

HB 5019

2006

1 A bill to be entitled
2 An act relating to juvenile justice; amending s. 985.207,
3 F.S.; permitting a law enforcement officer to take a child
4 into custody for a violation of adjudication order
5 conditions; amending s. 985.215, F.S.; permitting
6 specified types of postadjudication detention for a child
7 who has previously failed to appear at delinquency court
8 proceedings regardless of risk assessment instrument
9 results; providing exceptions that permit postadjudication
10 detention until the child's disposition order is entered
11 in his or her case; conforming cross-references; amending
12 s. 985.2155, F.S.; revising the definition of the term
13 "fiscally constrained county" for purposes of determining
14 state payment of costs of juvenile detention care;
15 amending s. 985.228, F.S.; requiring the court to include
16 specified conditions in a child's order of adjudication of
17 delinquency that apply during the postadjudication and
18 predisposition period; providing a definition; permitting
19 a court to find a child in contempt of court for a
20 violation of adjudication order conditions; providing
21 sanctions; amending s. 985.231, F.S.; conforming cross-
22 references; amending s. 985.308, F.S.; providing for
23 evaluations of juvenile sexual offender programs;
24 conforming cross-references; repealing s. 985.309, F.S.,
25 relating to boot camps for children; creating s. 985.3091,
26 F.S.; authorizing the department to contract for sheriff's
27 training and respect programs; providing eligibility
28 requirements for children placed in the programs;

Page 1 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb5019-00

29 specifying required program offerings; specifying program
30 participation time frames; requiring the department to
31 adopt rules and maintain specified records; providing for
32 quarterly evaluations of and contract cancellation under
33 specified circumstances; specifying staff training
34 requirements; requiring the department to adopt training
35 rules; prohibiting the provision of direct care to
36 children by staff who have not complied with training
37 requirements; prohibiting the operation of a program until
38 department rules are adopted and the department has
39 verified program compliance with applicable law and rules;
40 authorizing emergency rules to expedite implementation;
41 amending s. 985.311, F.S.; requiring the establishment of
42 minimum thresholds for evaluations; conforming cross-
43 references; amending s. 985.404, F.S.; providing for the
44 inclusion of evaluations in department contract
45 cooperative agreements; conforming cross-references;
46 creating s. 985.4055, F.S.; providing definitions;
47 requiring the department to adopt rules establishing a
48 protective action response policy; specifying when verbal
49 and physical intervention techniques may be used;
50 specifying prohibited uses of mechanical restraints;
51 prohibiting use of aerosol and chemical agents; requiring
52 the department to adopt rules establishing protection
53 action response training curriculums and certification
54 procedures; requiring department and provider employees to
55 be certified in protective action response prior to
56 exercising direct care; creating s. 985.4056, F.S.;

HB 5019

2006

57 creating the Juvenile Justice Accountability Commission;
58 providing for membership; providing definitions; providing
59 for meetings and voting requirements; providing for an
60 executive director and staff; providing for commission's
61 budget; providing for reimbursement of per diem and travel
62 expenses; requiring the commission to contract for a
63 comprehensive evaluation and accountability system for
64 juvenile justice programs; providing requirements for the
65 system; requiring a report by the system provider;
66 specifying commission duties; requiring a report by the
67 commission; providing for termination of juvenile justice
68 programs in specified circumstances; requiring the
69 commission to adopt rules; amending s. 985.412, F.S.;
70 deleting department's authority to establish a
71 comprehensive quality assurance system; providing
72 conforming changes; deleting obsolete provisions relating
73 to incentive and disincentive proposals and liquidated
74 damages; amending ss. 958.04, 958.046, 985.31, 985.314,
75 and 985.315, F.S.; conforming cross-references and
76 terminology; providing an effective date.

77
78 Be It Enacted by the Legislature of the State of Florida:

79
80 Section 1. Paragraph (e) is added to subsection (1) of
81 section 985.207, Florida Statutes, to read:

82 985.207 Taking a child into custody.--

83 (1) A child may be taken into custody under the following
84 circumstances:

HB 5019

2006

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

89

90 Nothing in this subsection shall be construed to allow the
91 detention of a child who does not meet the detention criteria in
92 s. 985.215.

93 Section 2. Subsection (2) and paragraphs (d) and (g) of
94 subsection (5) of section 985.215, Florida Statutes, are amended
95 to read:

96 985.215 Detention.--

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

101 (a) The child is alleged to be an escapee from a
102 residential commitment program, or an absconder from a
103 nonresidential commitment program, a probation program, or
104 conditional release supervision, or is alleged to have escaped
105 while being lawfully transported to or from a residential
106 commitment program.

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

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

HB 5019

2006

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

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

118 (f) The child is charged with a capital felony, a life
 119 felony, a felony of the first degree, a felony of the second
 120 degree that does not involve a violation of chapter 893, or a
 121 felony of the third degree that is also a crime of violence,
 122 including any such offense involving the use or possession of a
 123 firearm.

124 (g) The child is charged with any second degree or third
 125 degree felony involving a violation of chapter 893 or any third
 126 degree felony that is not also a crime of violence, and the
 127 child:

- 128 1. Has a record of failure to appear at court hearings
 129 after being properly notified in accordance with the Rules of
 130 Juvenile Procedure;
- 131 2. Has a record of law violations prior to court hearings;
- 132 3. Has already been detained or has been released and is
 133 awaiting final disposition of the case;
- 134 4. Has a record of violent conduct resulting in physical
 135 injury to others; or
- 136 5. Is found to have been in possession of a firearm.

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

HB 5019

2006

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

143 (i) The child is detained on a judicial order for failure
144 to appear and has previously willfully failed to appear, after
145 proper notice, for an adjudicatory hearing on the same case
146 regardless of the results of the risk assessment instrument. A
147 child may be held in secure detention for up to 72 hours in
148 advance of the next scheduled court hearing pursuant to this
149 paragraph. The child's failure to keep the clerk of court and
150 defense counsel informed of a current and valid mailing address
151 where the child will receive notice to appear at court
152 proceedings does not provide an adequate ground for excusal of
153 the child's nonappearance at the hearings.

154 (j) The child is detained on a judicial order for failure
155 to appear and has previously willfully failed to appear, after
156 proper notice, at two or more court hearings of any nature on
157 the same case regardless of the results of the risk assessment
158 instrument. A child may be held in secure detention for up to 72
159 hours in advance of the next scheduled court hearing pursuant to
160 this paragraph. The child's failure to keep the clerk of court
161 and defense counsel informed of a current and valid mailing
162 address where the child will receive notice to appear at court
163 proceedings does not provide an adequate ground for excusal of
164 the child's nonappearance at the hearings.

165 (k) At his or her adjudicatory hearing, the child has been
166 found to have committed a delinquent act or violation of law and
167 has previously willfully failed to appear, after proper notice,
168 for other delinquency court proceedings of any nature regardless

HB 5019

2006

169 of the results of the risk assessment instrument. A child may be
170 held in secure detention or, at the discretion of the court and
171 if available, placed on home detention with electronic
172 monitoring until the child's disposition order is entered in his
173 or her case. The child's failure to keep the clerk of court and
174 defense counsel informed of a current and valid mailing address
175 where the child will receive notice to appear at court
176 proceedings does not provide an adequate ground for excusal of
177 the child's nonappearance at the hearings.

178
179 A child who meets any of these criteria and who is ordered to be
180 detained pursuant to this subsection shall be given a hearing
181 within 24 hours after being taken into custody. The purpose of
182 the detention hearing is to determine the existence of probable
183 cause that the child has committed the delinquent act or
184 violation of law with which he or she is charged and the need
185 for continued detention, except where the child is alleged to
186 have absconded from a nonresidential commitment program in which
187 case the court, at the detention hearing, shall order that the
188 child be released from detention and returned to his or her
189 nonresidential commitment program. Unless a child is detained
190 under paragraph (d), ~~or~~ paragraph (e), or paragraph (k), the
191 court shall use the results of the risk assessment performed by
192 the juvenile probation officer and, based on the criteria in
193 this subsection, shall determine the need for continued
194 detention. A child placed into secure, nonsecure, or home
195 detention care may continue to be so detained by the court
196 pursuant to this subsection. If the court orders a placement

HB 5019

2006

197 more restrictive than indicated by the results of the risk
198 assessment instrument, the court shall state, in writing, clear
199 and convincing reasons for such placement. Except as provided in
200 s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b),
201 paragraph (10)(c), or paragraph (10)(d), when a child is placed
202 into secure or nonsecure detention care, or into a respite home
203 or other placement pursuant to a court order following a
204 hearing, the court order must include specific instructions that
205 direct the release of the child from such placement no later
206 than 5 p.m. on the last day of the detention period specified in
207 paragraph (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1.,
208 whichever is applicable, unless the requirements of such
209 applicable provision have been met or an order of continuance
210 has been granted pursuant to paragraph (5)(f).

211 (5)

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

216 (g) Upon good cause being shown that the nature of the
217 charge requires additional time for the prosecution or defense
218 of the case, the court may extend the time limits for detention
219 specified in paragraph (c) or paragraph (d) an additional 9 days
220 if the child is charged with an offense that would be, if
221 committed by an adult, a capital felony, a life felony, a felony
222 of the first degree, or a felony of the second degree involving
223 violence against any individual.

224 Section 3. Paragraph (b) of subsection (2) of section
 225 985.2155, Florida Statutes, is amended to read:

226 985.2155 Shared county and state responsibility for
 227 juvenile detention.--

228 (2) As used in this section, the term:

229 (b) "Fiscally constrained county" means a county
 230 ~~designated as a rural area of critical economic concern under s.~~
 231 ~~288.0656~~ for which the value of a mill in the county is no more
 232 than \$4 ~~\$3~~ million, based on the property valuations and tax
 233 data annually published by the Department of Revenue under s.
 234 195.052.

235 Section 4. Subsection (5) of section 985.228, Florida
 236 Statutes, is amended to read:

237 985.228 Adjudicatory hearings; withheld adjudications;
 238 orders of adjudication.--

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

246 (b) The order of adjudication of delinquency under
 247 paragraph (a) shall also include conditions that must be
 248 followed by the child until a disposition order is entered in
 249 his or her case. These conditions must include, but are not
 250 limited to, specifying that the child, during any period of time
 251 that he or she:

HB 5019

2006

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

255 2. Is in secure detention, is prohibited from engaging in
256 ungovernable behavior.

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

259 1. The child's failing to obey the reasonable and lawful
260 demands of the child's parent or legal guardian and, where
261 applicable, the reasonable and lawful demands of a person
262 responsible for supervising the child while he or she is in
263 school, another educational program, or secure detention.

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

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

269 (d) If a child willfully violates a condition contained in
270 his or her order of adjudication of delinquency, the court may
271 find the child in direct or indirect contempt of court under s.
272 985.216; however, notwithstanding s. 985.216 and the results of
273 the risk assessment instrument, the child's sanctions for such
274 contempt of court shall be placement in secure detention or, at
275 the discretion of the court and if available, on home detention
276 with electronic monitoring until the child's disposition order
277 is entered in his or her case.

278 Section 5. Paragraph (j) of subsection (1) of section
279 985.231, Florida Statutes, is amended to read:

HB 5019

2006

280 985.231 Powers of disposition in delinquency cases.--

281 (1)

282 (j) If the offense committed by the child was grand theft
283 of a motor vehicle, the court:

284 1. Upon a first adjudication for a grand theft of a motor
285 vehicle, may place the child youth in a sheriff's training and
286 respect program ~~boot camp~~, unless the child is ineligible under
287 s. 985.3091 ~~pursuant to s. 985.309~~, and shall order the child
288 youth to complete a minimum of 50 hours of community service.

289 2. Upon a second adjudication for grand theft of a motor
290 vehicle which is separate and unrelated to the previous
291 adjudication, may place the child youth in a sheriff's training
292 and respect program ~~boot camp~~, unless the child is ineligible
293 under s. 985.3091 ~~pursuant to s. 985.309~~, and shall order the
294 child youth to complete a minimum of 100 hours of community
295 service.

296 3. Upon a third adjudication for grand theft of a motor
297 vehicle which is separate and unrelated to the previous
298 adjudications, shall place the child youth in a sheriff's
299 training and respect program ~~boot camp~~ or other treatment
300 program, unless the child is ineligible under s. 985.3091
301 ~~pursuant to s. 985.309~~, and shall order the child youth to
302 complete a minimum of 250 hours of community service.

303 Section 6. Subsection (9) of section 985.308, Florida
304 Statutes, is amended to read:

305 985.308 Juvenile sexual offender commitment programs;
306 sexual abuse intervention networks.--

HB 5019

2006

307 (9) Evaluations under s. 985.4056(5)(a) of ~~The department~~
308 ~~shall conduct inspections of and quality assurance activities~~
309 ~~for each juvenile sexual offender program operated by or under~~
310 ~~contract with the department,~~ shall be conducted based on
311 standards specifically developed for these types of programs, ~~to~~
312 ~~determine whether the program complies with department rules for~~
313 ~~continued operation of the program.~~

314 Section 7. Section 985.309, Florida Statutes, is repealed.

315 Section 8. Section 985.3091, Florida Statutes, is created
316 to read:

317 985.3091 Sheriff's training and respect programs.--

318 (1) Contingent upon specific appropriation, local funding,
319 or specific appropriation and local funding, a county sheriff
320 may, under contract with the department, implement and operate a
321 sheriff's training and respect program to provide intensive
322 educational, work, and physical training and rehabilitation for
323 children who are eligible under subsection (2). A sheriff's
324 training and respect program shall be under the sheriff's
325 supervisory jurisdiction and authority as determined by the
326 contract between the department and the sheriff.

327 (2) A child is eligible for placement in a sheriff's
328 training and respect program if he or she:

329 (a) Is at least 14 years of age but less than 18 years of
330 age at the time of adjudication.

331 (b) Has been committed to the department for any offense
332 that, if committed by an adult, would be a felony other than a
333 capital felony, a life felony, or a violent felony of the first
334 degree.

HB 5019

2006

335 (c) Has a medical, psychological, and substance abuse
336 profile that is conducive to successful completion of the
337 program, as determined by preadmission medical, psychological,
338 and substance abuse screenings conducted by the sheriff.

339 (d) Will be placed in the judicial circuit in which the
340 child was adjudicated, except that the child may be placed
341 outside of that judicial circuit if:

342 1. The department, or the court if otherwise authorized by
343 law to select a commitment program within a restrictiveness
344 level for a child, determines that placement within the judicial
345 circuit would not be in the child's best interest or the
346 sheriff's training and respect program is unable to accept the
347 child; and

348 2. The child's parent or guardian agrees in writing to the
349 placement.

350 (3) A sheriff's training and respect program shall require
351 children to:

352 (a) Participate in physical training exercises.

353 (b) Complete educational, vocational, and substance abuse
354 programs.

355 (c) Receive training in life and job skills and in
356 techniques for appropriate decisionmaking.

357 (d) Receive counseling that is directed at replacing
358 criminal thinking, beliefs, and values with moral thinking,
359 beliefs, and values.

360 (4) A sheriff's training and respect program must provide
361 a residential component and conditional release assessment and

362 services in accordance with s. 985.316. The minimum period of
 363 participation in the residential component of:

364 (a) A low-risk residential program is 2 months.

365 (b) A moderate-risk residential program is 4 months.

366
 367 This subsection does not prohibit operation of a program that
 368 requires the participants to spend more than 4 months in the
 369 residential component of the program or that requires the
 370 participants to complete two sequential programs of 4 months
 371 each in the residential component of the program.

372 (5) The department shall adopt rules under ss. 120.536(1)
 373 and 120.54 for the sheriff's training and respect program that
 374 specify:

375 (a) Requirements for the preadmission medical,
 376 psychological, and substance abuse screenings required by
 377 subsection (2).

378 (b) Authorized disciplinary sanctions and restrictions on
 379 the privileges of the general population of children in the
 380 program. The rules must prohibit the use of physical force or
 381 restraint except as authorized in rules adopted pursuant to s.
 382 985.4055 and must specifically preclude the use of physical
 383 force or restraint as a disciplinary sanction or to encourage
 384 compliance with program requirements.

385 (c) Prohibitions on the use of psychological intimidation
 386 techniques, unless necessary for the safety of youth or other
 387 persons or to maintain security.

388 (d) Requirements for provision of notice by the program to
 389 the department and for the removal of a child from the program

HB 5019

2006

390 if the child becomes unmanageable or ineligible for the program
391 due to changes in his or her medical, psychological, or
392 substance abuse profile.

393 (e) Requirements for the prominent display of the
394 telephone number of the statewide abuse registry and for
395 immediate access by children in the program, upon request, to a
396 telephone for the purpose of contacting the abuse registry.

397 (6) (a) Evaluations under s. 985.4056 of each sheriff's
398 training and respect program shall be conducted quarterly. If a
399 sheriff's training and respect program fails to meet the minimum
400 thresholds for program continuation, the department shall cancel
401 the contract for the program:

402 1. Immediately if the program has a deficiency in a
403 critical life safety aspect of its operations, as defined in a
404 rule adopted under s. 985.4056, or has failed to train and
405 certify its employees as required in s. 985.4055.

406 2. If the program fails to achieve compliance with the
407 minimum thresholds for program continuation within 3 months,
408 unless there are documented extenuating circumstances, as
409 defined in a rule adopted under s. 985.4056.

410 (b) Upon cancellation of a contract under paragraph (a),
411 the program's operations shall immediately cease and the
412 department shall immediately discontinue any state payments to
413 the program.

414 (7) The department shall keep records and monitor criminal
415 activity, educational progress, and employment placement of all
416 sheriff's training and respect program participants after their
417 release from the program. The department must annually publish

HB 5019

2006

418 an outcome evaluation study of each sheriff's training and
419 respect program.

420 (8) (a) The department shall adopt rules under ss.
421 120.536(1) and 120.54 that establish training requirements for
422 staff in a sheriff's training and respect program. These
423 requirements shall, at a minimum, require administrative staff
424 to successfully complete 120 contact hours of department-
425 approved training and staff who provide direct care, as defined
426 in s. 985.4055, to successfully complete 200 contact hours of
427 department-approved training.

428 (b) Department-approved training must include, but is not
429 limited to, training on:

- 430 1. State and federal laws relating to child abuse.
- 431 2. Authorized disciplinary sanctions, privilege
432 restrictions, and limitations on use of physical force and
433 restraint techniques under paragraph (5) (b) and prohibited
434 psychological intimidation techniques under paragraph (5) (c).
- 435 3. Appropriate counseling techniques and aggression
436 control methods.
- 437 4. Appropriate methods for dealing with children who have
438 been placed in programs that emphasize physical fitness and
439 personal discipline, including training on the identification
440 of, and appropriate responses to, children who are experiencing
441 physical or mental distress.
- 442 5. Cardiopulmonary resuscitation, choke-relief, and other
443 emergency medical procedures.

444 (c) All department-approved training courses under this
445 subsection must be taught by persons who are certified as

446 instructors by the Division of Criminal Justice Standards and
 447 Training of the Department of Law Enforcement and who have prior
 448 experience in a juvenile program. A training course in
 449 counseling techniques need not be taught by a certified
 450 instructor but must be taught by a person who has at least a
 451 bachelor's degree in social work, counseling, psychology, or a
 452 related field.

453 (d) A person may not provide direct care, as defined in s.
 454 985.4055, to a child in a sheriff's training and respect program
 455 until he or she has successfully completed the training
 456 requirements under this subsection and the certification
 457 requirements under s. 985.4055.

458 (9) Children shall not be admitted to a sheriff's training
 459 and respect program until the department has adopted the rules
 460 required by this section and has verified that each program is
 461 in compliance with all laws and rules applicable to the program.
 462 The department may adopt emergency rules pursuant to s.
 463 120.54(4) if necessary to allow operation of sheriff's training
 464 and respect programs beginning July 1, 2006.

465 Section 9. Paragraph (e) of subsection (2) and paragraph
 466 (i) of subsection (3) of section 985.311, Florida Statutes, are
 467 amended to read:

468 985.311 Intensive residential treatment program for
 469 offenders less than 13 years of age.--

470 (2) INTENSIVE RESIDENTIAL TREATMENT PROGRAM FOR OFFENDERS
 471 LESS THAN 13 YEARS OF AGE.--

472 (e) Minimum thresholds ~~The department shall be established~~
 473 under s. 985.4056(5) (a) establish quality assurance standards to

474 ensure the quality and substance of mental health services
 475 provided to children with mental, nervous, or emotional
 476 disorders who may be committed to intensive residential
 477 treatment programs. The minimum thresholds ~~quality assurance~~
 478 ~~standards~~ shall address the possession of credentials by the
 479 mental health service providers.

480 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
 481 TREATMENT.--

482 (i) The treatment and placement recommendations shall be
 483 submitted to the court for further action pursuant to this
 484 paragraph:

485 1. If it is recommended that placement in an intensive
 486 residential treatment program for offenders less than 13 years
 487 of age is inappropriate, the court shall make an alternative
 488 disposition pursuant to s. 985.3091 ~~985.309~~ or other alternative
 489 sentencing as applicable, utilizing the recommendation as a
 490 guide.

491 2. If it is recommended that placement in an intensive
 492 residential treatment program for offenders less than 13 years
 493 of age is appropriate, the court may commit the child to the
 494 department for placement in the restrictiveness level designated
 495 for intensive residential treatment program for offenders less
 496 than 13 years of age.

497 Section 10. Paragraph (d) of subsection (10) of section
 498 985.404, Florida Statutes, is amended to read:

499 985.404 Administering the juvenile justice continuum.--

500 (10)

501 (d) Each programmatic, residential, and service contract
 502 or agreement entered into by the department must include a
 503 cooperation clause for purposes of complying with the evaluation
 504 requirements under s. 985.4056(5)(a) and the department's
 505 quality assurance requirements, cost-accounting requirements,
 506 and the program outcome evaluation requirements.

507 Section 11. Section 985.4055, Florida Statutes, is created
 508 to read:

509 985.4055 Protective action response.--

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

511 (a) "Direct care" means the care, supervision, custody, or
 512 control of youth in any facility, service, or program that is
 513 operated by the department or by a provider under contract with
 514 the department.

515 (b) "Employee" means any person who exercises direct care.

516 (c) "Protective Action Response policy" means the policy
 517 governing the use of verbal and physical intervention
 518 techniques, mechanical restraints, and aerosol and chemical
 519 agents by employees.

520 (2) The department shall adopt rules under ss. 120.536(1)
 521 and 120.54 that:

522 (a) Establish a Protective Action Response policy that:

523 1. Defines the authorized level of response by an employee
 524 to each level of verbal or physical resistance by a youth.

525 2. Requires the use of verbal intervention techniques as
 526 the initial response by an employee to verbal or physical
 527 resistance by a youth, except where physical intervention
 528 techniques are necessary to prevent:

529 a. Physical harm to the youth, employee, or another
 530 person;
 531 b. Property damage; or
 532 b. The youth from escaping or absconding from lawful
 533 supervision.
 534 3. Defines authorized physical intervention techniques and
 535 the situations under which employees may use these techniques
 536 for youth. Pain compliance techniques and other use of force
 537 less than lethal force shall be prohibited, except where
 538 necessary to prevent:
 539 a. Physical harm to the youth, employee, or another
 540 person;
 541 b. Property damage; or
 542 c. The youth from escaping or absconding from lawful
 543 supervision.
 544
 545 Lethal force shall be prohibited, except where necessary to
 546 protect the employee or another person from an imminent threat
 547 of great bodily harm or death. Prior authorization by an
 548 employee's supervisor for the use of physical intervention
 549 techniques shall be obtained when practical.
 550 4. Defines authorized use of mechanical restraints and the
 551 situations under which employees may use such restraints on
 552 youth. Prohibited uses of mechanical restraints shall include
 553 the use of neck restraints and the securing of a youth to a
 554 fixed object. Supervision requirements for youth who are secured
 555 in mechanical restraints shall include constant and direct
 556 visual monitoring by an employee for purposes of insuring youth

HB 5019

2006

557 safety and ascertaining indications by the youth that restraints
558 are no longer necessary. Prior authorization by an employee's
559 supervisor for the use of mechanical restraints shall be
560 obtained when practical.

561 5. Prohibits employee use of aerosol or chemical agents,
562 including, but not limited to, oleoresin capsicum spray and
563 ammonia capsules, on a youth unless required for medical
564 treatment of the youth by a licensed medical professional.

565 (b) Establish training curriculums for protective action
566 response certification of employees and instructors. The
567 training curriculum for employee certification shall, at a
568 minimum, require the employee to obtain a passing score:

569 1. On a written examination that tests the employee's
570 knowledge and understanding of the protective action response
571 policy.

572 2. During an evaluation by an instructor of the employee's
573 physically demonstrated ability to implement the protective
574 action response policy.

575 (c) Require training curriculums for protective action
576 response certification of employees to be taught by instructors
577 who have been certified under the training curriculum for
578 protective action response certification of instructors.

579 (d) Require each employee to have received his or her
580 protective action response certification prior to exercising
581 direct care.

582 Section 12. Section 985.4056, Florida Statutes, is created
583 to read:

584 985.4056 Juvenile Justice Accountability Commission.--

HB 5019

2006

585 (1) CREATION; MEMBERSHIP.--

586 (a) The Juvenile Justice Accountability Commission is
587 created and administratively housed within the department. The
588 commission shall be composed of seven members appointed by the
589 Governor. Each member of the commission must have direct
590 experience in juvenile justice issues and must be a citizen of
591 and registered voter in this state. The composition of the
592 commission must equitably represent all geographic areas of the
593 state and include minorities and women.

594 (b) Within the 2-year period preceding his or her
595 appointment, a member of the commission may not have been, and
596 during the 2-year period following termination of his or her
597 appointment, a member of the commission may not be:

598 1. An employee of, a consultant to, or a provider under
599 contract with the department.

600 2. A contractor, or an employee or a consultant thereof,
601 who submits a bid, proposal, or reply in response to a
602 competitive solicitation issued by the commission.

603 (c) Each member of the commission shall serve a term of 4
604 years; however, for the purpose of providing staggered terms, of
605 the initial appointments, three members shall serve 2-year terms
606 and four members shall serve 4-year terms. Any vacancy on the
607 commission shall be filled in the same manner as the original
608 appointment within 60 days after the date upon which the vacancy
609 occurred, and any member appointed to fill a vacancy shall serve
610 only for the unexpired term of the member's predecessor. The
611 chairperson of the commission shall be selected by the members
612 for a term of 1 year.

HB 5019

2006

613 (2) DEFINITIONS.--For purposes of this section, the term:

614 (a) "Juvenile justice program" means any facility,
615 service, or program that is operated by the department or by a
616 provider under contract with the department.

617 (b) "Minorities" means a member of a socially or
618 economically disadvantaged group and includes African Americans,
619 Hispanics, and American Indians.

620 (3) MEETINGS.--

621 (a) The commission shall hold a minimum of four regular
622 meetings annually, and other meetings may be called by the chair
623 upon giving at least 7 days' notice to all members and the
624 public pursuant to chapter 120. Meetings may also be held upon
625 the written request of at least four members, upon at least 7
626 days' notice of such meeting being given to all members and the
627 public by the chair pursuant to chapter 120. Emergency meetings
628 may be held without notice upon the request of all members. The
629 meetings of the commission shall be held in the central office
630 of the department in Tallahassee unless the chair determines
631 that special circumstances warrant meeting at another location.

632 (b) A majority of the membership of the commission
633 constitutes a quorum and a quorum is required for any meeting of
634 the commission during which action will be voted upon. An action
635 of the commission is not binding unless the action is taken
636 pursuant to an affirmative vote of a majority of the members
637 present and the vote must be recorded in the minutes of the
638 meeting.

639 (c) A member of the commission may not authorize a
640 designee to attend a meeting of the commission in his or her

HB 5019

2006

641 place. A member who fails to attend two consecutive regularly
642 scheduled meetings of the commission, unless the member is
643 excused by the chairperson, shall be deemed to have abandoned
644 the position, and the position shall be declared vacant by the
645 commission.

646 (d) The chairperson shall cause to be made a complete
647 record of the proceedings of the commission, which record shall
648 be open for public inspection.

649 (4) ORGANIZATION.--

650 (a) The commission, subject to appropriation, may employ
651 an executive director and other staff, and may retain
652 consultants, as necessary. No person employed or retained by the
653 commission under this paragraph may have served in a position
654 under paragraph (1) (b) within the 2-year period preceding his or
655 her employment or retention, nor may such person serve in a
656 position under paragraph (1) (b) within the 2-year period
657 following his or her termination from the commission.

658 (b) The commission shall be a separate budget entity, and
659 the executive director shall be the chief administrative
660 officer. The department shall provide administrative support and
661 service to the commission to the extent requested by the
662 executive director. The commission and its staff are not subject
663 to the control, supervision, or direction of the department.

664 (c) The commission shall develop a budget pursuant to
665 chapter 216. The budget is not subject to change by the
666 department and shall be submitted to the Governor and
667 Legislature as provided in s. 216.023.

668 (d) Members of the commission shall serve without
 669 compensation, but are entitled to reimbursement for per diem and
 670 travel expenses under s. 112.061.

671 (5) DUTIES.--The commission shall:

672 (a) On or before October, 1, 2006 and subject to
 673 appropriation, enter into a contract under chapter 287 for the
 674 development and implementation of a comprehensive evaluation and
 675 accountability system for each juvenile justice program. The
 676 contract for the system must require the provider to:

677 1. Develop a standardized evaluation protocol based upon
 678 best practices for juvenile justice programs that includes
 679 minimum thresholds for program continuation and that identifies
 680 program effectiveness and areas in need of expansion,
 681 improvement, modification or elimination.

682 2. Continually review best practices literature and update
 683 the standardized evaluation protocol based upon that review.

684 3. Conduct annual or more frequent evaluations of each
 685 juvenile justice program, except that evaluations of sheriff's
 686 training and respect programs under s. 985.3091 shall be
 687 conducted quarterly. The date and time of the evaluations shall
 688 not be announced to the juvenile justice program.

689 4. Notify the chair of the commission and the secretary of
 690 the department within 24 hours of a juvenile justice program's
 691 failure to meet minimum thresholds for program continuation
 692 during an evaluation.

693 5. Submit a report to the Governor, the appropriate
 694 substantive and fiscal committees of the Legislature, and the

695 secretary of the department on or before January 1st each year
 696 that contains, at a minimum, for each juvenile justice program:
 697 a. A comprehensive description of the population served by
 698 the program.
 699 b. A specific description of the services provided by the
 700 program.
 701 c. Program cost.
 702 d. A comparison of expenditures to federal and state
 703 funding.
 704 e. Immediate and long-range program concerns.
 705 f. Recommendations to maintain, expand, improve, modify,
 706 or eliminate the program.
 707 (b) Monitor the development and implementation of long-
 708 range juvenile justice program policies, including prevention,
 709 early intervention, diversion, adjudication, and commitment.
 710 (c) Review and recommend programmatic and fiscal policies
 711 governing the operation of juvenile justice programs.
 712 (d) Serve as a clearinghouse, in coordination with the
 713 department, to provide information and assistance to the
 714 juvenile justice circuit boards and juvenile justice county
 715 councils.
 716 (e) Advise the President of the Senate, the Speaker of the
 717 House of Representatives, the Governor, and the department on
 718 matters relating to this chapter.
 719 (f) Conduct such other activities as the commission may
 720 determine are necessary and appropriate to monitor the
 721 effectiveness of the delivery of juvenile justice under this
 722 chapter.

HB 5019

2006

723 (g) Submit an annual report to the Governor, the
724 appropriate substantive and fiscal committees of the
725 Legislature, and the secretary of the department no later than
726 January 1st of each year that summarizes the meetings and
727 activities of the commission during the preceding year and
728 includes any recommendations of the commission for the following
729 year.

730 (6) PROGRAM TERMINATION.--

731 (a) If a juvenile justice program operated by the
732 department fails to meet minimum thresholds for program
733 continuation during an evaluation under paragraph (5) (a), the
734 program's operations shall be:

735 1. Immediately terminated if the program has a deficiency
736 in a critical life safety aspect of its operations, as defined
737 in commission rule, or if the department has failed to train and
738 certify program employees as required in s. 985.4055.

739 2. Terminated if the department fails to achieve
740 compliance with the minimum thresholds for program continuation
741 within 6 months, unless there are documented extenuating
742 circumstances as defined in commission rule.

743 (b) Each juvenile justice program contract entered into by
744 the department must:

745 1. Provide for evaluations under paragraph (5) (a).

746 2. State that if a provider fails to meet the established
747 minimum thresholds for program continuation that such failure
748 shall cause the department to cancel the provider's contract:

749 a. Immediately if the provider has a deficiency in a
750 critical life safety aspect of its operations, as defined in

HB 5019

2006

751 commission rule, or has failed to train and certify its
752 employees as required in s. 985.4055.

753 b. If the provider fails to achieve compliance with the
754 minimum thresholds for program continuation within 6 months,
755 except as provided in s. 985.3091(6)(b), unless there are
756 documented extenuating circumstances as defined in commission
757 rule.

758 3. State that, upon cancellation of a contract under this
759 paragraph, that the provider's operations shall immediately
760 cease, that the department will immediately discontinue any
761 state payments to the provider, and that the provider shall be
762 ineligible to contract with the department for the cancelled
763 service for a period of 12 months.

764 (7) RULEMAKING.--The commission shall adopt rules pursuant
765 to ss. 120.536(1) and 120.54 to implement the provisions of this
766 section.

767 Section 13. Paragraphs (a) and (e) of subsection (4) and
768 subsections (5), (6), and (7) of section 985.412, Florida
769 Statutes, are amended to read:

770 985.412 Department data collection and reporting Quality
771 ~~assurance and cost effectiveness.--~~

772 (4)(a) The department of ~~Juvenile Justice~~, in consultation
773 with the Office of Economic and Demographic Research, and
774 contract service providers, shall develop a cost-effectiveness
775 model and apply the model to each commitment program. Program
776 recidivism rates shall be a component of the model. The cost-
777 effectiveness model shall compare program costs to client
778 outcomes and program outputs. It is the intent of the

HB 5019

2006

779 Legislature that continual development efforts take place to
780 improve the validity and reliability of the cost-effectiveness
781 model and to integrate the standard methodology developed under
782 s. 985.401(4) for interpreting program outcome evaluations.

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

786 1. Construct a profile of each commitment program that
787 ~~uses the results of the quality assurance report required by~~
788 ~~this section,~~ the cost-effectiveness report required in this
789 subsection, and other reports available to the department.

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

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

795 4. Use the results of these evaluations in developing or
796 refining juvenile justice programs or program models, client
797 outcomes and program outputs, provider contracts, quality
798 ~~assurance standards,~~ and the cost-effectiveness model.

799 ~~(5) The department shall:~~

800 ~~(a) Establish a comprehensive quality assurance system for~~
801 ~~each program operated by the department or operated by a~~
802 ~~provider under contract with the department. Each contract~~
803 ~~entered into by the department must provide for quality~~
804 ~~assurance.~~

805 ~~(b) Provide operational definitions of and criteria for~~
806 ~~quality assurance for each specific program component.~~

807 ~~(c) Establish quality assurance goals and objectives for~~
808 ~~each specific program component.~~

809 ~~(d) Establish the information and specific data elements~~
810 ~~required for the quality assurance program.~~

811 ~~(e) Develop a quality assurance manual of specific,~~
812 ~~standardized terminology and procedures to be followed by each~~
813 ~~program.~~

814 ~~(f) Evaluate each program operated by the department or a~~
815 ~~provider under a contract with the department and establish~~
816 ~~minimum thresholds for each program component. If a provider~~
817 ~~fails to meet the established minimum thresholds, such failure~~
818 ~~shall cause the department to cancel the provider's contract~~
819 ~~unless the provider achieves compliance with minimum thresholds~~
820 ~~within 6 months or unless there are documented extenuating~~
821 ~~circumstances. In addition, the department may not contract with~~
822 ~~the same provider for the canceled service for a period of 12~~
823 ~~months. If a department operated program fails to meet the~~
824 ~~established minimum thresholds, the department must take~~
825 ~~necessary and sufficient steps to ensure and document program~~
826 ~~changes to achieve compliance with the established minimum~~
827 ~~thresholds. If the department operated program fails to achieve~~
828 ~~compliance with the established minimum thresholds within 6~~
829 ~~months and if there are no documented extenuating circumstances,~~
830 ~~the department must notify the Executive Office of the Governor~~
831 ~~and the Legislature of the corrective action taken. Appropriate~~
832 ~~corrective action may include, but is not limited to:~~

833 ~~1. Contracting out for the services provided in the~~
834 ~~program.~~

HB 5019

2006

835 ~~2. Initiating appropriate disciplinary action against all~~
836 ~~employees whose conduct or performance is deemed to have~~
837 ~~materially contributed to the program's failure to meet~~
838 ~~established minimum thresholds;~~

839 ~~3. Redesigning the program; or~~

840 ~~4. Realigning the program.~~

841

842 ~~The department shall submit an annual report to the President of~~
843 ~~the Senate, the Speaker of the House of Representatives, the~~
844 ~~Minority Leader of each house of the Legislature, the~~
845 ~~appropriate substantive and fiscal committees of each house of~~
846 ~~the Legislature, and the Governor, no later than February 1 of~~
847 ~~each year. The annual report must contain, at a minimum, for~~
848 ~~each specific program component: a comprehensive description of~~
849 ~~the population served by the program; a specific description of~~
850 ~~the services provided by the program; cost; a comparison of~~
851 ~~expenditures to federal and state funding; immediate and long-~~
852 ~~range concerns; and recommendations to maintain, expand,~~
853 ~~improve, modify, or eliminate each program component so that~~
854 ~~changes in services lead to enhancement in program quality. The~~
855 ~~department shall ensure the reliability and validity of the~~
856 ~~information contained in the report.~~

857 (5)~~(6)~~ The department shall collect and analyze available
858 statistical data for the purpose of ongoing evaluation of all
859 programs. The department shall provide the Legislature with
860 necessary information and reports to enable the Legislature to
861 make informed decisions regarding the effectiveness of, and any
862 needed changes in, services, programs, policies, and laws.

HB 5019

2006

863 ~~(7) No later than November 1, 2001, the department shall~~
864 ~~submit a proposal to the Legislature concerning funding~~
865 ~~incentives and disincentives for the department and for~~
866 ~~providers under contract with the department. The~~
867 ~~recommendations for funding incentives and disincentives shall~~
868 ~~be based upon both quality assurance performance and cost-~~
869 ~~effectiveness performance. The proposal should strive to achieve~~
870 ~~consistency in incentives and disincentives for both department-~~
871 ~~operated and contractor provided programs. The department may~~
872 ~~include recommendations for the use of liquidated damages in the~~
873 ~~proposal; however, the department is not presently authorized to~~
874 ~~contract for liquidated damages in non hardware secure~~
875 ~~facilities until January 1, 2002.~~

876 Section 14. Subsections (4) and (5) of section 958.04,
877 Florida Statutes, are amended to read:

878 958.04 Judicial disposition of youthful offenders.--

879 (4) Due to severe prison overcrowding, the Legislature
880 declares the construction of a ~~basic~~ training and respect
881 program facility is necessary to aid in alleviating an emergency
882 situation.

883 (5) The department shall provide a special training
884 program for staff selected for the ~~basic~~ training and respect
885 program.

886 Section 15. Section 958.046, Florida Statutes, is amended
887 to read:

888 958.046 Placement in county-operated ~~boot-camp~~ programs
889 for youthful offenders.--In counties where there are county-
890 operated youthful offender ~~boot-camp~~ programs, other than

HB 5019

2006

891 programs ~~boot camps~~ described in s. 958.04 or s. 985.3091
 892 ~~985.309~~, the court may sentence a youthful offender to such a
 893 program ~~boot camp~~. In county-operated youthful offender ~~boot~~
 894 ~~camp~~ programs, juvenile offenders shall not be commingled with
 895 youthful offenders.

896 Section 16. Paragraph (i) of subsection (3) of section
 897 985.31, Florida Statutes, is amended to read:

898 985.31 Serious or habitual juvenile offender.--

899 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
 900 TREATMENT.--

901 (i) The treatment and placement recommendations shall be
 902 submitted to the court for further action pursuant to this
 903 paragraph:

904 1. If it is recommended that placement in a serious or
 905 habitual juvenile offender program or facility is inappropriate,
 906 the court shall make an alternative disposition pursuant to s.
 907 985.3091 ~~985.309~~ or other alternative sentencing as applicable,
 908 using ~~utilizing~~ the recommendation as a guide.

909 2. If it is recommended that placement in a serious or
 910 habitual juvenile offender program or facility is appropriate,
 911 the court may commit the child to the department for placement
 912 in the restrictiveness level designated for serious or habitual
 913 delinquent children programs.

914 Section 17. Section 985.314, Florida Statutes, is amended
 915 to read:

916 985.314 Commitment programs for juvenile felony
 917 offenders.--

HB 5019

2006

918 (1) Notwithstanding any other law and regardless of the
 919 child's age, a child who is adjudicated delinquent, or for whom
 920 adjudication is withheld, for an act that would be a felony if
 921 committed by an adult, shall be committed to:

922 (a) A sheriff's training and respect ~~boot-camp~~ program
 923 under s. 985.3091 ~~s. 985.309~~ if the child has participated in an
 924 early delinquency intervention program as provided in s.
 925 985.305.

926 (b) A program for serious or habitual juvenile offenders
 927 under s. 985.31 or an intensive residential treatment program
 928 for offenders less than 13 years of age under s. 985.311, if the
 929 child has participated in an early delinquency intervention
 930 program and has completed a sheriff's training and respect ~~boot-~~
 931 ~~camp~~ program.

932 (c) A maximum-risk residential program, if the child has
 933 participated in an early delinquency intervention program, has
 934 completed a sheriff's training and respect ~~boot-camp~~ program,
 935 and has completed a program for serious or habitual juvenile
 936 offenders or an intensive residential treatment program for
 937 offenders less than 13 years of age. The commitment of a child
 938 to a maximum-risk residential program must be for an
 939 indeterminate period, but may not exceed the maximum term of
 940 imprisonment that an adult may serve for the same offense.

941 (2) In committing a child to the appropriate program, the
 942 court may consider an equivalent program of similar intensity as
 943 being comparable to a program required under subsection (1).

944 Section 18. Paragraph (b) of subsection (4) of section
 945 985.315, Florida Statutes, is amended to read:

HB 5019

2006

946 985.315 Educational and career-related programs.--

947 (4)

948 (b) Evaluations of juvenile educational and career-related
949 programs shall be conducted according to the following
950 guidelines:

951 1. Systematic evaluations ~~and quality assurance monitoring~~
952 shall be implemented, in accordance with ss. 985.4056(5)(a) and
953 ~~s. 985.412(1) and (2), and (5)~~, to determine whether the
954 programs are related to successful postrelease adjustments.

955 2. Operations and policies of the programs shall be
956 reevaluated to determine if they are consistent with their
957 primary objectives.

958 Section 19. This act shall take effect July 1, 2006.