d) If a child willfully violates a condition contained in
184 his or her order of adjudication of delinquency, the court may
185 find the child in direct or indirect contempt of court under s.
186 985.216; however, notwithstanding s. 985.216 and the results of
187 the risk assessment instrument, the child's sanctions for such
188 contempt of court shall be placement in secure detention or, at
189 the discretion of the court and if available, on home detention

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

190 with electronic monitoring until the child's disposition order
191 is entered in his or her case.

192 Section 4. Paragraph (a) of subsection (1) of section
193 985.31, Florida Statutes, is amended to read:

194 985.31 Serious or habitual juvenile offender.--

195 (1) ASSESSMENT AND TREATMENT SERVICES.--Pursuant to the
196 provisions of this chapter and the establishment of appropriate
197 program guidelines and standards, contractual instruments, which
198 shall include safeguards of all constitutional rights, shall be
199 developed as follows:

200 (a) The department shall provide for:

201 1. The oversight of implementation of assessment and
202 treatment approaches.

203 2. The identification and prequalification of appropriate
204 individuals or not-for-profit organizations, including minority
205 individuals or organizations when possible, to provide
206 assessment and treatment services to serious or habitual
207 delinquent children.

208 3. The monitoring and evaluation of assessment and
209 treatment services for compliance with the provisions of this
210 chapter and all applicable rules and guidelines pursuant
211 thereto.

212 ~~4. The development of an annual report on the performance~~
213 ~~of assessment and treatment to be presented to the Governor, the~~
214 ~~Attorney General, the President of the Senate, the Speaker of~~
215 ~~the House of Representatives, and the Auditor General no later~~
216 ~~than January 1 of each year.~~

217 Section 5. Paragraph (a) of subsection (1) of section
218 985.311, Florida Statutes, is amended to read:

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

219 985.311 Intensive residential treatment program for
220 offenders less than 13 years of age.--

221 (1) ASSESSMENT AND TREATMENT SERVICES.--Pursuant to the
222 provisions of this chapter and the establishment of appropriate
223 program guidelines and standards, contractual instruments, which
224 shall include safeguards of all constitutional rights, shall be
225 developed for intensive residential treatment programs for
226 offenders less than 13 years of age as follows:

227 (a) The department shall provide for:

228 1. The oversight of implementation of assessment and
229 treatment approaches.

230 2. The identification and prequalification of appropriate
231 individuals or not-for-profit organizations, including minority
232 individuals or organizations when possible, to provide
233 assessment and treatment services to intensive offenders less
234 than 13 years of age.

235 3. The monitoring and evaluation of assessment and
236 treatment services for compliance with the provisions of this
237 chapter and all applicable rules and guidelines pursuant
238 thereto.

239 ~~4. The development of an annual report on the performance~~
240 ~~of assessment and treatment to be presented to the Governor, the~~
241 ~~Attorney General, the President of the Senate, the Speaker of~~
242 ~~the House of Representatives, the Auditor General, and the~~
243 ~~Office of Program Policy Analysis and Government Accountability~~
244 ~~no later than January 1 of each year.~~

245 Section 6. Subsection (5) of section 985.317, Florida
246 Statutes, is amended to read:

247 985.317 Literacy programs for juvenile offenders.--

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

248 ~~(5) EVALUATION AND REPORT. The department, in~~
249 ~~consultation with the Department of Education, shall develop and~~
250 ~~implement an evaluation of the literacy program in order to~~
251 ~~determine the impact of the programs on recidivism. The~~
252 ~~department shall submit an annual report on the implementation~~
253 ~~and progress of the programs to the President of the Senate and~~
254 ~~the Speaker of the House of Representatives by January 1 of each~~
255 ~~year.~~

256 Section 7. Section 985.3142, Florida Statutes, is created
257 to read:

258 985.3142 Failure to return from a temporary release.--The
259 willful failure of a child to return to a residential commitment
260 facility described in s. 985.03(46) within the time authorized
261 for a temporary release shall:

262 (1) For a first offense, constitute absconding and such
263 offense shall be treated in the same manner as absconding from a
264 nonresidential commitment facility under this chapter, except
265 that under s. 985.215(2) the court shall order that the child be
266 returned to his or her residential commitment facility at the
267 child's detention hearing.

268 (2) For a second or subsequent offense, constitute a
269 misdemeanor of the second degree, punishable as provided in s.
270 775.082 or s. 775.083.

271 Section 8. Section 985.412, Florida Statutes, is amended
272 to read:

273 985.412 Program review and reporting requirements ~~Quality~~
274 ~~assurance and cost-effectiveness.--~~

275 (1) LEGISLATIVE PURPOSE.--It is the intent of the
276 Legislature that the department:

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

277 (a) Ensure that information be provided to decisionmakers
278 in a timely manner so that resources are allocated to programs
279 that of the department which achieve desired performance levels.

280 (b) Collect and analyze available statistical data for the
281 purpose of ongoing evaluation of all programs.

282 (c) ~~(b)~~ Provide information about the cost of ~~such~~ programs
283 and their differential effectiveness so that program the quality
284 may of such programs can be compared and improvements made
285 continually.

286 (d) ~~(e)~~ Provide information to aid in developing related
287 policy issues and concerns.

288 (e) ~~(d)~~ Provide information to the public about the
289 effectiveness of ~~such~~ programs in meeting established goals and
290 objectives.

291 (f) ~~(e)~~ Provide a basis for a system of accountability so
292 that each youth client is afforded the best programs to meet his
293 or her needs.

294 (g) ~~(f)~~ Improve service delivery to youth clients.

295 (h) ~~(g)~~ Modify or eliminate activities that are not
296 effective.

297 (2) DEFINITIONS.--As used in this section, the term:

298 (a) "Youth" ~~"Client"~~ means any person who is being
299 provided treatment or services by the department or by a
300 provider under contract with the department.

301 (b) "Program" means any facility, service, or program for
302 youth that is operated by the department or by a provider under
303 contract with the department.

304 (c) ~~(b)~~ "Program component" means an aggregation of
305 generally related objectives which, because of their special
159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

306 character, related workload, and interrelated output, can
307 logically be considered an entity for purposes of organization,
308 management, accounting, reporting, and budgeting.

309 ~~(c) "Program effectiveness" means the ability of the~~
310 ~~program to achieve desired client outcomes, goals, and~~
311 ~~objectives.~~

312 (d) "Program group" means a collection of programs with
313 sufficient similarity of function, services, and youth to permit
314 appropriate comparisons among programs within the group.

315 (3) OUTCOME EVALUATION.--The department, in consultation
316 with the Office of Economic and Demographic Research, the Office
317 of Program Policy Analysis and Government Accountability, and
318 contract service providers, shall develop and use a standard
319 methodology for annually measuring, evaluating, and reporting
320 program outputs and youth outcomes for each program and program
321 group.

322 (a) The standard methodology must:

323 1. Incorporate, whenever possible, performance-based
324 budgeting measures.

325 2. Include common terminology and operational definitions
326 for measuring the performance of system and program
327 administration, program outputs, and youth outcomes.

328 3. Specify program outputs for each program and for each
329 program group within the juvenile justice continuum.

330 4. Specify desired youth outcomes and methods by which to
331 measure youth outcomes for each program and program group.

332 (b) By February 15 of each year, the department shall
333 submit to the appropriate substantive and fiscal committees of

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

334 each house of the Legislature and the Governor a report that
335 identifies and describes:

336 1. The standard methodology implemented under paragraph
337 (a).

338 2. The programs offered within each program group.

339 3. The demographic profile and offense history of youth
340 served in each program group.

341 4. The actual program outputs and youth outcomes achieved
342 in each program group. ~~The department shall annually collect and~~
343 ~~report cost data for every program operated or contracted by the~~
344 ~~department. The cost data shall conform to a format approved by~~
345 ~~the department and the Legislature. Uniform cost data shall be~~
346 ~~reported and collected for state-operated and contracted~~
347 ~~programs so that comparisons can be made among programs. The~~
348 ~~department shall ensure that there is accurate cost accounting~~
349 ~~for state-operated services including market equivalent rent and~~
350 ~~other shared cost. The cost of the educational program provided~~
351 ~~to a residential facility shall be reported and included in the~~
352 ~~cost of a program. The department shall submit an annual cost~~
353 ~~report to the President of the Senate, the Speaker of the House~~
354 ~~of Representatives, the Minority Leader of each house of the~~
355 ~~Legislature, the appropriate substantive and fiscal committees~~
356 ~~of each house of the Legislature, and the Governor, no later~~
357 ~~than December 1 of each year. Cost benefit analysis for~~
358 ~~educational programs will be developed and implemented in~~
359 ~~collaboration with and in cooperation with the Department of~~
360 ~~Education, local providers, and local school districts. Cost~~
361 ~~data for the report shall include data collected by the~~

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

362 ~~Department of Education for the purposes of preparing the annual~~
363 ~~report required by s. 1003.52(19).~~

364 (4) ~~(a)~~ PROGRAM ACCOUNTABILITY MEASURES. --The department of
365 ~~Juvenile Justice~~, in consultation with the Office of Economic
366 and Demographic Research, and contract service providers, shall
367 develop a cost-effectiveness model and apply the model to each
368 commitment program. ~~Program recidivism rates shall be a~~
369 ~~component of the model.~~

370 (a) The cost-effectiveness model shall compare program
371 costs to expected and actual youth recidivism rates ~~client~~
372 ~~outcomes and program outputs~~. It is the intent of the
373 Legislature that continual development efforts take place to
374 improve the validity and reliability of the cost-effectiveness
375 model ~~and to integrate the standard methodology developed under~~
376 ~~s. 985.401(4) for interpreting program outcome evaluations.~~

377 (b) The department shall rank commitment programs based on
378 the cost-effectiveness model and shall submit a report to the
379 appropriate substantive and fiscal committees of each house of
380 the Legislature by January 15 ~~December 31~~ of each year.

381 (c) Based on ~~reports of the department on client outcomes~~
382 ~~and program outputs~~ and on the department's most recent cost-
383 effectiveness rankings, the department may terminate a
384 commitment program ~~operated by the department or a provider~~ if
385 the program has failed to achieve a minimum threshold of cost-
386 effectiveness ~~program effectiveness~~. This paragraph does not
387 preclude the department from terminating a contract as provided
388 under this section or as otherwise provided by law or contract,
389 and does not limit the department's authority to enter into or
390 terminate a contract.

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

391 (d) In collaboration with the Office of Economic and
392 Demographic Research, and contract service providers, the
393 department shall develop a work plan to refine the cost-
394 effectiveness model so that the model is consistent with the
395 performance-based program budgeting measures approved by the
396 Legislature to the extent the department deems appropriate. The
397 department shall notify the Office of Program Policy Analysis
398 and Government Accountability of any meetings to refine the
399 model.

400 (e) Contingent upon specific appropriation, the
401 department, in consultation with the Office of Economic and
402 Demographic Research, and contract service providers, shall:

403 1. Construct a profile of each commitment program that
404 uses the results of the quality assurance report required by
405 this section, the cost-effectiveness report required in this
406 subsection, and other reports available to the department.

407 2. Target, for a more comprehensive evaluation, any
408 commitment program that has achieved consistently high, low, or
409 disparate ratings in the reports required under subparagraph 1.

410 3. Identify the essential factors that contribute to the
411 high, low, or disparate program ratings.

412 4. Use the results of these evaluations in developing or
413 refining juvenile justice programs or program models, youth
414 ~~client~~ outcomes and program outputs, provider contracts, quality
415 assurance standards, and the cost-effectiveness model.

416 (5) QUALITY ASSURANCE.--The department shall:

417 (a) Establish a comprehensive quality assurance system for
418 each program ~~operated by the department or operated by a~~
419 ~~provider under contract with the department~~. Each contract

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

420 entered into by the department must provide for quality
421 assurance.

422 (b) Provide operational definitions of and criteria for
423 quality assurance for each specific program component.

424 (c) Establish quality assurance goals and objectives for
425 each specific program component.

426 (d) Establish the information and specific data elements
427 required for the quality assurance program.

428 (e) Develop a quality assurance manual of specific,
429 standardized terminology and procedures to be followed by each
430 program.

431 (f) Evaluate each program ~~operated by the department or a~~
432 ~~provider under a contract with the department~~ and establish
433 minimum thresholds for each program component. If a provider
434 fails to meet the established minimum thresholds, such failure
435 shall cause the department to cancel the provider's contract
436 unless the provider achieves compliance with minimum thresholds
437 within 6 months or unless there are documented extenuating
438 circumstances. In addition, the department may not contract with
439 the same provider for the canceled service for a period of 12
440 months. If a department-operated program fails to meet the
441 established minimum thresholds, the department must take
442 necessary and sufficient steps to ensure and document program
443 changes to achieve compliance with the established minimum
444 thresholds. If the department-operated program fails to achieve
445 compliance with the established minimum thresholds within 6
446 months and if there are no documented extenuating circumstances,
447 the department must notify the Executive Office of the Governor

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

448 and the Legislature of the corrective action taken. Appropriate
449 corrective action may include, but is not limited to:

450 1. Contracting out for the services provided in the
451 program;

452 2. Initiating appropriate disciplinary action against all
453 employees whose conduct or performance is deemed to have
454 materially contributed to the program's failure to meet
455 established minimum thresholds;

456 3. Redesigning the program; or

457 4. Realigning the program.

458 (g) ~~The department shall~~ Submit an annual report to the
459 President of the Senate, the Speaker of the House of
460 Representatives, the minority leader of each house of the
461 Legislature, the appropriate substantive and fiscal committees
462 of each house of the Legislature, and the Governor by, ~~no later~~
463 ~~than~~ February 1 of each year. The annual report must contain, at
464 a minimum, for each ~~specific~~ program ~~component~~:

465 1. A comprehensive description of the population served.
466 ~~by the program;~~

467 2. A specific description of its ~~the~~ services.

468 3. A summary of the performance of each program component
469 evaluated. ~~provided by the program;~~

470 4. Cost data that is reported in a uniform format so that
471 cost comparisons may be made among programs. For a residential
472 program, the cost data must include the cost of its educational
473 program. ~~;~~

474 5. A comparison of expenditures to federal and state
475 funding. ~~;~~

476 6. Immediate and long-range concerns. ~~;~~ ~~and~~

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

477 7. Recommendations to maintain, expand, improve, modify,
478 or eliminate each program component so that changes in services
479 lead to enhancement in program quality. ~~The department shall~~
480 ~~ensure the reliability and validity of the information contained~~
481 ~~in the report.~~

482 ~~(6) The department shall collect and analyze available~~
483 ~~statistical data for the purpose of ongoing evaluation of all~~
484 ~~programs. The department shall provide the Legislature with~~
485 ~~necessary information and reports to enable the Legislature to~~
486 ~~make informed decisions regarding the effectiveness of, and any~~
487 ~~needed changes in, services, programs, policies, and laws.~~

488 ~~(7) No later than November 1, 2001, the department shall~~
489 ~~submit a proposal to the Legislature concerning funding~~
490 ~~incentives and disincentives for the department and for~~
491 ~~providers under contract with the department. The~~
492 ~~recommendations for funding incentives and disincentives shall~~
493 ~~be based upon both quality assurance performance and cost-~~
494 ~~effectiveness performance. The proposal should strive to achieve~~
495 ~~consistency in incentives and disincentives for both department-~~
496 ~~operated and contractor provided programs. The department may~~
497 ~~include recommendations for the use of liquidated damages in the~~
498 ~~proposal; however, the department is not presently authorized to~~
499 ~~contract for liquidated damages in non hardware secure~~
500 ~~facilities until January 1, 2002.~~

501 Section 9. Judicial discretion to select commitment
502 programs; pilot program.--

503 (1) The definitions contained in s. 985.03, Florida
504 Statutes, apply to this section. Additionally, for purposes of
505 this section, the term:

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

506 (a) "Available placement" means a commitment program for
507 which the department has determined the youth is eligible.

508 (b) "Commitment program" means a facility, service, or
509 program operated by the department or by a provider under
510 contract with the department within a restrictiveness level.

511 (c) "Delinquency court" means a circuit court in the
512 First, Eleventh, Thirteenth, or Twentieth Judicial Circuit.

513 (d) "Eligible" means a determination that the youth
514 satisfies admission criteria for the commitment program.

515 (e) "Wait period" means the shortest period of time
516 expected to elapse prior to placement of a youth in a commitment
517 program, as determined by the department based upon anticipated
518 release dates for youth currently in the commitment program.

519 (2) Between September 1, 2006, and July 1, 2010, a pilot
520 program shall be conducted in the First, Eleventh, Thirteenth,
521 and Twentieth Judicial Circuits which authorizes delinquency
522 courts to select commitment programs for youth. The purpose of
523 the pilot program is to identify and evaluate the benefits and
524 disadvantages of affording such judicial discretion prior to
525 legislative consideration of statewide implementation.

526 (3) Before August 31, 2006, the department shall:

527 (a) Develop, in consultation with delinquency court
528 judges, procedures to implement this section.

529 (b) Publish on its Internet website information that
530 identifies the name and address of each commitment program and
531 that describes for each identified commitment program the
532 population of youth served; the maximum capacity; the services
533 offered; the admission criteria; the most recent recidivism
534 rates; and the most recent cost-effectiveness rankings and

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

535 quality assurance results under s. 985.412, Florida Statutes.
536 The department shall continually update information published
537 under this paragraph as modifications occur.

538 (4) Between September 1, 2006, and July 1, 2010, a
539 delinquency court may:

540 (a) Order the department to include in a youth's
541 predisposition report a list of all available placements within
542 each restrictiveness level identified by the court or
543 recommended by the department. The list shall also indicate the
544 wait period for each available placement identified by the
545 department.

546 (b)1. Specify for a youth committed by the court an
547 available placement identified in the listing under paragraph
548 (a), which has a wait period of 30 calendar days or less for a
549 minimum-risk nonresidential, low-risk residential, moderate-risk
550 residential, or high-risk residential commitment program or a
551 wait period of 20 calendar days or less for a maximum-risk
552 residential commitment program; or

553 2. Alternatively, a delinquency court may specify:

554 a. An available placement with a wait period in excess of
555 those identified in subparagraph 1., if the court states reasons
556 on the record establishing by a preponderance of the evidence
557 that the available placement is in the youth's best interest; or

558 b. A commitment program that is not listed as an available
559 placement, if the court states reasons on the record
560 establishing by a preponderance of the evidence that the youth
561 is eligible for the commitment program and that the commitment
562 program is in the youth's best interest.

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

563 (5) When a delinquency court specifies an available
564 placement or commitment program for a youth under paragraph
565 (4) (b), the youth shall be placed, as specified by the court,
566 when the next regularly scheduled opening occurs after the
567 placement of other youth who were previously committed and
568 waiting for that program.

569 (6) (a) The Office of Program Policy Analysis and
570 Government Accountability shall conduct a longitudinal
571 evaluation of the pilot program created by this section and
572 shall submit a written report to the appropriate substantive and
573 fiscal committees of the Legislature and to the Governor on
574 January 1, 2008, and annually thereafter, which identifies,
575 according to judicial circuit and restrictiveness level, the
576 following data, as it becomes available, for the pilot program
577 period:

578 1. The number of youth committed to the department by a
579 delinquency court.

580 2. The number of youth placed by a delinquency court in an
581 available placement under subparagraph (4) (b)1. and sub-
582 subparagraph (4) (b)2.a. and in a commitment program under sub-
583 subparagraph (4) (b)2.b.

584 3. The number of youth placed in a department-specified
585 commitment program.

586 4. The average wait period for, and the average number of
587 days spent by youth in secure detention while awaiting placement
588 in, delinquency court-specified commitment programs and
589 department-specified commitment programs.

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

590 5. The number of youth who complete, and who are otherwise
591 released from, delinquency court-specified commitment programs
592 and department-specified commitment programs.

593 6. Educational achievements made by youth while
594 participating in delinquency court-specified commitment programs
595 and department-specified commitment programs.

596 7. The number of youth who are taken into custody for a
597 felony or misdemeanor within 6 months following completion of
598 delinquency court-specified commitment programs and department-
599 specified commitment programs.

600 (b) Before August 31, 2006:

601 1. The department, in consultation with the Office of
602 Program Policy Analysis and Government Accountability, shall
603 develop reporting protocols to collect and maintain data
604 necessary for the report required by this subsection.

605 2. The Office of Program Policy Analysis and Government
606 Accountability, in consultation with staff of the appropriate
607 substantive and fiscal committees of the Legislature, shall
608 develop common terminology and operational definitions for the
609 measurement of data necessary for the report required by this
610 subsection.

611 (c) The reports required under paragraph (a) to be
612 submitted on January 1, 2009, and January 1, 2010, must also
613 include:

614 1. Findings by the Office of Program Policy Analysis and
615 Government Accountability, the department, and delinquency
616 courts regarding the benefits and disadvantages of authorizing
617 courts to select commitment programs.

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

618 2. Recommendations by the Office of Program Policy
619 Analysis and Government Accountability, the department, and
620 delinquency courts, if found to be warranted, for amendments to
621 current statutes addressing commitment.

622 (7) This section is repealed effective July 1, 2010.

623 Section 10. Task force on juvenile cruelty to animals.--

624 (1) The Legislature recognizes that multiple research
625 studies have found statistically significant correlations
626 between acts of animal cruelty by juveniles and violent behavior
627 against persons and that a literature review conducted by the
628 federal Office of Juvenile Justice Delinquency Prevention found
629 that juvenile animal cruelty may be characteristic of the
630 developmental histories of 25 to 60 percent of violent adult
631 offenders. The Legislature further recognizes that it is
632 critical for the rehabilitation of juvenile animal cruelty
633 offenders and for the protection of society that the Legislature
634 establish a policy requiring the Department of Juvenile Justice
635 to assess the specific rehabilitation needs of juvenile animal
636 cruelty offenders and to provide programs that will treat these
637 offenders and halt further antisocial conduct.

638 (2) For purposes of this section, the term:

639 (a) "Department" means the Department of Juvenile Justice.

640 (b) "Juvenile animal cruelty offender" means a juvenile
641 referred to the department who has violated s. 828.12, Florida
642 Statutes, or who otherwise has a history of engaging in one or
643 more acts of animal cruelty.

644 (3) There is created a task force to review and evaluate
645 the state's laws that define and address animal cruelty and the
646 department's practices for treating and rehabilitating juvenile

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

647 animal cruelty offenders. The task force shall make findings
648 that include, but are not limited to:

649 (a) Identification of statutes that address animal
650 cruelty.

651 (b) Compilation of statistics regarding the number of
652 juveniles in this state who have been found, between July 1,
653 2001, and June 30, 2006, to have committed an act of animal
654 cruelty in violation of s. 828.12, Florida Statutes, and
655 identification of the disposition imposed in each of those
656 cases.

657 (c) A profile of the delinquency and criminal histories of
658 the juveniles involved in the cases identified in paragraph (b)
659 before and after commission of the act of animal cruelty.

660 (d) A summary of the department's methods for identifying
661 juvenile animal cruelty offenders who are referred to the
662 department for a delinquent act other than a violation of s.
663 828.12, Florida Statutes.

664 (e) Identification of the department's practices,
665 procedures, and programs for the treatment and rehabilitation of
666 juvenile animal cruelty offenders.

667 (f) A summary of research regarding juvenile animal
668 cruelty offenders and of any recommendations contained therein
669 for the treatment and rehabilitation of these offenders.

670 (g) Identification of best and evidence-based practices
671 and model programs used in other jurisdictions for the treatment
672 and rehabilitation of juvenile animal cruelty offenders.

673 (4) Based on its findings, the task force shall make
674 recommendations for the improvement of the state's policies and
675 laws that address juvenile animal cruelty. Such recommendations

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

676 shall specifically include, but are not limited to,
677 identification of methods to assess the needs of juvenile animal
678 cruelty offenders, treatment programs that will best
679 rehabilitate juvenile animal cruelty offenders, service delivery
680 mechanisms to ensure that recommended treatment programs are
681 available statewide, and any funding needs above existing
682 resources to ensure adequate availability of recommended
683 treatment programs.

684 (5) On or before August 1, 2006, the secretary of the
685 department shall appoint up to 12 members to the task force. The
686 task force membership shall include, but is not limited to:
687 three persons who collectively have experience with the conduct
688 of juvenile animal cruelty research and with the treatment and
689 rehabilitation of juvenile animal cruelty offenders; two
690 department employees who collectively are responsible for
691 research and planning and delinquency prevention and treatment
692 programming; and two representatives of providers of juvenile
693 delinquency prevention, treatment, and rehabilitation services.

694 (6) The task force shall submit a written report of its
695 findings and recommendations to the Governor, the President of
696 the Senate, and the Speaker of the House of Representatives by
697 January 1, 2007.

698 (7) Administrative support for the task force shall be
699 provided by the department. Members of the task force shall
700 serve without compensation, but are entitled to reimbursement
701 under s. 112.061, Florida Statutes, for travel and per diem
702 expenses incurred in the performance of their official duties.
703 The task force shall strive to minimize travel and per diem

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

704 expenses by performing, when practicable, its duties in the
705 location where the majority of task force members reside.

706 (8) The task force shall be dissolved upon submission of
707 its report.

708 Section 11. Task Force on Juvenile Sexual Offenders and
709 their Victims.--

710 (1) For purposes of this section, the term:

711 (a) "Department" means the Department of Juvenile Justice.

712 (b) "Task force" means the 2006 Task Force on Juvenile
713 Sexual Offenders and their Victims.

714 (2) On or before August 1, 2006, there shall be created a
715 task force to continue the evaluation of the state's juvenile
716 sexual offender laws that was conducted by the 2005 Task Force
717 on Juvenile Sexual Offenders and their Victims, as created in s.
718 10 of chapter 2005-263, Laws of Florida.

719 (3) The secretary of the department shall appoint up to 12
720 members to the task force, who shall include, but are not
721 limited to, a circuit court judge with at least 1 year of
722 experience in the juvenile division, a state attorney with at
723 least 1 year of experience in the juvenile division, a public
724 defender with at least 1 year of experience in the juvenile
725 division, two representatives of the department, one member from
726 the Florida Juvenile Justice Association, two members from
727 providers of juvenile sexual offender services, one member from
728 the Florida Association for the Treatment of Sexual Abusers, and
729 one victim advocate.

730 (4) The task force shall:

731 (a) Review the findings and recommendations contained in
732 the final report of the 2005 Task Force on Juvenile Sexual
159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

733 Offenders and their Victims, including the recommendations
734 specified in Appendix II of that report, and identify each
735 recommendation that has not yet been implemented.

736 (b) Determine which recommendations reviewed under
737 paragraph (a) remain appropriate for implementation.

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

741 (d) Submit a written report to the Governor and the
742 appropriate substantive and fiscal committees of the Legislature
743 no later than January 1, 2007, that:

744 1. Discusses each state law addressing juvenile sexual
745 offenders.

746 2. Specifically identifies statutory criteria that should
747 be satisfied before a juvenile is classified as a sexual
748 offender or placed in sexual offender programming.

749 3. Sets forth detailed findings in support of each
750 recommendation under paragraphs (b) and (c) and a comprehensive
751 plan for implementation of these recommendations, including
752 proposed amendments to statute to redefine the term "juvenile
753 sexual offender" and modifications of state agency rules,
754 practices, and procedures.

755 (5) The department shall provide administrative support
756 for the task force. Members of the task force shall receive no
757 salary from the state beyond any salary already received from
758 their sponsoring agencies, if any, and are not entitled to
759 reimbursement for travel and per diem expenses.

760 (6) The task force shall be dissolved upon submission of
761 its report.

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

762 Section 12. Subsections (1) and (2) of section 27.51,
763 Florida Statutes, are amended to read:

764 27.51 Duties of public defender.--

765 (1) The public defender shall represent, without
766 additional compensation, any person determined to be indigent
767 under s. 27.52 and:

768 (a) Under arrest for, or charged with, a felony;

769 (b) Under arrest for, or charged with:

770 1. A misdemeanor authorized for prosecution by the state
771 attorney;

772 2. A violation of chapter 316 punishable by imprisonment;

773 3. Criminal contempt; or

774 4. A violation of a special law or county or municipal
775 ordinance ancillary to a state charge, or if not ancillary to a
776 state charge, only if the public defender contracts with the
777 county or municipality to provide representation pursuant to ss.
778 27.54 and 125.69.

779
780 The public defender may ~~shall~~ not provide representation under
781 ~~pursuant to~~ this paragraph if the court, before ~~prior to~~ trial,
782 files in the cause an order of no imprisonment as provided in s.
783 27.512;

784 (c) Who is a child taken into custody under s. 985.207 or
785 s. 985.2075 ~~Alleged to be a delinquent child pursuant to a~~
786 ~~petition filed before a circuit court;~~

787 (d) Sought by petition filed in such court to be
788 involuntarily placed as a mentally ill person under part I of
789 chapter 394, involuntarily committed as a sexually violent
790 predator under part V of chapter 394, or involuntarily admitted
159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

791 to residential services as a person with developmental
792 disabilities under chapter 393. A public defender may ~~shall~~ not
793 represent any plaintiff in a civil action brought under the
794 Florida Rules of Civil Procedure, the Federal Rules of Civil
795 Procedure, or the federal statutes, or represent a petitioner in
796 a rule challenge under chapter 120, unless specifically
797 authorized by statute;

798 (e) Convicted and sentenced to death, for purposes of
799 handling an appeal to the Supreme Court; or

800 (f) Is appealing a matter in a case arising under
801 paragraphs (a) - (d).

802 (2) Except as provided in s. 985.203, the court may not
803 appoint the public defender to represent, even on a temporary
804 basis, any person who is not indigent. The court, however, may
805 appoint private counsel in capital cases as provided in ss.
806 27.40 and 27.5303.

807 Section 13. Subsections (1) and (2) of section 985.203,
808 Florida Statutes, are amended to read:

809 985.203 Right to counsel.--

810 (1) A child shall be represented ~~is entitled to~~
811 ~~representation~~ by legal counsel at all stages of any delinquency
812 court proceedings under this chapter, which occur after the
813 child has been taken into custody under s. 985.207 or s.
814 985.2075, unless the right to counsel is freely, knowingly, and
815 intelligently waived by the child after he or she has had an
816 opportunity to confer with counsel ~~part~~. If the child and the
817 parents or other legal guardian are indigent and unable to
818 employ counsel for the child, the court shall appoint counsel
819 pursuant to s. 27.52. Determination of indigence and costs of
159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

820 representation shall be as provided by ss. 27.52 and 938.29.
821 ~~Legal Counsel representing a child who exercises the right to~~
822 ~~counsel~~ shall be allowed to provide advice ~~and counsel~~ to the
823 child at any time after the child has been taken into custody
824 under s. 985.207 or s. 985.2075 ~~subsequent to the child's~~
825 ~~arrest, including prior to a detention hearing while in secure~~
826 ~~detention care. A child shall be represented by legal counsel at~~
827 ~~all stages of all court proceedings unless the right to counsel~~
828 ~~is freely, knowingly, and intelligently waived by the child. If~~
829 the child appears without counsel, the court shall advise the
830 child of his or her rights with respect to representation of
831 court-appointed counsel.

832 (2) If the parents or legal guardian of an indigent child
833 are not indigent but refuse to employ counsel, the court shall
834 appoint counsel pursuant to s. 27.52 to represent the child at
835 the detention hearing and until counsel is provided. Costs of
836 representation shall be ~~are hereby~~ imposed as provided by ss.
837 27.52 and 938.29. Thereafter, the court may ~~shall~~ not appoint
838 counsel for an indigent child who has ~~with~~ nonindigent parents
839 or a nonindigent legal guardian but shall order the parents or
840 legal guardian to obtain private counsel. A parent or legal
841 guardian of an indigent child who has been ordered to obtain
842 private counsel for the child and who willfully fails to follow
843 the court order shall be punished by the court in civil contempt
844 proceedings. If a parent or legal guardian is also an alleged
845 victim in the case, the court may not order the parents or legal
846 guardian to obtain private counsel but shall appoint counsel
847 pursuant to s. 27.52 to represent the indigent child. At the
848 disposition of the case and upon a finding by the court that a

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

849 parent or legal guardian is a victim of the offense, the parents
850 or legal guardian shall not be liable for fees, charges, or
851 costs under s. 27.52, s. 938.29, or this chapter.

852 Section 14. This act shall take effect July 1, 2006.

853

854 ===== T I T L E A M E N D M E N T =====

855 Remove the entire title and insert:

856 A bill to be entitled

857 An act relating to juvenile justice; amending s. 985.207,
858 F.S.; permitting a law enforcement officer to take a child
859 into custody for a violation of adjudication order
860 conditions; amending s. 985.215, F.S.; permitting
861 specified types of postadjudication detention for a child
862 who has previously failed to appear at delinquency court
863 proceedings regardless of risk assessment instrument
864 results; providing exceptions that permit postadjudication
865 detention until the child's disposition order is entered
866 in his or her case; conforming cross-references; amending
867 s. 985.228, F.S.; requiring a court to include specified
868 conditions in a child's order of adjudication of
869 delinquency that apply during the postadjudication and
870 predisposition period; providing a definition; permitting
871 a court to find a child in contempt of court for a
872 violation of adjudication order conditions; providing
873 sanctions; amending s. 985.31, F.S.; deleting a
874 requirement for a report on serious or habitual juvenile
875 offenders; amending s. 985.311, F.S.; deleting a
876 requirement for a report on intensive residential
877 treatment; amending s. 985.317, F.S.; deleting a

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

878 requirement for a report on literacy programs for juvenile
879 offenders; creating s. 985.3142, F.S.; providing that the
880 willful failure of a child to return to a residential
881 commitment facility within the time authorized for a
882 temporary release is absconding for a first offense and is
883 a second degree misdemeanor for a second or subsequent
884 offense; providing penalties; amending s. 985.412, F.S.;
885 directing the Department of Juvenile Justice to collect
886 and analyze specified data; creating and revising
887 definitions; requiring the development of a standard
888 methodology for annually measuring, evaluating, and
889 reporting program outputs and youth outcomes; requiring an
890 annual report; specifying report contents; deleting a
891 requirement for an annual cost data report; deleting a
892 requirement for a cost-benefit analysis of educational
893 programs; revising a cost-effectiveness model for
894 commitment programs; revising a cost-effectiveness report
895 due date; revising requirements for annual quality
896 assurance reporting; conforming provisions; deleting
897 obsolete provisions relating to incentive and disincentive
898 proposals and liquidated damages; creating a pilot program
899 that authorizes specified courts to select commitment
900 programs for juvenile delinquents; providing definitions;
901 providing the program's purpose; requiring the Department
902 of Juvenile Justice to develop implementation procedures
903 and to publish specified information about commitment
904 programs on its website; providing procedures for the
905 selection of commitment programs by courts; requiring
906 evaluation and reports by the Office of Program Policy

159621

4/26/2006 12:55:53 PM

Amendment No. (for drafter's use only)

907 Analysis and Government Accountability; specifying
908 department and court responsibilities relating to the
909 reports; providing for future repeal of the pilot program;
910 creating a task force on juvenile cruelty to animals;
911 providing powers and duties; requiring the task force to
912 consider specified issues and make recommendations;
913 providing membership; requiring a report; providing for
914 administrative support and travel reimbursement; providing
915 for dissolution of the task force; creating a Task Force
916 on Juvenile Sexual Offenders and their Victims; providing
917 definitions; providing membership; providing duties;
918 requiring a report; providing for administrative support;
919 prohibiting per diem and travel reimbursement; providing
920 for dissolution of the task force; amending s. 27.51,
921 F.S.; requiring that the public defender represent an
922 indigent child taken into custody under specified
923 delinquency provisions; amending s. 985.203, F.S.;
924 requiring that a child be represented in specified
925 delinquency court proceedings unless the right to counsel
926 is waived after having an opportunity to confer with
927 counsel; providing that counsel be permitted to advise a
928 child after a specified point in delinquency court
929 proceedings; requiring that the court appoint counsel for
930 an indigent child if the child's parent or legal guardian
931 is the alleged victim in the case; providing that the
932 parents or legal guardian is not liable for fees, charges,
933 or costs upon a finding by the court that a parent or
934 legal guardian is a victim of the offense; providing an
935 effective date.

159621

4/26/2006 12:55:53 PM