Florida Senate - 2007

By Senator Wilson

33-346-07

| | 33-340-07 |
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| 1 | A bill to be entitled |
| 2 | An act relating to the use of restraints on a |
| 3 | child during juvenile proceedings; amending s. |
| 4 | 985.35, F.S., and creating s. 985.602, F.S.; |
| 5 | prohibiting the use of instruments of restraint |
| 6 | on a child during court proceedings or |
| 7 | elsewhere in a courthouse; providing specified |
| 8 | exceptions; requiring the Department of |
| 9 | Juvenile Justice to comply with the Protective |
| 10 | Action Response policy whenever mechanical |
| 11 | restraints are used; amending s. 985.483, F.S.; |
| 12 | conforming a cross-reference; providing an |
| 13 | effective date. |
| 14 | |
| 15 | Be It Enacted by the Legislature of the State of Florida: |
| 16 | |
| 17 | Section 1. Present subsections (3) , (4) , (5) , (6) , and |
| 18 | (7) of section 985.35, Florida Statutes, are redesignated as |
| 19 | subsections (4) , (5) , (6) , (7) , and (8) , respectively, a new |
| 20 | subsection (3) is added to that section, and present |
| 21 | subsection (5) of that section is amended, to read: |
| 22 | 985.35 Adjudicatory hearings; withheld adjudications; |
| 23 | orders of adjudication |
| 24 | (3) Instruments of restraint, such as handcuffs, |
| 25 | chains, irons, or straitjackets, may not be used on a child |
| 26 | during an adjudicatory or other court hearing or elsewhere in |
| 27 | a courthouse and must be removed when the child appears before |
| 28 | the court, unless the court finds that: |
| 29 | (a) Restraints are necessary to prevent physical harm |
| 30 | to the child or another person; |
| 31 | |

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| 1 | (b) A less restrictive alternative is not available |
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| 2 | which would prevent physical harm, including, but not limited |
| 3 | to, the presence of personnel of the department, a law |
| 4 | enforcement officer, or a bailiff; or |
| 5 | (c) The child has a history of disruptive behavior in |
| 6 | the courtroom which places others in potentially harmful |
| 7 | situations or presents a substantial risk of inflicting bodily |
| 8 | harm on others as evidenced by recent behavior. |
| 9 | |
| 10 | The department must comply with the Protective Action Response |
| 11 | policy adopted under s. 985.645(2) whenever mechanical |
| 12 | restraints are used. |
| 13 | (6)(5) If the court finds that the child named in a |
| 14 | petition has committed a delinquent act or violation of law, |
| 15 | but elects not to proceed under subsection $(5)(4)$, it shall |
| 16 | incorporate that finding in an order of adjudication of |
| 17 | delinquency entered in the case, briefly stating the facts |
| 18 | upon which the finding is made, and the court shall thereafter |
| 19 | have full authority under this chapter to deal with the child |
| 20 | as adjudicated. |
| 21 | Section 2. Subsection (2) of section 985.483, Florida |
| 22 | Statutes, is amended to read: |
| 23 | 985.483 Intensive residential treatment program for |
| 24 | offenders less than 13 years of age |
| 25 | (2) DETERMINATIONAfter a child has been adjudicated |
| 26 | delinquent under <u>s. 985.35(6)</u> s. 985.35(5) , the court shall |
| 27 | determine whether the child is eligible for an intensive |
| 28 | residential treatment program for offenders less than 13 years |
| 29 | of age under subsection (1). If the court determines that the |
| 30 | child does not meet the criteria, ss. 985.435, 985.437, |
| 31 | 985.439, 985.441, 985.445, 985.45, and 985.455 shall apply. |

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1 Section 3. Section 985.602, Florida Statutes, is 2 created to read: 3 985.602 Use of restraints during court proceedings 4 prohibited; exceptions --. 5 (1) Instruments of restraint, such as handcuffs, 6 chains, irons, or straitjackets, may not be used on a child 7 during any court proceeding and must be removed when the child 8 appears before the court unless the court finds that: 9 (a) Restraints are necessary to prevent physical harm 10 to the child or another person; (b) A less restrictive alternative is not available 11 12 which would prevent physical harm, including, but not limited 13 to, the presence of personnel of the department, a law enforcement officer, or a bailiff; or 14 (c) The child has a history of disruptive behavior in 15 the courtroom which places others in potentially harmful 16 17 situations or presents a substantial risk of inflicting bodily 18 harm on others as evidenced by recent behavior. 19 (2) The department must comply with the Protective Action Response policy adopted under s. 985.645(2) whenever 20 21 mechanical restraints are used. 22 Section 4. This act shall take effect July 1, 2007. 23 2.4 25 SENATE SUMMARY Prohibits the use of instruments of restraint on a child 2.6 during court proceedings or elsewhere in a courthouse. Provides specified exceptions. Requires the Department of Juvenile Justice to comply with the Protective Action 27 2.8 Response policy whenever mechanical restraints are used. 29 30 31

SB 372

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