

1 (h) The child is alleged to have violated the
2 conditions of the child's probation or conditional release
3 supervision. However, a child detained under this paragraph
4 shall ~~may~~ be held ~~only~~ in a consequence unit as provided in s.
5 985.231(1)(a)1.c., except that, if a consequence unit is not
6 available, the child shall be placed on home detention.
7 Subject to legislative appropriation, home detention under
8 this paragraph shall be with electronic monitoring.

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10 A child who meets any of these criteria and who is ordered to
11 be detained pursuant to this subsection shall be given a
12 hearing within 24 hours after being taken into custody. The
13 purpose of the detention hearing is to determine the existence
14 of probable cause that the child has committed the delinquent
15 act or violation of law with which he or she is charged and
16 the need for continued detention, except where the child is
17 alleged to have absconded from a nonresidential commitment
18 program in which case the court, at the detention hearing,
19 shall order that the child be released from detention and
20 returned to his or her nonresidential commitment program.
21 Unless a child is detained under paragraph (d) or paragraph
22 (e), the court shall use the results of the risk assessment
23 performed by the juvenile probation officer and, based on the
24 criteria in this subsection, shall determine the need for
25 continued detention. A child placed into secure, nonsecure, or
26 home detention care may continue to be so detained by the
27 court pursuant to this subsection. If the court orders a
28 placement more restrictive than indicated by the results of
29 the risk assessment instrument, the court shall state, in
30 writing, clear and convincing reasons for such placement.
31 Except as provided in s. 790.22(8) or in subparagraph

1 (10)(a)2., paragraph (10)(b), paragraph (10)(c), or paragraph
2 (10)(d), when a child is placed into secure or nonsecure
3 detention care, or into a respite home or other placement
4 pursuant to a court order following a hearing, the court order
5 must include specific instructions that direct the release of
6 the child from such placement no later than 5 p.m. on the last
7 day of the detention period specified in paragraph (5)(b) or
8 paragraph (5)(c), or subparagraph (10)(a)1., whichever is
9 applicable, unless the requirements of such applicable
10 provision have been met or an order of continuance has been
11 granted pursuant to paragraph (5)(f).

12 Section 2. Paragraph (a) of subsection (1) of section
13 985.231, Florida Statutes, is amended to read:

14 985.231 Powers of disposition in delinquency cases.--

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

19 1. Place the child in a probation program or a
20 postcommitment probation program under the supervision of an
21 authorized agent of the department or of any other person or
22 agency specifically authorized and appointed by the court,
23 whether in the child's own home, in the home of a relative of
24 the child, or in some other suitable place under such
25 reasonable conditions as the court may direct. A probation
26 program for an adjudicated delinquent child must include a
27 penalty component such as restitution in money or in kind,
28 community service, a curfew, revocation or suspension of the
29 driver's license of the child, or other nonresidential
30 punishment appropriate to the offense and must also include a
31 rehabilitative program component such as a requirement of

1 participation in substance abuse treatment or in school or
2 other educational program. If the child is attending or is
3 eligible to attend public school and the court finds that the
4 victim or a sibling of the victim in the case is attending or
5 may attend the same school as the child, the court placement
6 order shall include a finding pursuant to the proceedings
7 described in s. 985.23(1)(d). Upon the recommendation of the
8 department at the time of disposition, or subsequent to
9 disposition pursuant to the filing of a petition alleging a
10 violation of the child's conditions of postcommitment
11 probation, the court may order the child to submit to random
12 testing for the purpose of detecting and monitoring the use of
13 alcohol or controlled substances.

14 a. A classification scale for levels of supervision
15 shall be provided by the department, taking into account the
16 child's needs and risks relative to probation supervision
17 requirements to reasonably ensure the public safety. Probation
18 programs for children shall be supervised by the department or
19 by any other person or agency specifically authorized by the
20 court. These programs must include, but are not limited to,
21 structured or restricted activities as described in this
22 subparagraph, and shall be designed to encourage the child
23 toward acceptable and functional social behavior. If
24 supervision or a program of community service is ordered by
25 the court, the duration of such supervision or program must be
26 consistent with any treatment and rehabilitation needs
27 identified for the child and may not exceed the term for which
28 sentence could be imposed if the child were committed for the
29 offense, except that the duration of such supervision or
30 program for an offense that is a misdemeanor of the second
31 degree, or is equivalent to a misdemeanor of the second

1 degree, may be for a period not to exceed 6 months. When
2 restitution is ordered by the court, the amount of restitution
3 may not exceed an amount the child and the parent or guardian
4 could reasonably be expected to pay or make. A child who
5 participates in any work program under this part is considered
6 an employee of the state for purposes of liability, unless
7 otherwise provided by law.

8 b. The court may conduct judicial review hearings for
9 a child placed on probation for the purpose of fostering
10 accountability to the judge and compliance with other
11 requirements, such as restitution and community service. The
12 court may allow early termination of probation for a child who
13 has substantially complied with the terms and conditions of
14 probation.

15 c. If the conditions of the probation program or the
16 postcommitment probation program are violated, the department
17 or the state attorney may bring the child before the court on
18 a petition alleging a violation of the program. Any child who
19 violates the conditions of probation or postcommitment
20 probation must be brought before the court if sanctions are
21 sought. A child taken into custody under s. 985.207 for
22 violating the conditions of probation or postcommitment
23 probation shall be held in a consequence unit if such a unit
24 is available. The child shall be afforded a hearing within 24
25 hours after being taken into custody to determine the
26 existence of probable cause that the child violated the
27 conditions of probation or postcommitment probation. A
28 consequence unit is a secure facility specifically designated
29 by the department for children who are taken into custody
30 under s. 985.207 for violating probation or postcommitment
31 probation, or who have been found by the court to have

1 | violated the conditions of probation or postcommitment
2 | probation. If the violation involves a new charge of
3 | delinquency, the child may be detained under s. 985.215 in a
4 | facility other than a consequence unit. If the child is not
5 | eligible for detention for the new charge of delinquency, the
6 | child may be held in the consequence unit pending a hearing
7 | and is subject to the time limitations specified in s.
8 | 985.215. If the child denies violating the conditions of
9 | probation or postcommitment probation, the court shall appoint
10 | counsel to represent the child at the child's request. Upon
11 | the child's admission, or if the court finds after a hearing
12 | that the child has violated the conditions of probation or
13 | postcommitment probation, the court shall enter an order
14 | revoking, modifying, or continuing probation or postcommitment
15 | probation. In each such case, the court shall enter a new
16 | disposition order and, in addition to the sanctions set forth
17 | in this paragraph, may impose any sanction the court could
18 | have imposed at the original disposition hearing. If the child
19 | is found to have violated the conditions of probation or
20 | postcommitment probation, the court may:

21 | (I) Place the child in a consequence unit in that
22 | judicial circuit, ~~if available,~~ for up to 5 days for a first
23 | violation, ~~and up to 15 days for a second or subsequent~~
24 | violation, or, if a consequence unit is not available, the
25 | court may place the child on home detention, which shall,
26 | subject to legislative appropriation, include electronic
27 | monitoring.

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

31 |

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

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

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

10 2. Commit the child to a licensed child-caring agency
11 willing to receive the child, but the court may not commit the
12 child to a jail or to a facility used primarily as a detention
13 center or facility or shelter.

14 3. Commit the child to the department at a
15 restrictiveness level defined in s. 985.03. Such commitment
16 must be for the purpose of exercising active control over the
17 child, including, but not limited to, custody, care, training,
18 urine monitoring, and treatment of the child and release of
19 the child from residential commitment into the community in a
20 postcommitment nonresidential conditional release program. If
21 the child is eligible to attend public school following
22 commitment and the court finds that the victim or a sibling of
23 the victim in the case is or may be attending the same school
24 as the child, the commitment order shall include a finding
25 pursuant to the proceedings described in s. 985.23(1)(d). If
26 the child is not successful in the conditional release
27 program, the department may use the transfer procedure under
28 s. 985.404. Notwithstanding s. 743.07 and paragraph (d), and
29 except as provided in s. 985.31, the term of the commitment
30 must be until the child is discharged by the department or
31 until he or she reaches the age of 21.

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

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

7 6. As part of the probation program to be implemented
8 by the department, or, in the case of a committed child, as
9 part of the community-based sanctions ordered by the court at
10 the disposition hearing or before the child's release from
11 commitment, order the child to make restitution in money,
12 through a promissory note cosigned by the child's parent or
13 guardian, or in kind for any damage or loss caused by the
14 child's offense in a reasonable amount or manner to be
15 determined by the court. The clerk of the circuit court shall
16 be the receiving and dispensing agent. In such case, the court
17 shall order the child or the child's parent or guardian to pay
18 to the office of the clerk of the circuit court an amount not
19 to exceed the actual cost incurred by the clerk as a result of
20 receiving and dispensing restitution payments. The clerk shall
21 notify the court if restitution is not made, and the court
22 shall take any further action that is necessary against the
23 child or the child's parent or guardian. A finding by the
24 court, after a hearing, that the parent or guardian has made
25 diligent and good faith efforts to prevent the child from
26 engaging in delinquent acts absolves the parent or guardian of
27 liability for restitution under this subparagraph.

28 7. Order the child and, if the court finds it
29 appropriate, the child's parent or guardian together with the
30 child, to participate in a community work project, either as
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1 an alternative to monetary restitution or as part of the
2 rehabilitative or probation program.

3 8. Commit the child to the department for placement in
4 a program or facility for serious or habitual juvenile
5 offenders in accordance with s. 985.31. Any commitment of a
6 child to a program or facility for serious or habitual
7 juvenile offenders must be for an indeterminate period of
8 time, but the time may not exceed the maximum term of
9 imprisonment that an adult may serve for the same offense. The
10 court may retain jurisdiction over such child until the child
11 reaches the age of 21, specifically for the purpose of the
12 child completing the program.

13 9. In addition to the sanctions imposed on the child,
14 order the parent or guardian of the child to perform community
15 service if the court finds that the parent or guardian did not
16 make a diligent and good faith effort to prevent the child
17 from engaging in delinquent acts. The court may also order the
18 parent or guardian to make restitution in money or in kind for
19 any damage or loss caused by the child's offense. The court
20 shall determine a reasonable amount or manner of restitution,
21 and payment shall be made to the clerk of the circuit court as
22 provided in subparagraph 6.

23 10. Subject to specific appropriation, commit the
24 juvenile sexual offender to the department for placement in a
25 program or facility for juvenile sexual offenders in
26 accordance with s. 985.308. Any commitment of a juvenile
27 sexual offender to a program or facility for juvenile sexual
28 offenders must be for an indeterminate period of time, but the
29 time may not exceed the maximum term of imprisonment that an
30 adult may serve for the same offense. The court may retain
31 jurisdiction over a juvenile sexual offender until the

1 juvenile sexual offender reaches the age of 21, specifically
2 for the purpose of completing the program.

3 Section 3. Paragraph (a) of subsection (1) of section
4 985.31, Florida Statutes, is amended to read:

5 985.31 Serious or habitual juvenile offender.--

6 (1) ASSESSMENT AND TREATMENT SERVICES.--Pursuant to
7 the provisions of this chapter and the establishment of
8 appropriate program guidelines and standards, contractual
9 instruments, which shall include safeguards of all
10 constitutional rights, shall be developed as follows:

11 (a) The department shall provide for:

12 1. The oversight of implementation of assessment and
13 treatment approaches.

14 2. The identification and prequalification of
15 appropriate individuals or not-for-profit organizations,
16 including minority individuals or organizations when possible,
17 to provide assessment and treatment services to serious or
18 habitual delinquent children.

19 3. The monitoring and evaluation of assessment and
20 treatment services for compliance with the provisions of this
21 chapter and all applicable rules and guidelines pursuant
22 thereto.

23 ~~4. The development of an annual report on the~~
24 ~~performance of assessment and treatment to be presented to the~~
25 ~~Governor, the Attorney General, the President of the Senate,~~
26 ~~the Speaker of the House of Representatives, and the Auditor~~
27 ~~General no later than January 1 of each year.~~

28 Section 4. Paragraph (a) of subsection (1) of section
29 985.311, Florida Statutes, is amended to read:

30 985.311 Intensive residential treatment program for
31 offenders less than 13 years of age.--

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

8 (a) The department shall provide for:

9 1. The oversight of implementation of assessment and
10 treatment approaches.

11 2. The identification and prequalification of
12 appropriate individuals or not-for-profit organizations,
13 including minority individuals or organizations when possible,
14 to provide assessment and treatment services to intensive
15 offenders less than 13 years of age.

16 3. The monitoring and evaluation of assessment and
17 treatment services for compliance with the provisions of this
18 chapter and all applicable rules and guidelines pursuant
19 thereto.

20 ~~4. The development of an annual report on the~~
21 ~~performance of assessment and treatment to be presented to the~~
22 ~~Governor, the Attorney General, the President of the Senate,~~
23 ~~the Speaker of the House of Representatives, the Auditor~~
24 ~~General, and the Office of Program Policy Analysis and~~
25 ~~Government Accountability no later than January 1 of each~~
26 ~~year.~~

27 Section 5. Section 985.3141, Florida Statutes, is
28 amended to read:

29 985.3141 Escapes from secure detention or residential
30 commitment facility.--An escape from:
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1 (1) Any secure detention facility maintained for the
2 temporary detention of children, pending adjudication,
3 disposition, or placement;

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

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

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11 constitutes escape within the intent and meaning of s. 944.40
12 and is a felony of the third degree, punishable as provided in
13 s. 775.082, s. 775.083, or s. 775.084. For purposes of this
14 section, escape from a residential commitment facility as
15 provided for in subsection (2) includes a youth's willful
16 failure to return to a residential commitment facility within
17 the time authorized for a temporary release.

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

20 985.317 Literacy programs for juvenile offenders.--

21 ~~(5) EVALUATION AND REPORT. The department, in~~
22 ~~consultation with the Department of Education, shall develop~~
23 ~~and implement an evaluation of the literacy program in order~~
24 ~~to determine the impact of the programs on recidivism. The~~
25 ~~department shall submit an annual report on the implementation~~
26 ~~and progress of the programs to the President of the Senate~~
27 ~~and the Speaker of the House of Representatives by January 1~~
28 ~~of each year.~~

29 Section 7. This act shall take effect July 1, 2006.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 456

Clarifies that electronic monitoring would become
discretionary subject to appropriation.