

1                   A bill to be entitled  
 2           An act relating to juvenile defendants; amending s. 27.51,  
 3           F.S.; requiring that the public defender represent an  
 4           indigent child taken into custody on specified grounds;  
 5           amending s. 985.033, F.S.; requiring that a child be given  
 6           a meaningful opportunity to confer with counsel; requiring  
 7           that the court appoint counsel for an indigent child if  
 8           the child's parent or legal guardian is an alleged victim  
 9           in the case; providing that the parents or legal guardian  
 10          shall not be liable for fees, charges, or costs upon a  
 11          finding by the court that a parent or legal guardian is a  
 12          victim of the offense; providing an effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16           Section 1. Subsections (1) and (2) of section 27.51,  
 17 Florida Statutes, are amended to read:

18           27.51 Duties of public defender.--

19           (1) The public defender shall represent, without  
 20 additional compensation, any person determined to be indigent  
 21 under s. 27.52 and:

22           (a) Under arrest for, or charged with, a felony;

23           (b) Under arrest for, or charged with:

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

26           2. A violation of chapter 316 punishable by imprisonment;

27           3. Criminal contempt; or

28 4. A violation of a special law or county or municipal  
 29 ordinance ancillary to a state charge, or if not ancillary to a  
 30 state charge, only if the public defender contracts with the  
 31 county or municipality to provide representation pursuant to ss.  
 32 27.54 and 125.69.

33  
 34 The public defender may shall not provide representation under  
 35 ~~pursuant to~~ this paragraph if the court, before ~~prior to~~ trial,  
 36 files in the cause an order of no imprisonment as provided in s.  
 37 27.512;

38 (c) Who is a child taken into custody for a felony, a  
 39 misdemeanor, or criminal contempt or who is facing delinquency  
 40 proceedings under chapter 985 ~~Alleged to be a delinquent child~~  
 41 ~~pursuant to a petition filed~~ before a circuit court;

42 (d) Sought by petition filed in such court to be  
 43 involuntarily placed as a mentally ill person under part I of  
 44 chapter 394, involuntarily committed as a sexually violent  
 45 predator under part V of chapter 394, or involuntarily admitted  
 46 to residential services as a person with developmental  
 47 disabilities under chapter 393. A public defender may ~~shall~~ not  
 48 represent any plaintiff in a civil action brought under the  
 49 Florida Rules of Civil Procedure, the Federal Rules of Civil  
 50 Procedure, or the federal statutes, or represent a petitioner in  
 51 a rule challenge under chapter 120, unless specifically  
 52 authorized by statute;

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

55 (f) Is appealing a matter in a case arising under  
 56 paragraphs (a) - (d).

57 (2) Except as provided in s. 985.033, the court may not  
 58 appoint the public defender to represent, even on a temporary  
 59 basis, any person who is not indigent. The court, however, may  
 60 appoint private counsel in capital cases as provided in ss.  
 61 27.40 and 27.5303.

62 Section 2. Subsections (1) and (3) of section 985.033,  
 63 Florida Statutes, are amended to read:

64 985.033 Right to counsel.--

65 (1) A child is entitled to representation by legal counsel  
 66 at all stages of any delinquency court proceedings under this  
 67 chapter. If the child and the parents or other legal guardian  
 68 are indigent and unable to employ counsel for the child, the  
 69 court shall appoint counsel under s. 27.52. Determination of  
 70 indigence and costs of representation shall be as provided by  
 71 ss. 27.52 and 938.29. Legal counsel representing a child ~~who~~  
 72 ~~exercises the right to counsel~~ shall be allowed to provide  
 73 advice and counsel to the child at any time after ~~subsequent to~~  
 74 the child's arrest, including before ~~prior to~~ a detention  
 75 hearing while the child is in secure detention care. A child  
 76 shall be represented by legal counsel at all stages of all court  
 77 proceedings unless the right to counsel is freely, knowingly,  
 78 and intelligently waived by the child after the child has been  
 79 given a meaningful opportunity to confer with counsel. If the  
 80 child appears without counsel, the court shall advise the child  
 81 of his or her rights with respect to representation of court-  
 82 appointed counsel.

HB 53

2007

83 (3) If the parents or legal guardian of an indigent child  
84 are not indigent but refuse to employ counsel, the court shall  
85 appoint counsel pursuant to s. 27.52 to represent the child at  
86 the detention hearing and until counsel is provided. Costs of  
87 representation shall be ~~are hereby~~ imposed as provided by ss.  
88 27.52 and 938.29. Thereafter, the court may ~~shall~~ not appoint  
89 counsel for an indigent child who has ~~with~~ nonindigent parents  
90 or a nonindigent legal guardian but shall order the parents or  
91 legal guardian to obtain private counsel. A parent or legal  
92 guardian of an indigent child who has been ordered to obtain  
93 private counsel for the child and who willfully fails to follow  
94 the court order shall be punished by the court in civil contempt  
95 proceedings. If a parent or legal guardian is also an alleged  
96 victim in the case, the court may not order the parents or legal  
97 guardian to obtain private counsel but shall appoint counsel  
98 pursuant to s. 27.52 to represent the indigent child. At the  
99 disposition of the case and upon a finding by the court that a  
100 parent or legal guardian is a victim of the offense, the parents  
101 or legal guardian shall not be liable for fees, charges, or  
102 costs under s. 27.52, s. 938.29, or this chapter.

103 Section 3. This act shall take effect July 1, 2007.