

1 A bill to be entitled
 2 An act relating to juvenile justice; amending s. 985.215,
 3 F.S.; requiring specified home detention to be with
 4 electronic monitoring, subject to appropriation; amending
 5 s. 985.231, F.S.; requiring specified home detention to be
 6 with electronic monitoring, subject to appropriation;
 7 amending s. 985.31, F.S.; deleting requirement for a
 8 report on serious or habitual juvenile offenders; amending
 9 s. 985.311, F.S.; deleting requirement for a report on
 10 intensive residential treatment; amending s. 985.3141,
 11 F.S.; providing that a youth's willful failure to return
 12 to a residential commitment facility within the time
 13 authorized for temporary release constitutes escape
 14 subject to penalties; amending s. 985.317, F.S.; deleting
 15 a requirement for a report on literacy programs for
 16 juvenile offenders; providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Paragraph (h) of subsection (2) of section
 21 985.215, Florida Statutes, is amended to read:

22 985.215 Detention.--

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

27 (h) The child is alleged to have violated the conditions
 28 of the child's probation or conditional release supervision.

29 | However, a child detained under this paragraph shall ~~may~~ be held
 30 | ~~only~~ in a consequence unit as provided in s. 985.231(1)(a)1.c.,
 31 | except that, if a consequence unit is not available, the child
 32 | shall be placed on home detention. Subject to legislative
 33 | appropriation, home detention under this paragraph shall be with
 34 | electronic monitoring.

35 |
 36 | A child who meets any of these criteria and who is ordered to be
 37 | detained pursuant to this subsection shall be given a hearing
 38 | within 24 hours after being taken into custody. The purpose of
 39 | the detention hearing is to determine the existence of probable
 40 | cause that the child has committed the delinquent act or
 41 | violation of law with which he or she is charged and the need
 42 | for continued detention, except where the child is alleged to
 43 | have absconded from a nonresidential commitment program in which
 44 | case the court, at the detention hearing, shall order that the
 45 | child be released from detention and returned to his or her
 46 | nonresidential commitment program. Unless a child is detained
 47 | under paragraph (d) or paragraph (e), the court shall use the
 48 | results of the risk assessment performed by the juvenile
 49 | probation officer and, based on the criteria in this subsection,
 50 | shall determine the need for continued detention. A child placed
 51 | into secure, nonsecure, or home detention care may continue to
 52 | be so detained by the court pursuant to this subsection. If the
 53 | court orders a placement more restrictive than indicated by the
 54 | results of the risk assessment instrument, the court shall
 55 | state, in writing, clear and convincing reasons for such
 56 | placement. Except as provided in s. 790.22(8) or in subparagraph

57 (10)(a)2., paragraph (10)(b), paragraph (10)(c), or paragraph
 58 (10)(d), when a child is placed into secure or nonsecure
 59 detention care, or into a respite home or other placement
 60 pursuant to a court order following a hearing, the court order
 61 must include specific instructions that direct the release of
 62 the child from such placement no later than 5 p.m. on the last
 63 day of the detention period specified in paragraph (5)(b) or
 64 paragraph (5)(c), or subparagraph (10)(a)1., whichever is
 65 applicable, unless the requirements of such applicable provision
 66 have been met or an order of continuance has been granted
 67 pursuant to paragraph (5)(f).

68 Section 2. Paragraph (a) of subsection (1) of section
 69 985.231, Florida Statutes, is amended to read:

70 985.231 Powers of disposition in delinquency cases.--

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

75 1. Place the child in a probation program or a
 76 postcommitment probation program under the supervision of an
 77 authorized agent of the department or of any other person or
 78 agency specifically authorized and appointed by the court,
 79 whether in the child's own home, in the home of a relative of
 80 the child, or in some other suitable place under such reasonable
 81 conditions as the court may direct. A probation program for an
 82 adjudicated delinquent child must include a penalty component
 83 such as restitution in money or in kind, community service, a
 84 curfew, revocation or suspension of the driver's license of the

85 child, or other nonresidential punishment appropriate to the
86 offense and must also include a rehabilitative program component
87 such as a requirement of participation in substance abuse
88 treatment or in school or other educational program. If the
89 child is attending or is eligible to attend public school and
90 the court finds that the victim or a sibling of the victim in
91 the case is attending or may attend the same school as the
92 child, the court placement order shall include a finding
93 pursuant to the proceedings described in s. 985.23(1)(d). Upon
94 the recommendation of the department at the time of disposition,
95 or subsequent to disposition pursuant to the filing of a
96 petition alleging a violation of the child's conditions of
97 postcommitment probation, the court may order the child to
98 submit to random testing for the purpose of detecting and
99 monitoring the use of alcohol or controlled substances.

100 a. A classification scale for levels of supervision shall
101 be provided by the department, taking into account the child's
102 needs and risks relative to probation supervision requirements
103 to reasonably ensure the public safety. Probation programs for
104 children shall be supervised by the department or by any other
105 person or agency specifically authorized by the court. These
106 programs must include, but are not limited to, structured or
107 restricted activities as described in this subparagraph, and
108 shall be designed to encourage the child toward acceptable and
109 functional social behavior. If supervision or a program of
110 community service is ordered by the court, the duration of such
111 supervision or program must be consistent with any treatment and
112 rehabilitation needs identified for the child and may not exceed

113 the term for which sentence could be imposed if the child were
114 committed for the offense, except that the duration of such
115 supervision or program for an offense that is a misdemeanor of
116 the second degree, or is equivalent to a misdemeanor of the
117 second degree, may be for a period not to exceed 6 months. When
118 restitution is ordered by the court, the amount of restitution
119 may not exceed an amount the child and the parent or guardian
120 could reasonably be expected to pay or make. A child who
121 participates in any work program under this part is considered
122 an employee of the state for purposes of liability, unless
123 otherwise provided by law.

124 b. The court may conduct judicial review hearings for a
125 child placed on probation for the purpose of fostering
126 accountability to the judge and compliance with other
127 requirements, such as restitution and community service. The
128 court may allow early termination of probation for a child who
129 has substantially complied with the terms and conditions of
130 probation.

131 c. If the conditions of the probation program or the
132 postcommitment probation program are violated, the department or
133 the state attorney may bring the child before the court on a
134 petition alleging a violation of the program. Any child who
135 violates the conditions of probation or postcommitment probation
136 must be brought before the court if sanctions are sought. A
137 child taken into custody under s. 985.207 for violating the
138 conditions of probation or postcommitment probation shall be
139 held in a consequence unit if such a unit is available. The
140 child shall be afforded a hearing within 24 hours after being

141 taken into custody to determine the existence of probable cause
142 that the child violated the conditions of probation or
143 postcommitment probation. A consequence unit is a secure
144 facility specifically designated by the department for children
145 who are taken into custody under s. 985.207 for violating
146 probation or postcommitment probation, or who have been found by
147 the court to have violated the conditions of probation or
148 postcommitment probation. If the violation involves a new charge
149 of delinquency, the child may be detained under s. 985.215 in a
150 facility other than a consequence unit. If the child is not
151 eligible for detention for the new charge of delinquency, the
152 child may be held in the consequence unit pending a hearing and
153 is subject to the time limitations specified in s. 985.215. If
154 the child denies violating the conditions of probation or
155 postcommitment probation, the court shall appoint counsel to
156 represent the child at the child's request. Upon the child's
157 admission, or if the court finds after a hearing that the child
158 has violated the conditions of probation or postcommitment
159 probation, the court shall enter an order revoking, modifying,
160 or continuing probation or postcommitment probation. In each
161 such case, the court shall enter a new disposition order and, in
162 addition to the sanctions set forth in this paragraph, may
163 impose any sanction the court could have imposed at the original
164 disposition hearing. If the child is found to have violated the
165 conditions of probation or postcommitment probation, the court
166 may:

167 (I) Place the child in a consequence unit in that judicial
168 circuit, ~~if available,~~ for up to 5 days for a first violation,

169 and up to 15 days for a second or subsequent violation, or, if a
 170 consequence unit is not available, the court may place the child
 171 on home detention, which shall, subject to legislative
 172 appropriation, include electronic monitoring.

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

176 ~~(II)~~~~(III)~~ Modify or continue the child's probation program
 177 or postcommitment probation program.

178 ~~(III)~~~~(IV)~~ Revoke probation or postcommitment probation and
 179 commit the child to the department.

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

185 2. Commit the child to a licensed child-caring agency
 186 willing to receive the child, but the court may not commit the
 187 child to a jail or to a facility used primarily as a detention
 188 center or facility or shelter.

189 3. Commit the child to the department at a restrictiveness
 190 level defined in s. 985.03. Such commitment must be for the
 191 purpose of exercising active control over the child, including,
 192 but not limited to, custody, care, training, urine monitoring,
 193 and treatment of the child and release of the child from
 194 residential commitment into the community in a postcommitment
 195 nonresidential conditional release program. If the child is
 196 eligible to attend public school following commitment and the

197 court finds that the victim or a sibling of the victim in the
198 case is or may be attending the same school as the child, the
199 commitment order shall include a finding pursuant to the
200 proceedings described in s. 985.23(1)(d). If the child is not
201 successful in the conditional release program, the department
202 may use the transfer procedure under s. 985.404. Notwithstanding
203 s. 743.07 and paragraph (d), and except as provided in s.
204 985.31, the term of the commitment must be until the child is
205 discharged by the department or until he or she reaches the age
206 of 21.

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

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

211 6. As part of the probation program to be implemented by
212 the department, or, in the case of a committed child, as part of
213 the community-based sanctions ordered by the court at the
214 disposition hearing or before the child's release from
215 commitment, order the child to make restitution in money,
216 through a promissory note cosigned by the child's parent or
217 guardian, or in kind for any damage or loss caused by the
218 child's offense in a reasonable amount or manner to be
219 determined by the court. The clerk of the circuit court shall be
220 the receiving and dispensing agent. In such case, the court
221 shall order the child or the child's parent or guardian to pay
222 to the office of the clerk of the circuit court an amount not to
223 exceed the actual cost incurred by the clerk as a result of
224 receiving and dispensing restitution payments. The clerk shall

225 | notify the court if restitution is not made, and the court shall
226 | take any further action that is necessary against the child or
227 | the child's parent or guardian. A finding by the court, after a
228 | hearing, that the parent or guardian has made diligent and good
229 | faith efforts to prevent the child from engaging in delinquent
230 | acts absolves the parent or guardian of liability for
231 | restitution under this subparagraph.

232 | 7. Order the child and, if the court finds it appropriate,
233 | the child's parent or guardian together with the child, to
234 | participate in a community work project, either as an
235 | alternative to monetary restitution or as part of the
236 | rehabilitative or probation program.

237 | 8. Commit the child to the department for placement in a
238 | program or facility for serious or habitual juvenile offenders
239 | in accordance with s. 985.31. Any commitment of a child to a
240 | program or facility for serious or habitual juvenile offenders
241 | must be for an indeterminate period of time, but the time may
242 | not exceed the maximum term of imprisonment that an adult may
243 | serve for the same offense. The court may retain jurisdiction
244 | over such child until the child reaches the age of 21,
245 | specifically for the purpose of the child completing the
246 | program.

247 | 9. In addition to the sanctions imposed on the child,
248 | order the parent or guardian of the child to perform community
249 | service if the court finds that the parent or guardian did not
250 | make a diligent and good faith effort to prevent the child from
251 | engaging in delinquent acts. The court may also order the parent
252 | or guardian to make restitution in money or in kind for any

253 damage or loss caused by the child's offense. The court shall
 254 determine a reasonable amount or manner of restitution, and
 255 payment shall be made to the clerk of the circuit court as
 256 provided in subparagraph 6.

257 10. Subject to specific appropriation, commit the juvenile
 258 sexual offender to the department for placement in a program or
 259 facility for juvenile sexual offenders in accordance with s.
 260 985.308. Any commitment of a juvenile sexual offender to a
 261 program or facility for juvenile sexual offenders must be for an
 262 indeterminate period of time, but the time may not exceed the
 263 maximum term of imprisonment that an adult may serve for the
 264 same offense. The court may retain jurisdiction over a juvenile
 265 sexual offender until the juvenile sexual offender reaches the
 266 age of 21, specifically for the purpose of completing the
 267 program.

268 Section 3. Paragraph (a) of subsection (1) of section
 269 985.31, Florida Statutes, is amended to read:

270 985.31 Serious or habitual juvenile offender.--

271 (1) ASSESSMENT AND TREATMENT SERVICES.--Pursuant to the
 272 provisions of this chapter and the establishment of appropriate
 273 program guidelines and standards, contractual instruments, which
 274 shall include safeguards of all constitutional rights, shall be
 275 developed as follows:

276 (a) The department shall provide for:

277 1. The oversight of implementation of assessment and
 278 treatment approaches.

279 2. The identification and prequalification of appropriate
 280 individuals or not-for-profit organizations, including minority

281 individuals or organizations when possible, to provide
 282 assessment and treatment services to serious or habitual
 283 delinquent children.

284 3. The monitoring and evaluation of assessment and
 285 treatment services for compliance with the provisions of this
 286 chapter and all applicable rules and guidelines pursuant
 287 thereto.

288 ~~4. The development of an annual report on the performance~~
 289 ~~of assessment and treatment to be presented to the Governor, the~~
 290 ~~Attorney General, the President of the Senate, the Speaker of~~
 291 ~~the House of Representatives, and the Auditor General no later~~
 292 ~~than January 1 of each year.~~

293 Section 4. Paragraph (a) of subsection (1) of section
 294 985.311, Florida Statutes, is amended to read:

295 985.311 Intensive residential treatment program for
 296 offenders less than 13 years of age.--

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

303 (a) The department shall provide for:

304 1. The oversight of implementation of assessment and
 305 treatment approaches.

306 2. The identification and prequalification of appropriate
 307 individuals or not-for-profit organizations, including minority
 308 individuals or organizations when possible, to provide

309 assessment and treatment services to intensive offenders less
 310 than 13 years of age.

311 3. The monitoring and evaluation of assessment and
 312 treatment services for compliance with the provisions of this
 313 chapter and all applicable rules and guidelines pursuant
 314 thereto.

315 ~~4. The development of an annual report on the performance~~
 316 ~~of assessment and treatment to be presented to the Governor, the~~
 317 ~~Attorney General, the President of the Senate, the Speaker of~~
 318 ~~the House of Representatives, the Auditor General, and the~~
 319 ~~Office of Program Policy Analysis and Government Accountability~~
 320 ~~no later than January 1 of each year.~~

321 Section 5. Section 985.3141, Florida Statutes, is amended
 322 to read:

323 985.3141 Escapes from secure detention or residential
 324 commitment facility.--An escape from:

325 (1) Any secure detention facility maintained for the
 326 temporary detention of children, pending adjudication,
 327 disposition, or placement;

328 (2) Any residential commitment facility described in s.
 329 985.03(46), maintained for the custody, treatment, punishment,
 330 or rehabilitation of children found to have committed delinquent
 331 acts or violations of law; or

332 (3) Lawful transportation to or from any such secure
 333 detention facility or residential commitment facility,

334
 335 constitutes escape within the intent and meaning of s. 944.40
 336 and is a felony of the third degree, punishable as provided in

337 s. 775.082, s. 775.083, or s. 775.084. For purposes of this
 338 section, escape from a residential commitment facility as
 339 provided for in subsection (2) includes a youth's willful
 340 failure to return to a residential commitment facility within
 341 the time authorized for a temporary release.

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

344 985.317 Literacy programs for juvenile offenders.--

345 ~~(5) EVALUATION AND REPORT.--The department, in~~
 346 ~~consultation with the Department of Education, shall develop and~~
 347 ~~implement an evaluation of the literacy program in order to~~
 348 ~~determine the impact of the programs on recidivism. The~~
 349 ~~department shall submit an annual report on the implementation~~
 350 ~~and progress of the programs to the President of the Senate and~~
 351 ~~the Speaker of the House of Representatives by January 1 of each~~
 352 ~~year.~~

353 Section 7. This act shall take effect July 1, 2006.