

HB 7193

2006

1 A bill to be entitled

2 An act relating to juvenile sexual offenders; amending s.
3 985.03, F.S.; defining the terms "psychosexual evaluation"
4 and "qualified sexual offender practitioner"; amending s.
5 985.229, F.S.; requiring the court to order a psychosexual
6 evaluation for a juvenile sexual offender; specifying
7 requirements for provision of the psychosexual evaluation
8 results and recommendations to the court; amending s.
9 985.23, F.S.; requiring a predisposition report to include
10 an evaluation of the results and recommendations of a
11 psychosexual evaluation; amending s. 985.231, F.S.;
12 conforming a cross-reference; requiring the court to
13 consider psychosexual evaluation prior to imposition of a
14 community-based juvenile sexual offender treatment
15 program; deleting authorization for a comprehensive
16 assessment of sexually deviant behavior; conforming
17 provisions; amending ss. 985.31 and 985.3141, F.S.;
18 conforming cross-references; creating a task force on
19 juvenile sexual offenders and their victims; providing
20 definitions; providing membership; providing duties;
21 requiring a report; providing for administrative support;
22 authorizing per diem and travel reimbursement; providing
23 for dissolution of the task force; providing an effective
24 date.

25
26 Be It Enacted by the Legislature of the State of Florida:
27

HB 7193

2006

28 Section 1. Subsections (45) through (60) of section
29 985.03, Florida Statutes, are renumbered as subsections (47)
30 through (62), respectively, and new subsections (45) and (46)
31 are added to that section to read:

32 985.03 Definitions.--As used in this chapter, the term:

33 (45) "Psychosexual evaluation" means an evaluation by a
34 qualified sexual offender practitioner that addresses, at a
35 minimum, a juvenile sexual offender's:

36 (a) Account of the incident and the official report of the
37 investigation.

38 (b) Sexual development and sexual delinquency history and
39 treatment.

40 (c) Behavioral and delinquency history.

41 (d) Substance abuse and mental health history and
42 treatment.

43 (e) Intellectual, personality, and trauma assessment.

44 (f) Physiological assessment, if appropriate.

45 (g) Family, social, educational, and employment situation,
46 including identification of the sources of this information.

47 (h) Risk of committing a future act of sexual delinquency
48 or physical harm to himself or herself, the victim, or other
49 persons.

50 (i) Culpability assessment.

51 (j) Diagnosis.

52 (k) Amenability to treatment, including treatment
53 recommendations specific to his or her needs.

54 (46) "Qualified sexual offender practitioner" means a
55 professional who is eligible to practice juvenile sexual

56 offender therapy under s. 490.0145 or s. 491.0144 and who:

57 (a) Possesses at least:

58 1. Fifty-five hours of postgraduate degree continuing
 59 education courses in the following areas: DSM-IV diagnoses
 60 related to sexual offenders; etiology of sexual deviance;
 61 science-based sexually delinquent evaluation and risk assessment
 62 and treatment techniques; use of plethysmographs, visual
 63 reaction time, and polygraphs in the evaluation, treatment, and
 64 monitoring of juveniles who have committed sexually delinquent
 65 acts; evaluation and treatment of special populations; and legal
 66 and ethical issues in the evaluation and treatment of juveniles
 67 who have committed sexually delinquent acts.

68 2. Two thousand hours of postgraduate degree practice in
 69 the evaluation and treatment of persons who have committed
 70 sexually delinquent acts, which practice was directly supervised
 71 by a professional eligible to practice juvenile sexual offender
 72 therapy under s. 490.0145 or s. 491.0144; or

73 (b) Is supervised by a professional who satisfies the
 74 requirements of paragraph (a).

75 Section 2. Subsection (4) is added to section 985.229,
 76 Florida Statutes, to read:

77 985.229 Predisposition report; other evaluations.--

78 (4) Following a delinquency adjudicatory hearing under s.
 79 985.228 for a juvenile sexual offender, the court shall order
 80 the department to conduct or arrange for a psychosexual
 81 evaluation of the offender. The results and recommendations of
 82 the psychosexual evaluation shall be:

83 (a) Included in the offender's predisposition report; or

HB 7193

2006

84 (b) Provided to the court in writing at least 48 hours
85 prior to the disposition hearing if a predisposition report is
86 not ordered in the juvenile sexual offender's case.

87 Section 3. Paragraph (i) is added to subsection (2) of
88 section 985.23, Florida Statutes, to read:

89 985.23 Disposition hearings in delinquency cases.--When a
90 child has been found to have committed a delinquent act, the
91 following procedures shall be applicable to the disposition of
92 the case:

93 (2) The first determination to be made by the court is a
94 determination of the suitability or unsuitability for
95 adjudication and commitment of the child to the department. This
96 determination shall include consideration of the recommendations
97 of the department, which may include a predisposition report.
98 The predisposition report shall include, whether as part of the
99 child's multidisciplinary assessment, classification, and
100 placement process components or separately, evaluation of the
101 following criteria:

102 (i) The results and recommendations of a psychosexual
103 evaluation for a juvenile sexual offender.

104
105 It is the intent of the Legislature that the criteria set forth
106 in subsection (2) are general guidelines to be followed at the
107 discretion of the court and not mandatory requirements of
108 procedure. It is not the intent of the Legislature to provide
109 for the appeal of the disposition made pursuant to this section.

110 Section 4. Subsections (2) and (3) of section 985.231,
111 Florida Statutes, are amended to read:

112 985.231 Powers of disposition in delinquency cases.--
 113 (2) Following a delinquency adjudicatory hearing pursuant
 114 to s. 985.228 and a delinquency disposition hearing pursuant to
 115 s. 985.23 which results in a commitment determination, the court
 116 shall, on its own or upon request by the state or the
 117 department, determine whether the protection of the public
 118 requires that the child be placed in a program for serious or
 119 habitual juvenile offenders and whether the particular needs of
 120 the child would be best served by a program for serious or
 121 habitual juvenile offenders as provided in s. 985.31. The
 122 determination shall be made pursuant to ss. 985.03 (51) ~~(49)~~ and
 123 985.23(3).

124 (3) (a) Following a delinquency adjudicatory hearing
 125 pursuant to s. 985.228 for a juvenile sexual offender, the
 126 court, after consideration of the psychosexual evaluation
 127 required by s. 985.229(4), may, on its own or upon request by
 128 the state or the department and subject to specific
 129 appropriation, determine whether a community-based juvenile
 130 sexual offender treatment program would protect placement is
 131 ~~required for the protection of the public and what would be the~~
 132 ~~best approach to address the offender's treatment needs of the~~
 133 ~~juvenile sexual offender. When the court determines that a~~
 134 ~~juvenile has no history of a recent comprehensive assessment~~
 135 ~~focused on sexually deviant behavior, the court may, subject to~~
 136 ~~specific appropriation, order the department to conduct or~~
 137 ~~arrange for an examination to determine whether the juvenile~~
 138 ~~sexual offender is amenable to community-based treatment.~~

139 ~~(a) The report of the examination shall include, at a~~
 140 ~~minimum, the following:~~

141 ~~1. The juvenile sexual offender's account of the incident~~
 142 ~~and the official report of the investigation.~~

143 ~~2. The juvenile sexual offender's offense history.~~

144 ~~3. A multidisciplinary assessment of the sexually deviant~~
 145 ~~behaviors, including an assessment by a certified psychologist,~~
 146 ~~therapist, or psychiatrist.~~

147 ~~4. An assessment of the juvenile sexual offender's family,~~
 148 ~~social, educational, and employment situation. The report shall~~
 149 ~~set forth the sources of the evaluator's information.~~

150 ~~(b) The report shall assess the juvenile sexual offender's~~
 151 ~~amenability to treatment and relative risk to the victim and the~~
 152 ~~community.~~

153 (b)(e) The department shall provide to the court a
 154 proposed plan for the community-based juvenile sexual offender
 155 treatment program ~~to the court~~ that shall include, at a minimum:

156 1. The frequency and type of contact between the offender
 157 and therapist.

158 2. The specific issues and behaviors to be addressed in
 159 the treatment and description of planned treatment methods.

160 3. Monitoring plans, including any requirements regarding
 161 living conditions, school attendance and participation,
 162 lifestyle, and monitoring by family members, legal guardians, or
 163 others.

164 4. Anticipated length of treatment.

165 5. Recommended crime-related prohibitions and curfew.

HB 7193

2006

166 6. Reasonable restrictions on the contact between the
167 ~~juvenile sexual~~ offender and either the victim or alleged
168 victim.

169 (c)~~(d)~~ After receipt of the ~~report on the~~ proposed plan
170 under paragraph (b) ~~of treatment~~, the court shall consider
171 whether the community and the offender will benefit from a
172 community-based ~~use of~~ juvenile sexual offender ~~community based~~
173 ~~treatment program alternative disposition~~ and consider the
174 opinion of the victim or the victim's family as to whether the
175 offender should receive this ~~a community-based treatment~~
176 ~~alternative disposition under this subsection~~.

177 (d)~~(e)~~ If the court determines that a community-based ~~this~~
178 juvenile sexual offender ~~community-based~~ treatment program
179 ~~alternative~~ is appropriate, the court may place the offender on
180 probation ~~community supervision~~ for up to 3 years. As a
181 condition of probation ~~community treatment and supervision~~, the
182 court may order the offender to:

183 1. Undergo available community-based ~~outpatient~~ juvenile
184 sexual offender treatment for up to 3 years. A program or
185 provider may not be used for such treatment unless it has an
186 appropriate program designed for juvenile sexual offender
187 treatment. The department shall not change the treatment
188 provider without first notifying the state attorney's office.

189 2. Remain within described geographical boundaries and
190 notify the court or the department ~~counselor~~ prior to any change
191 in the offender's address, educational program, or employment.

192 3. Comply with all requirements of the treatment plan.

193 ~~(e)-(f)~~ The community-based juvenile sexual offender
 194 treatment provider shall submit quarterly reports on the
 195 offender's ~~respondent's~~ progress in treatment to the court and
 196 the parties to the proceedings. The quarterly ~~juvenile sexual~~
 197 ~~offender~~ reports shall reference the treatment plan and include,
 198 at a minimum, the following:

- 199 1. Dates of attendance.
- 200 2. The ~~juvenile sexual~~ offender's compliance with the
 201 requirements of treatment.
- 202 3. A description of the treatment activities.
- 203 4. The ~~sexual~~ offender's relative progress in treatment.
- 204 5. The offender's family support of the treatment
 205 objectives.
- 206 6. Any other material specified by the court at the time
 207 of the disposition.

208 ~~(f)-(g)~~ At the disposition hearing, the court may set case
 209 review hearings as the court considers appropriate.

210 ~~(g)-(h)~~ If the ~~juvenile sexual~~ offender violates any
 211 condition of the disposition or the court finds that the
 212 ~~juvenile sexual~~ offender is failing to make satisfactory
 213 progress in treatment, the court may revoke the offender's
 214 probation ~~community based treatment alternative~~ and order
 215 commitment to the department pursuant to subsection (1).

216 ~~(h)-(i)~~ If the court determines that the ~~juvenile sexual~~
 217 offender is not amenable to a community-based juvenile sexual
 218 offender treatment program, the court shall proceed with a
 219 juvenile sexual offender disposition hearing pursuant to
 220 subsection (1).

HB 7193

2006

221 Section 5. Paragraph (e) of subsection (3) and paragraph
 222 (a) of subsection (4) of section 985.31, Florida Statutes, are
 223 amended to read:

224 985.31 Serious or habitual juvenile offender.--

225 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
 226 TREATMENT.--

227 (e) After a child has been adjudicated delinquent pursuant
 228 to s. 985.228, the court shall determine whether the child meets
 229 the criteria for a serious or habitual juvenile offender
 230 pursuant to s. 985.03 (51) ~~(49)~~. If the court determines that the
 231 child does not meet such criteria, the provisions of s.
 232 985.231(1) shall apply.

233 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

234 (a) Pursuant to the provisions of this section, the
 235 department shall implement the comprehensive assessment
 236 instrument for the treatment needs of serious or habitual
 237 juvenile offenders and for the assessment, which assessment
 238 shall include the criteria under s. 985.03 (51) ~~(49)~~ and shall
 239 also include, but not be limited to, evaluation of the child's:

- 240 1. Amenability to treatment.
- 241 2. Proclivity toward violence.
- 242 3. Tendency toward gang involvement.
- 243 4. Substance abuse or addiction and the level thereof.
- 244 5. History of being a victim of child abuse or sexual
 245 abuse, or indication of sexual behavior dysfunction.
- 246 6. Number and type of previous adjudications, findings of
 247 guilt, and convictions.
- 248 7. Potential for rehabilitation.

249 Section 6. Subsection (2) of section 985.3141, Florida
 250 Statutes, is amended to read:

251 985.3141 Escapes from secure detention or residential
 252 commitment facility.--An escape from:

253 (2) Any residential commitment facility described in s.
 254 985.03~~(48)~~~~(46)~~, maintained for the custody, treatment,
 255 punishment, or rehabilitation of children found to have
 256 committed delinquent acts or violations of law; or

257
 258 constitutes escape within the intent and meaning of s. 944.40
 259 and is a felony of the third degree, punishable as provided in
 260 s. 775.082, s. 775.083, or s. 775.084.

261 Section 7. Task Force on Juvenile Sexual Offenders and
 262 their Victims.--

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

264 (a) "Department" means the Department of Juvenile Justice.

265 (b) "Task force" means the 2006 Task Force on Juvenile
 266 Sexual Offenders and their Victims.

267 (2) On or before August 1, 2006, there shall be created a
 268 task force to continue the evaluation of the state's juvenile
 269 sexual offender laws that was conducted by the 2005 Task Force
 270 on Juvenile Sexual Offenders and their Victims, as created in s.
 271 10 of chapter 2005-263, Laws of Florida.

272 (3) The secretary of the department shall appoint up to 12
 273 members to the task force, who shall include, but are not
 274 limited to, a circuit court judge with at least 1 year of
 275 experience in the juvenile division, a state attorney with at
 276 least 1 year of experience in the juvenile division, a public

HB 7193

2006

277 defender with at least 1 year of experience in the juvenile
278 division, two representatives of the department, one member from
279 the Florida Juvenile Justice Association, two members from
280 providers of juvenile sexual offender services, one member from
281 the Florida Association for the Treatment of Sexual Abusers, and
282 one victim advocate.

283 (4) The task force shall:

284 (a) Review the findings and recommendations contained in
285 the final report of the 2005 Task Force on Juvenile Sexual
286 Offenders and their Victims, including the recommendations
287 specified in Appendix II of that report, and identify each
288 recommendation that has not yet been implemented.

289 (b) Determine which recommendations reviewed under
290 paragraph (a) remain appropriate for implementation.

291 (c) Make additional recommendations, if warranted, for the
292 improvement of the state's laws, policies, programs, and funding
293 for juvenile sexual offenders.

294 (d) Submit a written report to the Governor and the
295 appropriate substantive and fiscal committees of the Legislature
296 no later than January 1, 2007, that:

297 1. Discusses each state law addressing juvenile sexual
298 offenders.

299 2. Specifically identifies statutory criteria that should
300 be satisfied before a juvenile is classified as a sexual
301 offender or placed in sexual offender programming.

302 3. Sets forth detailed findings in support of each
303 recommendation under paragraphs (b) and (c) and a comprehensive
304 plan for implementation of these recommendations, including

HB 7193

2006

305 proposed amendments to statute to redefine the term "juvenile
306 sexual offender" and modifications of state agency rules,
307 practices, and procedures.

308 (5) The department shall provide administrative support
309 for the task force. Members of the task force shall receive no
310 salary from the state beyond any salary already received from
311 their sponsoring agencies, but shall be entitled to
312 reimbursement by the department for travel and per diem expenses
313 under s. 112.061, Florida Statutes.

314 (6) The task force shall be dissolved upon submission of
315 its report.

316 Section 8. This act shall take effect July 1, 2006.