

By Senator Wilson

33-00074-08

2008140__

1 A bill to be entitled

2 An act relating to the use of restraints on a child during
3 juvenile proceedings; amending s. 985.35, F.S., and
4 creating s. 985.602, F.S.; prohibiting the use of
5 instruments of restraint on a child during court
6 proceedings or elsewhere in a courthouse; providing
7 specified exceptions; requiring the Department of Juvenile
8 Justice to comply with the Protective Action Response
9 policy whenever mechanical restraints are used; amending
10 s. 985.483, F.S.; conforming a cross-reference; providing
11 an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Present subsections (3), (4), (5), (6), and (7)
16 of section 985.35, Florida Statutes, are redesignated as
17 subsections (4), (5), (6), (7), and (8), respectively, a new
18 subsection (3) is added to that section, and present subsection
19 (5) of that section is amended, to read:

20 985.35 Adjudicatory hearings; withheld adjudications;
21 orders of adjudication.--

22 (3) Instruments of restraint, such as handcuffs, chains,
23 irons, or straitjackets, may not be used on a child during an
24 adjudicatory or other court hearing or elsewhere in a courthouse
25 and must be removed when the child appears before the court
26 unless the court finds that:

27 (a) Restraints are necessary to prevent physical harm to
28 the child or another person;

29 (b) A less restrictive alternative is not available which

33-00074-08

2008140__

30 would prevent physical harm, including, but not limited to, the
31 presence of personnel of the department, a law enforcement
32 officer, or a bailiff; or

33 (c) The child has a history of disruptive behavior in the
34 courtroom which places others in potentially harmful situations
35 or presents a substantial risk of inflicting bodily harm on
36 others as evidenced by recent behavior.

37
38 The department must comply with the Protective Action Response
39 policy adopted under s. 985.645(2) whenever mechanical restraints
40 are used.

41 (6) ~~(5)~~ If the court finds that the child named in a
42 petition has committed a delinquent act or violation of law, but
43 elects not to proceed under subsection (5) ~~(4)~~, it shall
44 incorporate that finding in an order of adjudication of
45 delinquency entered in the case, briefly stating the facts upon
46 which the finding is made, and the court shall thereafter have
47 full authority under this chapter to deal with the child as
48 adjudicated.

49 Section 2. Subsection (2) of section 985.483, Florida
50 Statutes, is amended to read:

51 985.483 Intensive residential treatment program for
52 offenders less than 13 years of age.--

53 (2) DETERMINATION.--After a child has been adjudicated
54 delinquent under s. 985.35(6) ~~s. 985.35(5)~~, the court shall
55 determine whether the child is eligible for an intensive
56 residential treatment program for offenders less than 13 years of
57 age under subsection (1). If the court determines that the child
58 does not meet the criteria, ss. 985.435, 985.437, 985.439,

33-00074-08

2008140__

59 985.441, 985.445, 985.45, and 985.455 shall apply.

60 Section 3. Section 985.602, Florida Statutes, is created to
61 read:

62 985.602 Use of restraints during court proceedings
63 prohibited; exceptions--.

64 (1) Instruments of restraint, such as handcuffs, chains,
65 irons, or straitjackets, may not be used on a child during any
66 court proceeding and must be removed when the child appears
67 before the court unless the court finds that:

68 (a) Restraints are necessary to prevent physical harm to
69 the child or another person;

70 (b) A less restrictive alternative is not available which
71 would prevent physical harm, including, but not limited to, the
72 presence of personnel of the department, a law enforcement
73 officer, or a bailiff; or

74 (c) The child has a history of disruptive behavior in the
75 courtroom which places others in potentially harmful situations
76 or presents a substantial risk of inflicting bodily harm on
77 others as evidenced by recent behavior.

78 (2) The department must comply with the Protective Action
79 Response policy adopted under s. 985.645(2) whenever mechanical
80 restraints are used.

81 Section 4. This act shall take effect July 1, 2008.