

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

3 2. A violation of chapter 316 punishable by
4 imprisonment;

5 3. Criminal contempt; or

6 4. A violation of a special law or county or municipal
7 ordinance ancillary to a state charge, or if not ancillary to
8 a state charge, only if the public defender contracts with the
9 county or municipality to provide representation pursuant to
10 ss. 27.54 and 125.69.

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12 The public defender ~~may shall~~ not provide representation under
13 ~~pursuant to~~ this paragraph if the court, before ~~prior to~~
14 trial, files in the cause an order of no imprisonment as
15 provided in s. 27.512;

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

19 (d) Sought by petition filed in such court to be
20 involuntarily placed as a mentally ill person under part I of
21 chapter 394, involuntarily committed as a sexually violent
22 predator under part V of chapter 394, or involuntarily
23 admitted to residential services as a person with
24 developmental disabilities under chapter 393. A public
25 defender ~~may shall~~ not represent any plaintiff in a civil
26 action brought under the Florida Rules of Civil Procedure, the
27 Federal Rules of Civil Procedure, or the federal statutes, or
28 represent a petitioner in a rule challenge under chapter 120,
29 unless specifically authorized by statute;

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

1 (f) Is appealing a matter in a case arising under
2 paragraphs (a)-(d).

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

8 Section 2. Subsections (1) and (2) of section 985.203,
9 Florida Statutes, are amended to read:

10 985.203 Right to counsel.--

11 (1) A child shall be represented ~~is entitled to~~
12 ~~representation by legal~~ counsel at all stages of any
13 delinquency court proceedings occurring after the child has
14 been taken into custody under s. 985.207 or s. 985.2075,
15 unless the right to counsel is freely, knowingly, and
16 intelligently waived by the child after he or she has been
17 advised by counsel ~~under this part~~. If the child and the
18 parents or other legal guardian are indigent and unable to
19 employ counsel for the child, the court shall appoint counsel
20 pursuant to s. 27.52. Determination of indigence and costs of
21 representation shall be as provided by ss. 27.52 and 938.29.
22 ~~Legal Counsel representing a child who exercises the right to~~
23 ~~counsel~~ shall be allowed to provide advice ~~and counsel~~ to the
24 child at any time after the child has been taken into custody
25 under s. 985.207 or s. 985.2075 ~~subsequent to the child's~~
26 ~~arrest, including prior to a detention hearing while in secure~~
27 ~~detention care. A child shall be represented by legal counsel~~
28 ~~at all stages of all court proceedings unless the right to~~
29 ~~counsel is freely, knowingly, and intelligently waived by the~~
30 ~~child~~. If the child appears without counsel, the court shall
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1 advise the child of his or her rights with respect to
2 representation of court-appointed counsel.

3 (2) If the parents or legal guardian of an indigent
4 child are not indigent but refuse to employ counsel, the court
5 shall appoint counsel pursuant to s. 27.52 to represent the
6 child at the detention hearing and until counsel is provided.
7 Costs of representation ~~shall be~~ ~~are hereby~~ imposed as
8 provided by ss. 27.52 and 938.29. Thereafter, the court may
9 ~~shall~~ not appoint counsel for an indigent child who has with
10 nonindigent parents or a nonindigent legal guardian but shall
11 order the parents or legal guardian to obtain private counsel.
12 A parent or legal guardian of an indigent child who has been
13 ordered to obtain private counsel for the child and who
14 willfully fails to follow the court order shall be punished by
15 the court in civil contempt proceedings. If a parent or legal
16 guardian is also an alleged victim in the case, the court may
17 not order the parents or legal guardian to obtain private
18 counsel but shall appoint counsel pursuant to s. 27.52 to
19 represent the indigent child. At the disposition of the case
20 and upon a finding by the court that a parent or legal
21 guardian is a victim of the offense, the parents or legal
22 guardian shall not be liable for fees, charges, or costs under
23 s. 27.52, s. 938.29, or this chapter.

24 Section 3. This act shall take effect July 1, 2006.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 526

- Clarifies proposed language for modifying the point when the public defender would be required to represent an indigent child under s. 27.51(1), F.S.
- Clarifies proposed language for the point when a child's right to counsel attaches under s. 985.203(1), F.S.
- Clarifies proposed language regarding a child's waiver of the right to counsel. Provides that a child must be advised by counsel prior to waiving his or her right to counsel.
- Provides clarification regarding when counsel is authorized to provide advice to a child. Specifies that counsel may provide advice any time after the child's right to counsel attaches.
- Provides clarification regarding the nonliability of the parents or legal guardian in cases where a parent or legal guardian is the victim of the offense in the case.