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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: WD	.	
4/8/2008	.	
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1 The Committee on Judiciary (Joyner) recommended the following  
2 **amendment:**

3  
4 **Senate Amendment (with directory and title amendments)**

5 Delete line(s) 521-577

6 and insert:

7 Section 11. Subsection (5) of section 985.265, Florida  
8 Statutes, is amended, and subsection (6) is added to that  
9 section, to read:

10 985.265 Detention transfer and release; education; adult  
11 jails.--

12 (5) The court shall order the delivery of a child to a jail  
13 or other facility intended or used for the detention of adults:

14 (a) When the child has been transferred or indicted for  
15 criminal prosecution as an adult under part X, except that the  
16 court may not order or allow a child alleged to have committed a  
17 misdemeanor who is being transferred for criminal prosecution



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18 | pursuant to ~~either~~ s. 985.556 or s. 985.557 to be detained or  
19 | held in a jail or other facility intended or used for the  
20 | detention of adults; however, such child may be held temporarily  
21 | in a detention facility; or

22 |       (b) When a child taken into custody in this state is wanted  
23 | by another jurisdiction for prosecution as an adult.

24 |  
25 | The child shall be housed separately from adult inmates to  
26 | prohibit a child from having regular contact with incarcerated  
27 | adults, including trustees. "Regular contact" means sight and  
28 | sound contact. Separation of children from adults shall permit no  
29 | more than haphazard or accidental contact. The receiving jail or  
30 | other facility shall contain a separate section for children and  
31 | shall have an adequate staff to supervise and monitor the child's  
32 | activities at all times. Supervision and monitoring of children  
33 | includes physical observation and documented checks by jail or  
34 | receiving facility supervisory personnel at intervals not to  
35 | exceed 15 minutes, except in direct supervision housing having  
36 | 24-hour supervision. This subsection does not prohibit placing  
37 | two or more children in the same cell. Under no circumstances  
38 | shall a child be placed in the same cell with an adult.

39 |       (6) Instruments of restraint, such as handcuffs, chains,  
40 | irons, or straitjackets, may not be used on a child during an  
41 | adjudicatory or other court hearing or elsewhere in a courthouse  
42 | and must be removed when the child appears before the court  
43 | unless the court finds that:

44 |           (a) Restraints are necessary to prevent physical harm to  
45 | the child or another person;

46 |           (b) A less restrictive alternative is not available to  
47 | prevent physical harm, including, but not limited to, the



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48 presence of department personnel, a law enforcement officer, or a  
49 bailiff;

50 (c) The child has a history of disruptive behavior in the  
51 courtroom which places others in a potentially harmful situation  
52 or presents a substantial risk of inflicting bodily harm to  
53 others;

54 (d) The child is likely to attempt to escape during a  
55 transfer or a hearing; or

56 (e) The child is charged with a capital felony.

57  
58 The department must comply with the Protective Action Response  
59 policy established under s. 985.645 whenever mechanical  
60 restraints are used.

61 Section 12. Subsection (2) of section 985.601, Florida  
62 Statutes, is amended, and paragraph (e) is added to subsection  
63 (3) of that section, to read:

64 985.601 Administering the juvenile justice continuum.--

65 (2) The department shall develop and implement an  
66 appropriate continuum of care that provides individualized,  
67 multidisciplinary assessments, objective evaluations of relative  
68 risks, and the matching of needs with placements for all children  
69 under its care, and that uses a system of case management to  
70 facilitate each child being appropriately assessed, provided with  
71 services, and placed in a program that meets the child's needs.  
72 As part of the continuum of services, the department shall adopt  
73 rules establishing procedures for providing ordinary medical care  
74 and mental health, substance abuse, and developmental disability  
75 services to youth within the juvenile justice continuum as  
76 defined in s. 985.03. The department shall coordinate such



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77 rulemaking with other affected agencies to avoid duplication,  
78 conflict, or inconsistency.

79 (3)

80 (e) To be eligible to participate in the state-funded  
81 Intensive Delinquency Diversion Services program, counties having  
82 nonstate-funded delinquency programs for youth must include  
83 diversion options for first-time misdemeanant youth or youth who  
84 are 10 years of age or younger, unless otherwise prohibited.

85 Section 13. Section 985.602, Florida Statutes, is created  
86 to read:

87 985.602 Use of restraints during court proceedings.--

88 (1) Instruments of restraint, such as handcuffs, chains,  
89 irons, or straitjackets, may not be used on a child during an  
90 adjudicatory or other court hearing or elsewhere in a courthouse  
91 and must be removed when the child appears before the court  
92 unless the court finds that:

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

95 (b) A less restrictive alternative is not available to  
96 prevent physical harm, including, but not limited to, the  
97 presence of department personnel, a law enforcement officer, or a  
98 bailiff;

99 (c) The child has a history of disruptive behavior in the  
100 courtroom which places others in a potentially harmful situation  
101 or presents a substantial risk of inflicting bodily harm to  
102 others;

103 (d) The child is likely to attempt to escape during a  
104 transfer or a hearing; or

105 (e) The child is charged with a capital felony.



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106           (2) The department must comply with the Protective Action  
107 Response policy established under s. 985.645 whenever mechanical  
108 restraints are used.

109  
110 ===== T I T L E   A M E N D M E N T =====

111 And the title is amended as follows:

112           Delete line(s) 23-32

113 and insert:

114           amending s. 985.265, F.S.; providing an exception to  
115           required supervision in direct supervision housing;  
116           prohibiting the use of restraints during court proceedings;  
117           providing exceptions; amending s. 985.601, F.S.; requiring  
118           the Department of Juvenile Justice to adopt rules to  
119           establish procedures to provide ordinary medical care and  
120           mental health, substance abuse, and developmental  
121           disabilities services to youth within the juvenile justice  
122           continuum; requiring the procedures to be commensurate with  
123           procedures that youth receive in the community to the extent  
124           possible within fiscal resources; creating s. 985.602, F.S.;  
125           prohibiting the use of restraints during court proceedings;  
126           providing exceptions; amending s. 985.606, F.S.;