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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 Criminal Justice (Aronberg) recommended the
 2 following **amendment to amendment (149962)**:

Senate Amendment (with title amendments)

Delete lines 8-585

and insert:

Section 1. Section 985.031, Florida Statutes, is created to read:

9 985.031 Preadjudicatory release; circuit court
 10 authority.--The circuit court shall have the authority to set
 11 reasonable conditions of preadjudicatory release as an
 12 alternative to secure detention time. The child shall comply with
 13 all such preadjudicatory release conditions prior to an
 14 adjudicatory hearing. Preadjudicatory release conditions may not
 15 be imposed on a child who is not represented by counsel.
 16 Reasonable conditions of preadjudicatory release may include, but
 17 are not limited to, the following:



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18 (1) The child may not engage in a violation of law.

19 (2) The child may not possess or carry any weapon.

20 (3) The child may not possess or use any alcoholic beverage
21 or associate with anyone who is currently possessing or alcoholic
22 beverage or associate with anyone who is currently possessing or
23 using any illegal drug or illegally possessing or using any
24 alcoholic beverage.

25 (4) The child shall obey all reasonable household rules
26 that are announced in open court, entered in the written order,
27 and provided to the child in court.

28 (5) The child shall attend school regularly, including all
29 classes, if the child is enrolled in school.

30 (6) The child shall abide by the curfew set by his or her
31 parents or guardians, or as set by the court, if the curfew is
32 rationally related to the underlying sworn facts of the alleged
33 law violation.

34 (7) In cases not involving the child's school, the child
35 may not return to the scene of the alleged crime, unless the
36 child is accompanied by defense counsel or approved by the court.

37 Section 2. Paragraph (d) of subsection (1) of section
38 985.101, Florida Statutes, is amended to read:

39 985.101 Taking a child into custody.--

40 (1) A child may be taken into custody under the following
41 circumstances:

42 (d) By a law enforcement officer who has probable cause to
43 believe that the child is in violation of the conditions of the
44 child's preadjudicatory release, conditions of the child's
45 probation, home detention, postcommitment probation, or
46 conditional release supervision; has absconded from

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47 nonresidential commitment; or has escaped from residential
48 commitment.

49
50 Nothing in this subsection shall be construed to allow the
51 detention of a child who does not meet the detention criteria in
52 part V.

53 Section 3. Subsection (1) of section 985.24, Florida
54 Statutes, is amended to read:

55 985.24 Use of detention; prohibitions.--

56 (1) All determinations and court orders regarding the use
57 of secure, nonsecure, or home detention care shall be based
58 primarily upon findings that the child:

59 (a) Presents a substantial risk of not appearing at a
60 subsequent hearing;

61 (b) Presents a substantial risk of inflicting bodily harm
62 on others as evidenced by recent behavior;

63 (c) Presents a history of committing a property offense
64 prior to adjudication, disposition, or placement;

65 (d) Has been adjudicated delinquent and committed to the
66 department in a residential facility.

67 (e) ~~(d)~~ Has committed contempt of court by:

68 1. Intentionally disrupting the administration of the
69 court;

70 2. Intentionally disobeying a court order; or

71 3. Engaging in a punishable act or speech in the court's
72 presence which shows disrespect for the authority and dignity of
73 the court; or

74 (f) ~~(e)~~ Requests protection from imminent bodily harm.

75 Section 4. Paragraph (b) of subsection (1) of section
76 985.25, Florida Statutes, is amended to read:



77 985.25 Detention intake.--

78 (1) The juvenile probation officer shall receive custody of
79 a child who has been taken into custody from the law enforcement
80 agency and shall review the facts in the law enforcement report
81 or probable cause affidavit and make such further inquiry as may
82 be necessary to determine whether detention care is required.

83 (b) The juvenile probation officer shall base the decision
84 whether ~~or not~~ to place the child into secure detention care,
85 home detention care, or nonsecure detention care on an assessment
86 of risk in accordance with the risk assessment instrument and
87 procedures developed by the department under s. 985.245. However,
88 a child charged with possessing or discharging a firearm on
89 school property in violation of s. 790.115, a child alleged to
90 have absconded from home or nonsecure detention care or a child
91 who otherwise violates the terms of release after adjudication
92 and commitment to the department but before placement in a
93 residential facility shall be placed in secure detention care.

94
95 Under no circumstances shall the juvenile probation officer or
96 the state attorney or law enforcement officer authorize the
97 detention of any child in a jail or other facility intended or
98 used for the detention of adults, without an order of the court.

99 Section 5. Section 985.26, Florida Statutes, is amended to
100 read:

101 985.26 Length of detention.--

102 (1) A child may not be placed into or held in secure,
103 nonsecure, or home detention care for longer than 24 hours unless
104 the court orders such detention care, and the order includes
105 specific instructions that direct the release of the child from
106 such detention care, in accordance with s. 985.255. The order



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107 shall be a final order, reviewable by appeal under s. 985.534 and
108 the Florida Rules of Appellate Procedure. Appeals of such orders
109 shall take precedence over other appeals and other pending
110 matters.

111 (2) A child may not be held in secure, nonsecure, or home
112 detention care under a special detention order for more than 21
113 days unless an adjudicatory hearing for the case has been
114 commenced in good faith by the court. However, upon good cause
115 being shown that the nature of the charge requires additional
116 time for the prosecution or defense of the case, the court may
117 extend the length of detention for an additional 9 days if the
118 child is charged with an offense that would be, if committed by
119 an adult, a capital felony, a life felony, a felony of the first
120 degree, or a felony of the second degree involving violence
121 against any individual. For purposes of this subsection, if a
122 child is released, the child must comply with all conditions of
123 preadjudicatory release set by the circuit court.

124 (3) Except as provided in subsection (2), a child may not
125 be held in secure, nonsecure, or home detention care for more
126 than 15 days following the entry of an order of adjudication.

127 (4) The time limits in subsections (2) and (3) do not
128 include periods of delay resulting from a continuance granted by
129 the court for cause on motion of the child or his or her counsel
130 or of the state. Upon the issuance of an order granting a
131 continuance for cause on a motion by either the child, the
132 child's counsel, or the state, the court shall conduct a hearing
133 at the end of each 72-hour period, excluding Saturdays, Sundays,
134 and legal holidays, to determine the need for continued detention
135 of the child and the need for further continuance of proceedings
136 for the child or the state.



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137 (5) A child who was not in secure detention care at the
138 time of the adjudicatory hearing, but for whom residential
139 commitment is anticipated or recommended, may be placed under a
140 special detention order for a period not to exceed 72 hours,
141 excluding weekends and legal holidays, for the purpose of
142 conducting a comprehensive evaluation as provided in s. 985.185.
143 Motions for the issuance of such special detention order may be
144 made subsequent to a finding of delinquency. Upon said motion,
145 the court shall conduct a hearing to determine the
146 appropriateness of such special detention order and shall order
147 the least restrictive level of detention care necessary to
148 complete the comprehensive evaluation process that is consistent
149 with public safety. Such special detention order may be extended
150 for an additional 72 hours upon further order of the court.

151 (6) If a child is detained and a petition for delinquency
152 is filed, the child shall be arraigned in accordance with the
153 Florida Rules of Juvenile Procedure within 48 hours after the
154 filing of the petition for delinquency.

155 Section 6. Subsection (1) of section 985.27, Florida
156 Statutes, is amended to read:

157 985.27 Postcommitment detention while awaiting placement.--

158 (1) The court must place all children who are adjudicated
159 and awaiting placement in a commitment program in secure
160 detention care, home detention care, or nonsecure detention care.
161 Children who are in home detention care or nonsecure detention
162 care may be placed on electronic monitoring.

163 (a) A child who is awaiting placement in a low-risk
164 residential program must be removed from detention within 5 days,
165 excluding Saturdays, Sundays, and legal holidays. Any child held
166 in secure detention during the 5 days must meet detention



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167 admission criteria under this part. A child who is placed in home
168 detention care, nonsecure detention care, or home or nonsecure
169 detention care with electronic monitoring, while awaiting
170 placement in a minimum-risk or low-risk program, may be held in
171 secure detention care for 5 days, if the child violates the
172 conditions of the home detention care, the nonsecure detention
173 care, or the electronic monitoring agreement. For any subsequent
174 violation, the court may impose an additional 5 days in secure
175 detention care.

176 (b)1. A child who is awaiting placement in a moderate-risk
177 residential program must be placed in secure detention care. Any
178 child held in secure detention care must meet detention admission
179 criteria under this part.

180 2. A child may not be held in secure detention care longer
181 than 15 days, excluding Saturdays, Sundays, and legal holidays,
182 while awaiting placement in a moderate-risk residential facility.
183 ~~A child who is awaiting placement in a moderate-risk residential~~
184 ~~program must be removed from detention within 5 days, excluding~~
185 ~~Saturdays, Sundays, and legal holidays. Any child held in secure~~
186 ~~detention during the 5 days must meet detention admission~~
187 ~~criteria under this part. The department may seek an order from~~
188 ~~the court authorizing continued detention for a specific period~~
189 ~~of time necessary for the appropriate residential placement of~~
190 ~~the child. However, such continued detention in secure detention~~
191 ~~care may not exceed 15 days after entry of the commitment order,~~
192 ~~excluding Saturdays, Sundays, and legal holidays, and except as~~
193 ~~otherwise provided in this section. A child who is placed in home~~
194 ~~detention care, nonsecure detention care, or home or nonsecure~~
195 ~~detention care with electronic monitoring, while awaiting~~
196 ~~placement in a moderate-risk program, may be held in secure~~



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197 ~~detention care for 5 days, if the child violates the conditions~~
198 ~~of the home detention care, the nonsecure detention care, or the~~
199 ~~electronic monitoring agreement. For any subsequent violation,~~
200 ~~the court may impose an additional 5 days in secure detention~~
201 ~~care.~~

202 (c) If the child is committed to a high-risk residential
203 program, the child must be held in secure detention care until
204 placement or commitment is accomplished.

205 (d) If the child is committed to a maximum-risk residential
206 program, the child must be held in secure detention care until
207 placement or commitment is accomplished.

208 Section 7. Subsection (4) is added to section 985.43,
209 Florida Statutes, to read:

210 985.43 Predisposition reports; other evaluations.--

211 (4) The Legislature finds that the court is in the best
212 position to weigh all facts and circumstances to determine
213 whether or not to commit a juvenile to the department and to
214 determine the most appropriate restrictiveness level for a
215 juvenile committed to the department.

216 Section 8. Paragraphs (a) and (b) of subsection (7) of
217 section 985.433, Florida Statutes, are amended to read:

218 985.433 Disposition hearings in delinquency cases.--When a
219 child has been found to have committed a delinquent act, the
220 following procedures shall be applicable to the disposition of
221 the case:

222 (7) If the court determines that the child should be
223 adjudicated as having committed a delinquent act and should be
224 committed to the department, such determination shall be in
225 writing or on the record of the hearing. The determination shall
226 include a specific finding of the reasons for the decision to



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227 adjudicate and to commit the child to the department, including
228 any determination that the child was a member of a criminal
229 street gang.

230 (a) The juvenile probation officer shall make a
231 recommendation to the court concerning placement and any proposed
232 treatment plan ~~recommend to the court the most appropriate~~
233 ~~placement and treatment plan, specifically identifying the~~
234 ~~restrictiveness level most appropriate for the child.~~ If the
235 court has determined that the child was a member of a criminal
236 street gang, that determination shall be given great weight in
237 identifying the most appropriate restrictiveness level for the
238 child. The court shall consider the department's recommendation
239 in making its commitment decision.

240 (b) The court may ~~shall~~ commit the child to the department
241 at the restrictiveness level identified by the department, or the
242 court may order placement at a different restrictiveness level.
243 The court may determine the disposition on the same factors as
244 the department considered in the department's predisposition
245 report and placement recommendation even if the court reaches a
246 different conclusion. The court may commit the child to a
247 different restrictiveness level than recommended by the
248 department. The court shall state for the record the reasons for
249 the disposition imposed ~~that establish by a preponderance of the~~
250 ~~evidence why the court is disregarding the assessment of the~~
251 ~~child and the restrictiveness level recommended by the~~
252 ~~department.~~ Any party may appeal the court's findings resulting
253 in a modified level of restrictiveness under this paragraph. The
254 department shall maintain data to identify the extent to which
255 the courts agree with the department's recommendation.



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256 Section 9. Section 938.20, Florida Statutes, is created to
257 read:

258 938.20 County juvenile crime prevention fund.--

259 (1) Notwithstanding s. 318.121, and in addition to ss.
260 938.19 and 939.185, in each county the board of county
261 commissioners may adopt a mandatory court cost to be assessed in
262 specific cases by incorporating by reference the provisions of
263 this section in a county ordinance. Assessments collected by the
264 clerk of the circuit court under this section shall be deposited
265 into an account specifically for the administration of the
266 county's juvenile crime prevention fund. The proceeds of the
267 county's juvenile crime prevention fund shall be used only to
268 fund local programs whose principal focus is the prevention of
269 juvenile crime, the creation of consequence or suspension
270 centers, and truancy programs and other areas of local concern
271 relating to juvenile crime.

272 (2) A sum of up to \$50 shall be assessed as a court cost in
273 the circuit court in the county against each juvenile who pleads
274 guilty or nolo contendere to, or is found guilty of, regardless
275 of adjudication, a violation of criminal law or municipal or
276 county ordinance.

277 (3) The assessment for court costs under this section shall
278 be assessed in addition to any other cost or fee and may not be
279 deducted from the proceeds of any other cost that is received by
280 the county.

281 (4) (a) The clerk of the circuit court shall collect the
282 assessments for court costs under this section and shall remit
283 the assessments to the county's juvenile crime prevention fund
284 monthly.



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285 (b) The clerk of the circuit court shall withhold 3 percent
286 of the assessments collected, which shall be retained as fee
287 income of the office of the clerk of the circuit court.

288 (5) A county's juvenile crime prevention fund must account
289 for all funds received and disbursed under this section in a
290 written report to the board of county commissioners of that
291 county. The report must be given to the commissioners by August 1
292 of each year unless a different date is required by the
293 commissioners.

294 (6) A county's juvenile crime prevention fund may be
295 administered by a nonprofit organization, a law enforcement
296 agency, the court administrator, the clerk of the circuit court,
297 a county agency, or another similar agency authorized by the
298 board of county commissioners of that county.

299 Section 10. This act shall take effect July 1, 2008.

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301

302 ===== T I T L E A M E N D M E N T =====

303 And the title is amended as follows:

304

305 Delete lines 593-661

306 and insert:

307 A bill to be entitled

308 An act relating to juvenile justice; creating s. 985.031,
309 F.S.; authorizing the court to set reasonable conditions
310 of preadjudicatory release; providing examples of such
311 conditions; amending s. 985.101, F.S.; permitting a child
312 to be taken into custody for violations of preadjudicatory
313 release conditions; amending s. 985.24, F.S.; providing an
314 additional finding to support the use of secure,



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315 nonsecure, or home detention care; amending s. 985.25,
316 F.S.; providing additional grounds for placement of a
317 child in secure detention care; amending s. 985.26, F.S.;
318 requiring that children who have been released comply with
319 preadjudicatory release conditions; providing that certain
320 time limits do not apply to secure detention under
321 specified provisions; amending s. 985.27, F.S.; specifying
322 circumstances under which a child who is awaiting
323 placement in a low-risk or minimum-risk residential
324 program may be held in secure detention care; providing
325 time limits on such detention care; revising provisions
326 for detention care of a child awaiting placement in a
327 moderate-risk residential program; providing for secure
328 detention care in specified circumstances; amending s.
329 985.43, F.S.; providing a legislative declaration
330 concerning the determination whether to commit a juvenile
331 to the department and the most appropriate placement level
332 if the juvenile is committed; amending s. 985.433, F.S.;
333 revising provisions relating to recommendations by
334 probation officers to the court concerning placement and
335 any proposed treatment plan of juveniles; specifying that
336 the court has the power to determine appropriate
337 dispositions; requiring that reasons for a disposition be
338 stated for the record; creating s. 938.20, F.S.;
339 permitting each county to create a juvenile crime
340 prevention fund; providing for an additional court cost;
341 providing for administration and use of funds; providing
342 an effective date.