



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. 985.101  
17 or s. 985.105 ~~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. 985.033, 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 (3) of section 985.033,  
9 Florida Statutes, are amended to read:

10 985.033 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. 985.101 or s. 985.105, unless  
15 the right to counsel is freely, knowingly, and intelligently  
16 waived by the child after he or she has been advised by  
17 counsel ~~under this chapter~~. If the child and the parents or  
18 other legal guardian are indigent and unable to employ counsel  
19 for the child, the court shall appoint counsel under s. 27.52.  
20 Determination of indigence and costs of representation shall  
21 be as provided by ss. 27.52 and 938.29. ~~Legal~~ Counsel  
22 ~~representing a child who exercises the right to counsel~~ shall  
23 be allowed to provide advice and counsel to the child at any  
24 time after the child has been taken into custody under s.  
25 985.101 or s. 985.105 ~~subsequent to the child's arrest,~~  
26 ~~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 (3) 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 are not liable for fees, charges, or costs under s.  
23 27.52, s. 938.29, or this chapter.

24 Section 3. This act shall take effect July 1, 2007.  
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SENATE SUMMARY

Requires that the public defender represent an indigent child taken into custody under specified delinquency provisions. Requires that a child be represented at a specified point in delinquency court proceedings unless the right to counsel is waived after receiving advice of counsel. Provides that counsel be permitted to advise a child after a specified point in delinquency court proceedings. Requires that the court appoint counsel for an indigent child if the child's parent or legal guardian is the alleged victim in the case. Provides that the parent or legal guardian is not liable for fees, charges, or costs upon a finding by the court that a parent or legal guardian is a victim of the offense.