

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1 Representative Antone offered the following:

2
3 **Amendment to Amendment (855553) (with title amendment)**

4 Remove lines 5-148 and insert:

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

7 985.04 Oaths; records; confidential information.--

8 (3)(a) Except as provided in subsections (2), (4), (5),
9 and (6), and s. 943.053, all information obtained under this
10 part in the discharge of official duty by any judge, any
11 employee of the court, any authorized agent of the department of
12 ~~Juvenile Justice~~, the Parole Commission, the Department of
13 Corrections, the juvenile justice circuit boards, any law
14 enforcement agent, or any licensed professional or licensed
15 community agency representative participating in the assessment
16 or treatment of a juvenile is confidential and may be disclosed
17 only to the authorized personnel of the court, the department of

622517

4/27/2006 1:50:58 PM

Amendment No. (for drafter's use only)

18 ~~Juvenile Justice~~ and its designees, the Department of
19 Corrections, the Parole Commission, law enforcement agents,
20 school superintendents and their designees, the principal of a
21 private school attended by the juvenile, any licensed
22 professional or licensed community agency representative
23 participating in the assessment or treatment of a juvenile, and
24 others entitled under this chapter to receive that information,
25 or upon order of the court. Within each county, the sheriff, the
26 chiefs of police, the district school superintendent, and the
27 department shall enter into an interagency agreement for the
28 purpose of sharing information about juvenile offenders among
29 all parties. The agreement must specify the conditions under
30 which summary criminal history information is to be made
31 available to appropriate school personnel, and the conditions
32 under which school records are to be made available to
33 appropriate department personnel. Such agreement shall require
34 notification to any classroom teacher of assignment to the
35 teacher's classroom of a juvenile who has been placed in a
36 probation or commitment program for a felony offense. The
37 agencies entering into such agreement must comply with s.
38 943.0525, and must maintain the confidentiality of information
39 that is otherwise exempt from s. 119.07(1), as provided by law.

40 (b) The department shall disclose to the school
41 superintendent and the principal of a private school attended by
42 the child the presence of any child in the care and custody or
43 under the jurisdiction or supervision of the department who has
44 a known history of criminal sexual behavior with other
45 juveniles; is an alleged juvenile sex offender, as defined in s.
46 39.01; or has pled guilty or nolo contendere to, or has been

622517

4/27/2006 1:50:58 PM

Amendment No. (for drafter's use only)

47 found to have committed, a violation of chapter 794, chapter
48 796, chapter 800, s. 827.071, or s. 847.0133, regardless of
49 adjudication. Any employee of a district school board or private
50 school who knowingly and willfully discloses such information to
51 an unauthorized person commits a misdemeanor of the second
52 degree, punishable as provided in s. 775.082 or s. 775.083.

53 (7) (a) Notwithstanding any other provision of this
54 section, when a child of any age is taken into custody by a law
55 enforcement officer for an offense that would have been a felony
56 if committed by an adult, or a crime of violence, the law
57 enforcement agency must notify the superintendent of schools, if
58 the child attends public school, or the principal of a private
59 school attended by the child, that the child is alleged to have
60 committed the delinquent act.

61 (b) Notwithstanding paragraph (a) or any other provision
62 of this section, when a child of any age is formally charged by
63 a state attorney with a felony or a delinquent act that would be
64 a felony if committed by an adult, the state attorney shall
65 notify the superintendent of schools, if the child attends
66 public school, or the principal of a private school attended by
67 the child, ~~the child's school~~ that the child has been charged
68 with such felony or delinquent act. The information obtained by
69 the superintendent of schools or private school principal
70 pursuant to this section must be released within 48 hours after
71 receipt to appropriate school personnel, including the principal
72 of the public school of the child. The public or private school
73 principal must immediately notify the child's immediate
74 classroom teachers. Upon notification, the principal is

622517

4/27/2006 1:50:58 PM

Amendment No. (for drafter's use only)

75 authorized to begin disciplinary actions pursuant to s.
76 1006.09(1)-(4).

77 Section 2. Paragraph (b) of subsection (1) of section
78 985.207, Florida Statutes, is amended, and paragraph (e) is
79 added to that subsection, to read:

80 985.207 Taking a child into custody.--

81 (1) A child may be taken into custody under the following
82 circumstances:

83 (b) For a delinquent act or violation of law, pursuant to
84 Florida law pertaining to a lawful arrest. If such delinquent
85 act or violation of law would be a felony if committed by an
86 adult or involves a crime of violence, the arresting authority
87 shall immediately notify the district school superintendent, or
88 the superintendent's designee, of the school district with
89 educational jurisdiction of the child or the principal of a
90 private school attended by the child. Such notification shall
91 include other education providers such as the Florida School for
92 the Deaf and the Blind, university developmental research
93 schools, and private elementary and secondary schools. The
94 information obtained by the superintendent of schools or a
95 private school principal pursuant to this section must be
96 released within 48 hours after receipt to appropriate school
97 personnel, including the principal of the child's public school,
98 or as otherwise provided by law. The public or private school
99 principal must immediately notify the child's immediate
100 classroom teachers. Information provided by an arresting
101 authority pursuant to this paragraph may not be placed in the
102 student's permanent record and shall be removed from all school
103 records no later than 9 months after the date of the arrest.

622517

4/27/2006 1:50:58 PM

Amendment No. (for drafter's use only)

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

108
109 Nothing in this subsection shall be construed to allow the
110 detention of a child who does not meet the detention criteria in
111 s. 985.215.

112 Section 3. Subsection (2), paragraphs (d) and (g) of
113 subsection (5), and paragraph (b) of subsection (11) of section
114 985.215, Florida Statutes, are amended to read:

115 985.215 Detention.--

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

120 (a) The child is alleged to be an escapee from a
121 residential commitment program, or an absconder from a
122 nonresidential commitment program, a probation program, or
123 conditional release supervision, or is alleged to have escaped
124 while being lawfully transported to or from a residential
125 commitment program.

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

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

622517

4/27/2006 1:50:58 PM

Amendment No. (for drafter's use only)

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

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

137 (f) The child is charged with a capital felony, a life
138 felony, a felony of the first degree, a felony of the second
139 degree that does not involve a violation of chapter 893, or a
140 felony of the third degree that is also a crime of violence,
141 including any such offense involving the use or possession of a
142 firearm.

143 (g) The child is charged with any second degree or third
144 degree felony involving a violation of chapter 893 or any third
145 degree felony that is not also a crime of violence, and the
146 child:

- 147 1. Has a record of failure to appear at court hearings
148 after being properly notified in accordance with the Rules of
149 Juvenile Procedure;
- 150 2. Has a record of law violations prior to court hearings;
- 151 3. Has already been detained or has been released and is
152 awaiting final disposition of the case;
- 153 4. Has a record of violent conduct resulting in physical
154 injury to others; or
- 155 5. Is found to have been in possession of a firearm.

156 (h) The child is alleged to have violated the conditions
157 of the child's probation or conditional release supervision.
158 However, a child detained under this paragraph may be held only
159 in a consequence unit as provided in s. 985.231(1)(a)1.c. If a

622517

4/27/2006 1:50:58 PM

Amendment No. (for drafter's use only)

160 consequence unit is not available, the child shall be placed on
161 home detention with electronic monitoring.

162 (i) The child is detained on a judicial order for failure
163 to appear and has previously willfully failed to appear, after
164 proper notice, for an adjudicatory hearing on the same case
165 regardless of the results of the risk assessment instrument. A
166 child may be held in secure detention for up to 72 hours in
167 advance of the next scheduled court hearing pursuant to this
168 paragraph. The child's failure to keep the clerk of court and
169 defense counsel informed of a current and valid mailing address
170 where the child will receive notice to appear at court
171 proceedings does not provide an adequate ground for excusal of
172 the child's nonappearance at the hearings.

173 (j) The child is detained on a judicial order for failure
174 to appear and has previously willfully failed to appear, after
175 proper notice, at two or more court hearings of any nature on
176 the same case regardless of the results of the risk assessment
177 instrument. A child may be held in secure detention for up to 72
178 hours in advance of the next scheduled court hearing pursuant to
179 this paragraph. The child's failure to keep the clerk of court
180 and defense counsel informed of a current and valid mailing
181 address where the child will receive notice to appear at court
182 proceedings does not provide an adequate ground for excusal of
183 the child's nonappearance at the hearings.

184 (k) At his or her adjudicatory hearing, the child has been
185 found to have committed a delinquent act or violation of law and
186 has previously willfully failed to appear, after proper notice,
187 for other delinquency court proceedings of any nature regardless
188 of the results of the risk assessment instrument. A child may be

622517

4/27/2006 1:50:58 PM

Amendment No. (for drafter's use only)

189 held in secure detention or, at the discretion of the court and
190 if available, placed on home detention with electronic
191 monitoring until the child's disposition order is entered in his
192 or her case. The child's failure to keep the clerk of court and
193 defense counsel informed of a current and valid mailing address
194 where the child will receive notice to appear at court
195 proceedings does not provide an adequate ground for excusal of
196 the child's nonappearance at the hearings.

197
198 A child who meets any of these criteria and who is ordered to be
199 detained pursuant to this subsection shall be given a hearing
200 within 24 hours after being taken into custody. The purpose of
201 the detention hearing is to determine the existence of probable
202 cause that the child has committed the delinquent act or
203 violation of law with which he or she is charged and the need
204 for continued detention, except where the child is alleged to
205 have absconded from a nonresidential commitment program in which
206 case the court, at the detention hearing, shall order that the
207 child be released from detention and returned to his or her
208 nonresidential commitment program. Unless a child is detained
209 under paragraph (d), ~~or~~ paragraph (e), or paragraph (k), the
210 court shall use the results of the risk assessment performed by
211 the juvenile probation officer and, based on the criteria in
212 this subsection, shall determine the need for continued
213 detention. A child placed into secure, nonsecure, or home
214 detention care may continue to be so detained by the court
215 pursuant to this subsection. If the court orders a placement
216 more restrictive than indicated by the results of the risk
217 assessment instrument, the court shall state, in writing, clear
622517

4/27/2006 1:50:58 PM

Amendment No. (for drafter's use only)

218 and convincing reasons for such placement. Except as provided in
219 s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b),
220 paragraph (10)(c), or paragraph (10)(d), when a child is placed
221 into secure or nonsecure detention care, or into a respite home
222 or other placement pursuant to a court order following a
223 hearing, the court order must include specific instructions that
224 direct the release of the child from such placement no later
225 than 5 p.m. on the last day of the detention period specified in
226 paragraph (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1.,
227 whichever is applicable, unless the requirements of such
228 applicable provision have been met or an order of continuance
229 has been granted pursuant to paragraph (5)(f).

230 (5)

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

235 (g) Upon good cause being shown that the nature of the
236 charge requires additional time for the prosecution or defense
237 of the case, the court may extend the time limits for detention
238 specified in paragraph (c) or paragraph (d) an additional 9 days
239 if the child is charged with an offense that would be, if
240 committed by an adult, a capital felony, a life felony, a felony
241 of the first degree, or a felony of the second degree involving
242 violence against any individual.

243 (11)

244 (b) When a juvenile sexual offender, pursuant to this
245 subsection, is released from detention or transferred to home
246 detention or nonsecure detention, detention staff shall

622517

4/27/2006 1:50:58 PM

Amendment No. (for drafter's use only)

247 immediately notify the appropriate law enforcement agency and
248 school personnel at the public or private school attended by the
249 offender.

250

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

252 Remove lines 768-776 and insert:

253 An act relating to juvenile justice; amending s. 985.04, F.S.;
254 authorizing disclosure of specified confidential juvenile
255 records to private school principals; requiring the Department
256 of Juvenile Justice, law enforcement agencies, and state
257 attorneys to provide notice to private school principals of
258 specified juvenile offenders; providing criminal penalties for a
259 private school employee who improperly discloses specified
260 confidential information; requiring private school principals to
261 notify classroom teachers of specified information; amending s.
262 985.207, F.S.; requiring the arresting authority to provide
263 notice to private school principals of specified juvenile
264 offenders; requiring private school principals to notify
265 classroom teachers of specified information; permitting a law
266 enforcement officer to take a child into custody for a violation
267 of adjudication order conditions; amending s. 985.215, F.S.;
268 permitting specified types of postadjudication detention for a
269 child who has previously failed to appear at delinquency court
270 proceedings regardless of risk assessment instrument results;
271 providing exceptions that permit postadjudication detention
272 until the child's disposition order is entered in his or her
273 case; conforming cross-references; requiring detention staff to
274 notify private school personnel of a juvenile sexual offender's
275 release;

622517

4/27/2006 1:50:58 PM