



704012

CHAMBER ACTION

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

Senate Amendment (with title amendment)

5 Delete everything after the enacting clause
6 and insert:

7 Section 1. Paragraph (i) of subsection (5) of section
8 985.0301, Florida Statutes, is amended to read:

9 985.0301 Jurisdiction.--

10 (5) (a) Notwithstanding ss. 743.07, 985.43, 985.433,
 11 985.435, 985.439, and 985.441, and except as provided in ss.
 12 985.465 and 985.47 and paragraph (f), when the jurisdiction of
 13 any child who is alleged to have committed a delinquent act or
 14 violation of law is obtained, the court shall retain
 15 jurisdiction, unless relinquished by its order, until the child
 16 reaches 19 years of age, with the same power over the child that
 17 the court had prior to the child becoming an adult.

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18 (b) Notwithstanding ss. 743.07 and 985.455(3), and except
19 as provided in s. 985.47, the term of any order placing a child
20 in a probation program must be until the child's 19th birthday
21 unless he or she is released by the court on the motion of an
22 interested party or on his or her own motion.

23 (c) Notwithstanding ss. 743.07 and 985.455(3), and except
24 as provided in s. 985.47, the term of the commitment must be
25 until the child is discharged by the department or until he or
26 she reaches the age of 21 years. Notwithstanding ss. 743.07,
27 985.435, 985.437, 985.439, 985.441, 985.445, 985.455, and
28 985.513, and except as provided in this section and s. 985.47, a
29 child may not be held under a commitment from a court under s.
30 985.439, s. 985.441(1)(a) or (b), s. 985.445, or s. 985.455 after
31 becoming 21 years of age.

32 (d) The court may retain jurisdiction over a child
33 committed to the department for placement in a juvenile prison or
34 in a high-risk or maximum-risk residential commitment program to
35 allow the child to participate in a juvenile conditional release
36 program pursuant to s. 985.46. In no case shall the jurisdiction
37 of the court be retained beyond the child's 22nd birthday.
38 However, if the child is not successful in the conditional
39 release program, the department may use the transfer procedure
40 under s. 985.441(3).

41 (e) The court may retain jurisdiction over a child
42 committed to the department for placement in an intensive
43 residential treatment program for 10-year-old to 13-year-old
44 offenders, in the residential commitment program in a juvenile
45 prison, in a residential sex offender program, or in a program
46 for serious or habitual juvenile offenders as provided in s.
47 985.47 or s. 985.483 until the child reaches the age of 21. If



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48 | the court exercises this jurisdiction retention, it shall do so
49 | solely for the purpose of the child completing the intensive
50 | residential treatment program for 10-year-old to 13-year-old
51 | offenders, in the residential commitment program in a juvenile
52 | prison, in a residential sex offender program, or the program for
53 | serious or habitual juvenile offenders. Such jurisdiction
54 | retention does not apply for other programs, other purposes, or
55 | new offenses.

56 | (f) The court may retain jurisdiction over a child
57 | committed to a juvenile correctional facility or a juvenile
58 | prison until the child reaches the age of 21 years, specifically
59 | for the purpose of allowing the child to complete such program.

60 | (g)1. Notwithstanding ss. 743.07 and 985.455(3), a serious
61 | or habitual juvenile offender shall not be held under commitment
62 | from a court under s. 985.441(1)(c), s. 985.47, or s. 985.565
63 | after becoming 21 years of age. This subparagraph shall apply
64 | only for the purpose of completing the serious or habitual
65 | juvenile offender program under this chapter and shall be used
66 | solely for the purpose of treatment.

67 | 2. The court may retain jurisdiction over a child who has
68 | been placed in a program or facility for serious or habitual
69 | juvenile offenders until the child reaches the age of 21,
70 | specifically for the purpose of the child completing the program.

71 | (h) The court may retain jurisdiction over a juvenile
72 | sexual offender who has been placed in a program or facility for
73 | juvenile sexual offenders until the juvenile sexual offender
74 | reaches the age of 21, specifically for the purpose of completing
75 | the program.

76 | (i) The court retains ~~may retain~~ jurisdiction over a child
77 | and the child's parent or legal guardian whom:



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78 1. The court has ordered to pay restitution until the
79 restitution order is satisfied. ~~To retain jurisdiction,~~ The court
80 shall enter a restitution order, which is separate from any
81 disposition or order of commitment, on or prior to the date that
82 the court's jurisdiction would cease under this section. The
83 contents of the restitution order shall be limited to the child's
84 name and address, the name and address of the parent or legal
85 guardian, the name and address of the payee, the case number, the
86 date and amount of restitution ordered, any amount of restitution
87 paid, the amount of restitution due and owing, and a notation
88 that costs, interest, penalties, and attorney's fees may also be
89 due and owing. The terms of the restitution order are subject to
90 s. 775.089(5).

91 2. The court has ordered to pay costs, fees, and costs
92 associated with court-appointed counsel until the costs, fees,
93 and costs associated with court-appointed counsel are satisfied,
94 regardless of adjudication. The child and the child's parent or
95 legal guardian remain responsible for unpaid costs, fees, and
96 costs associated with court-appointed counsel until the unpaid
97 costs, fees, and costs associated with court-appointed counsel
98 are satisfied, even after the child turns 19 years of age. The
99 implementation of this subparagraph does not, in any way,
100 authorize or otherwise permit details of the juvenile court
101 record to be disclosed except as provided by law.

102
103 The retention of jurisdiction under this paragraph does not
104 preclude the department from closing out the community
105 supervision case for a child if the child has successfully met
106 all other conditions of the supervision case plan.

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107 (j) This subsection does not prevent the exercise of
108 jurisdiction by any court having jurisdiction of the child if the
109 child, after becoming an adult, commits a violation of law.

110 Section 2. Section 985.031, Florida Statutes, is created to
111 read:

112 985.031 Preadjudicatory release; circuit court
113 authority.--The circuit court shall have the authority to set
114 reasonable conditions of preadjudicatory release. The child shall
115 comply with all such preadjudicatory release conditions prior to
116 an adjudicatory hearing. Reasonable conditions of preadjudicatory
117 release may include, but are not limited to, the following:

118 (1) The child shall not engage in a violation of law.

119 (2) The child shall not possess or carry any weapon.

120 (3) The child shall not possess or use any alcoholic
121 beverage or illegal drug or associate with those who are
122 currently possessing or using any alcoholic beverage or illegal
123 drug.

124 (4) The child shall obey all reasonable household rules.

125 (5) The child shall attend school regularly, including all
126 classes.

127 (6) The child shall abide by the curfew set by his or her
128 parents or guardians, or as set by the court.

129 (7) The child shall have no contact with any codefendants,
130 an alleged victim, or the family of any alleged victim.

131 (8) The child shall not return to the scene of the alleged
132 crime, unless approved by the court.

133 Section 3. Paragraph (d) of subsection (1) of section
134 985.101, Florida Statutes, is amended to read:

135 985.101 Taking a child into custody; preadjudicatory
136 release conditions.--



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137 (1) A child may be taken into custody under the following
138 circumstances:

139 (a) Pursuant to an order of the circuit court issued under
140 this chapter, based upon sworn testimony, either before or after
141 a petition is filed.

142 (b) For a delinquent act or violation of law, pursuant to
143 Florida law pertaining to a lawful arrest. If such delinquent act
144 or violation of law would be a felony if committed by an adult or
145 involves a crime of violence, the arresting authority shall
146 immediately notify the district school superintendent, or the
147 superintendent's designee, of the school district with
148 educational jurisdiction of the child. Such notification shall
149 include other education providers such as the Florida School for
150 the Deaf and the Blind, university developmental research
151 schools, and private elementary and secondary schools. The
152 information obtained by the superintendent of schools pursuant to
153 this section must be released within 48 hours after receipt to
154 appropriate school personnel, including the principal of the
155 child's school, or as otherwise provided by law. The principal
156 must immediately notify the child's immediate classroom teachers.
157 Information provided by an arresting authority under this
158 paragraph may not be placed in the student's permanent record and
159 shall be removed from all school records no later than 9 months
160 after the date of the arrest.

161 (c) By a law enforcement officer for failing to appear at a
162 court hearing after being properly noticed.

163 (d) By a law enforcement officer who has probable cause to
164 believe that the child is in violation of the conditions of the
165 child's preadjudicatory release, conditions of the child's
166 probation, home detention, postcommitment probation, or

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167 conditional release supervision; has absconded from
168 nonresidential commitment; or has escaped from residential
169 commitment.

170

171 Nothing in this subsection shall be construed to allow the
172 detention of a child who does not meet the detention criteria in
173 part V.

174 Section 4. Subsection (1) of section 985.24, Florida
175 Statutes, is amended to read:

176 985.24 Use of detention; prohibitions.--

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

180 (a) Presents a substantial risk of not appearing at a
181 subsequent hearing;

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

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

186 (d) Has been adjudicated delinquent and committed to the
187 department in a residential facility, but is on home or nonsecure
188 detention care while awaiting placement, and:

189 1. Absconds from home or nonsecure detention care or
190 otherwise violates the terms of release; or

191 2. There is probable cause to believe that the child has
192 committed a new violation of law;

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

194 1. Intentionally disrupting the administration of the
195 court;

196 2. Intentionally disobeying a court order; or



197 3. Engaging in a punishable act or speech in the court's
198 presence which shows disrespect for the authority and dignity of
199 the court; or

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

201 Section 5. Subsection (1) of section 985.245, Florida
202 Statutes, is amended to read:

203 985.245 Risk assessment instrument.--

204 (1) All determinations and court orders regarding placement
205 of a child into detention care shall comply with all requirements
206 and criteria provided in this part and shall be based on a risk
207 assessment of the child, unless the child is placed into
208 detention care as provided in s. 985.255(2) or s. 985.28.

209 Section 6. Paragraph (b) of subsection (1) of section
210 985.25, Florida Statutes, is amended to read:

211 985.25 Detention intake.--

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

217 (a) During the period of time from the taking of the child
218 into custody to the date of the detention hearing, the initial
219 decision as to the child's placement into secure detention care,
220 nonsecure detention care, or home detention care shall be made by
221 the juvenile probation officer under ss. 985.24 and 985.245(1).

222 (b) The juvenile probation officer shall base the decision
223 whether ~~or not~~ to place the child into secure detention care,
224 home detention care, or nonsecure detention care on an assessment
225 of risk in accordance with the risk assessment instrument and

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226 | procedures developed by the department under s. 985.245. However,
227 | a child shall be placed in secure detention care if:

228 | 1. The child is charged with possessing or discharging a
229 | firearm on school property in violation of s. 790.115;

230 | 2. The child is alleged to have absconded from home or
231 | nonsecure detention care or the child otherwise violates the
232 | terms of release after adjudication and commitment to the
233 | department but before placement in a residential facility; or

234 | 3. There is probable cause to believe the child has
235 | committed a new violation of law while on home or nonsecure
236 | detention care after adjudication and commitment but before
237 | placement in a residential facility ~~shall be placed in secure~~
238 | ~~detention care.~~

239 | (c) If the juvenile probation officer determines that a
240 | child who is eligible for detention based upon the results of the
241 | risk assessment instrument should be released, the juvenile
242 | probation officer shall contact the state attorney, who may
243 | authorize release. If detention is not authorized, the child may
244 | be released by the juvenile probation officer in accordance with
245 | ss. 985.115 and 985.13.

246 |
247 | Under no circumstances shall the juvenile probation officer or
248 | the state attorney or law enforcement officer authorize the
249 | detention of any child in a jail or other facility intended or
250 | used for the detention of adults, without an order of the court.

251 | Section 7. Subsections (1) and (3) of section 985.255,
252 | Florida Statutes, are amended to read:

253 | 985.255 Detention criteria; detention hearing.--

254 | (1) Subject to s. 985.25(1), a child taken into custody and
255 | placed into nonsecure or home detention care or detained in



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256 secure detention care prior to a detention hearing may continue
257 to be detained by the court if:

258 (a) The child is alleged to have absconded from home or
259 nonsecure detention care or otherwise violates the terms of
260 release after adjudication and commitment but while awaiting
261 placement in a residential facility.

262 (b) There is probable cause to believe the child has
263 committed a new violation of law while on home or nonsecure
264 detention care after adjudication and commitment but while
265 awaiting placement in a residential facility.

266 (c)~~(a)~~ The child is alleged to be an escapee from a
267 residential commitment program; or an absconder from a
268 nonresidential commitment program, a probation program, or
269 conditional release supervision; or is alleged to have escaped
270 while being lawfully transported to or from a residential
271 commitment program.

272 (d)~~(b)~~ The child is wanted in another jurisdiction for an
273 offense which, if committed by an adult, would be a felony.

274 (e)~~(c)~~ The child is charged with a delinquent act or
275 violation of law and requests in writing through legal counsel to
276 be detained for protection from an imminent physical threat to
277 his or her personal safety.

278 (f)~~(d)~~ The child is charged with committing an offense of
279 domestic violence as defined in s. 741.28 and is detained as
280 provided in subsection (2).

281 (g)~~(e)~~ The child is charged with possession or discharging
282 a firearm on school property in violation of s. 790.115.

283 (h)~~(f)~~ The child is charged with a capital felony, a life
284 felony, a felony of the first degree, a felony of the second
285 degree that does not involve a violation of chapter 893, or a



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286 felony of the third degree that is also a crime of violence,
287 including any such offense involving the use or possession of a
288 firearm.

289 (i) ~~(g)~~ The child is charged with any second degree or third
290 degree felony involving a violation of chapter 893 or any third
291 degree felony that is not also a crime of violence, and the
292 child:

293 1. Has a record of failure to appear at court hearings
294 after being properly notified in accordance with the Rules of
295 Juvenile Procedure;

296 2. Has a record of law violations prior to court hearings;

297 3. Has already been detained or has been released and is
298 awaiting final disposition of the case;

299 4. Has a record of violent conduct resulting in physical
300 injury to others; or

301 5. Is found to have been in possession of a firearm.

302 (j) ~~(h)~~ The child is alleged to have violated the conditions
303 of the child's probation or conditional release supervision.
304 However, a child detained under this paragraph may be held only
305 in a consequence unit as provided in s. 985.439. If a consequence
306 unit is not available, the child may be placed in secure
307 detention care, home detention care, or home detention care with
308 electronic monitoring ~~shall be placed on home detention with~~
309 ~~electronic monitoring.~~

310 (k) ~~(i)~~ The child is detained on a judicial order for
311 failure to appear and has previously willfully failed to appear,
312 after proper notice, for an adjudicatory hearing on the same case
313 regardless of the results of the risk assessment instrument. A
314 child may be held in secure detention for up to 72 hours in
315 advance of the next scheduled court hearing pursuant to this



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316 paragraph. The child's failure to keep the clerk of court and
317 defense counsel informed of a current and valid mailing address
318 where the child will receive notice to appear at court
319 proceedings does not provide an adequate ground for excusal of
320 the child's nonappearance at the hearings.

321 (1)(j) The child is detained on a judicial order for
322 failure to appear and has previously willfully failed to appear,
323 after proper notice, at two or more court hearings of any nature
324 on the same case regardless of the results of the risk assessment
325 instrument. A child may be held in secure detention for up to 72
326 hours in advance of the next scheduled court hearing pursuant to
327 this paragraph. The child's failure to keep the clerk of court
328 and defense counsel informed of a current and valid mailing
329 address where the child will receive notice to appear at court
330 proceedings does not provide an adequate ground for excusal of
331 the child's nonappearance at the hearings.

332 (3) (a) A child who meets any of the criteria in subsection
333 (1) and who is ordered to be detained under that subsection shall
334 be given a hearing within 24 hours after being taken into
335 custody. The purpose of the detention hearing is to determine the
336 existence of probable cause that the child has committed the
337 delinquent act or violation of law that he or she is charged with
338 and the need for continued detention. Unless a child is detained
339 under paragraph (1)(a), paragraph (1)(b), paragraph (1)(f)(d), or
340 paragraph (1)(g)(e), the court shall use the results of the risk
341 assessment performed by the juvenile probation officer and, based
342 on the criteria in subsection (1), shall determine the need for
343 continued detention. A child placed into secure, nonsecure, or
344 home detention care may continue to be so detained by the court.
345 A child detained under paragraph (1)(a) or paragraph (1)(b) may



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346 be placed into secure detention care pending placement in a
347 residential facility.

348 (c) Except as provided in paragraph (1)(a), paragraph
349 (1)(b), s. 790.22(8), or in s. 985.27, when a child is placed
350 into secure or nonsecure detention care, or into a respite home
351 or other placement pursuant to a court order following a hearing,
352 the court order must include specific instructions that direct
353 the release of the child from such placement no later than 5 p.m.
354 on the last day of the detention period specified in s. 985.26 or
355 s. 985.27, whichever is applicable, unless the requirements of
356 such applicable provision have been met or an order of
357 continuance has been granted under s. 985.26(4).

358 Section 8. Section 985.26, Florida Statutes, is amended to
359 read:

360 985.26 Length of detention.--

361 (1) A child may not be placed into or held in secure,
362 nonsecure, or home detention care for longer than 24 hours unless
363 the court orders such detention care, and the order includes
364 specific instructions that direct the release of the child from
365 such detention care, in accordance with s. 985.255. The order
366 shall be a final order, reviewable by appeal under s. 985.534 and
367 the Florida Rules of Appellate Procedure. Appeals of such orders
368 shall take precedence over other appeals and other pending
369 matters.

370 (2) A child may not be held in secure, nonsecure, or home
371 detention care under a special detention order for more than 21
372 days unless an adjudicatory hearing for the case has been
373 commenced in good faith by the court. However, upon good cause
374 being shown that the nature of the charge requires additional
375 time for the prosecution or defense of the case, the court may

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376 extend the length of detention for an additional 9 days if the
377 child is charged with an offense that would be, if committed by
378 an adult, a capital felony, a life felony, a felony of the first
379 degree, or a felony of the second degree involving violence
380 against any individual. For purposes of this subsection, if a
381 child is released, the child must comply with all conditions of
382 preadjudicatory release set by the circuit court.

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

386 (4) The time limits in subsections (2) and (3) do not
387 include periods of delay resulting from a continuance granted by
388 the court for cause on motion of the child or his or her counsel
389 or of the state. Upon the issuance of an order granting a
390 continuance for cause on a motion by either the child, the
391 child's counsel, or the state, the court shall conduct a hearing
392 at the end of each 72-hour period, excluding Saturdays, Sundays,
393 and legal holidays, to determine the need for continued detention
394 of the child and the need for further continuance of proceedings
395 for the child or the state.

396 (5) The time limits required under this section do not
397 apply to children held in secure detention care pursuant to ss.
398 985.255(1) and (3), 985.27(1)(a) and (b), and 985.28.

399 ~~(6)~~(5) A child who was not in secure detention care at the
400 time of the adjudicatory hearing, but for whom residential
401 commitment is anticipated or recommended, may be placed under a
402 special detention order for a period not to exceed 72 hours,
403 excluding weekends and legal holidays, for the purpose of
404 conducting a comprehensive evaluation as provided in s. 985.185.
405 Motions for the issuance of such special detention order may be



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406 made subsequent to a finding of delinquency. Upon said motion,
407 the court shall conduct a hearing to determine the
408 appropriateness of such special detention order and shall order
409 the least restrictive level of detention care necessary to
410 complete the comprehensive evaluation process that is consistent
411 with public safety. Such special detention order may be extended
412 for an additional 72 hours upon further order of the court.

413 ~~(7)(6)~~ If a child is detained and a petition for
414 delinquency is filed, the child shall be arraigned in accordance
415 with the Florida Rules of Juvenile Procedure within 48 hours
416 after the filing of the petition for delinquency.

417 Section 9. Subsection (1) of section 985.265, Florida
418 Statutes, is amended to read:

419 985.265 Detention transfer and release; education; adult
420 jails.--

421 (1) If a child is detained under this part, the department
422 may transfer the child from nonsecure or home detention care to
423 secure detention care only if significantly changed circumstances
424 warrant such transfer. Such circumstances include, but are not
425 necessarily limited to:

426 (a) Where a child is alleged to have absconded from home or
427 nonsecure detention care or otherwise violates the terms of
428 release after adjudication and commitment but while awaiting
429 placement in a residential facility; or

430 (b) Where probable cause exists that a child has committed
431 a new violation of law while on home or nonsecure detention care
432 after adjudication and commitment but while awaiting placement in
433 a residential facility.

434 Section 10. Subsection (1) of section 985.27, Florida
435 Statutes, is amended to read:

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436 985.27 Postcommitment detention while awaiting placement.--

437 (1) The court must place all children who are adjudicated
438 and awaiting placement in a commitment program in secure
439 detention care, home detention care, or nonsecure detention care.
440 Children who are in home detention care or nonsecure detention
441 care may be placed on electronic monitoring.

442 (a) A child who is awaiting placement in a low-risk
443 residential program must be removed from detention within 5 days,
444 excluding Saturdays, Sundays, and legal holidays. Any child held
445 in secure detention during the 5 days must meet detention
446 admission criteria under this part. A child who is placed in home
447 detention care, nonsecure detention care, or home or nonsecure
448 detention care with electronic monitoring, while awaiting
449 placement in a minimum-risk or low-risk program, may be held in
450 secure detention care for 5 days, if the child violates the
451 conditions of the home detention care, the nonsecure detention
452 care, or the electronic monitoring agreement. For any subsequent
453 violation, the court may impose an additional 15 ~~5~~ days,
454 excluding Saturdays, Sundays, and legal holidays, in secure
455 detention care.

456 (b) 1. A child who is awaiting placement in a moderate-risk
457 residential program must be placed in secure detention care, home
458 detention care, or nonsecure detention care. Any child held in
459 secure detention care must meet detention admission criteria
460 under this part.

461 2. A child may not be held in secure detention care longer
462 than 15 days, excluding Saturdays, Sundays, and legal holidays,
463 while awaiting placement in a moderate-risk residential facility,
464 except that any child shall be held in secure detention care
465 until placed in a residential facility if:



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466 a. The child is alleged to have absconded from home
467 detention care or nonsecure detention care or otherwise violated
468 the terms of release or electronic monitoring; or

469 b. Probable cause exists that a child committed a new
470 violation of law while on home detention care, nonsecure
471 detention care, or electronic monitoring and the child is
472 awaiting placement in a residential program. A child who is
473 awaiting placement in a moderate-risk residential program must be
474 removed from detention within 5 days, excluding Saturdays,
475 Sundays, and legal holidays. Any child held in secure detention
476 during the 5 days must meet detention admission criteria under
477 this part. The department may seek an order from the court
478 authorizing continued detention for a specific period of time
479 necessary for the appropriate residential placement of the child.
480 However, such continued detention in secure detention care may
481 not exceed 15 days after entry of the commitment order, excluding
482 Saturdays, Sundays, and legal holidays, and except as otherwise
483 provided in this section. A child who is placed in home detention
484 care, nonsecure detention care, or home or nonsecure detention
485 care with electronic monitoring, while awaiting placement in a
486 moderate-risk program, may be held in secure detention care for 5
487 days, if the child violates the conditions of the home detention
488 care, the nonsecure detention care, or the electronic monitoring
489 agreement. For any subsequent violation, the court may impose an
490 additional 5 days in secure detention care.

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



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

497 Section 11. Section 985.28, Florida Statutes, is created to
498 read:

499 985.28 Appearance in court; preadjudicatory detention;
500 contempt.--

501 (1) A child may be held in secure detention care if, after
502 proper notice, the child fails to appear in court because the
503 child refuses to appear, runs away, or otherwise intentionally
504 avoids his or her appearance. The court may hold the child in
505 secure detention care until the trial concludes, regardless of
506 the results of the risk assessment instrument.

507 (2) A parent or legal guardian, after being properly
508 noticed, who knowingly and willfully fails to bring or otherwise
509 prevents a child from appearing for trial may be held in contempt
510 of court.

511 Section 12. Subsection (1) of section 985.35, Florida
512 Statutes, is amended to read:

513 985.35 Adjudicatory hearings; withheld adjudications;
514 orders of adjudication.--

515 (1) The adjudicatory hearing must be held as soon as
516 practicable after the petition alleging that a child has
517 committed a delinquent act or violation of law is filed and in
518 accordance with the Florida Rules of Juvenile Procedure; but
519 reasonable delay for the purpose of investigation, discovery, or
520 procuring counsel or witnesses shall be granted. If the child is
521 being detained, the time limitations in s. 985.26(2) ~~and (3)~~
522 apply.

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523 Section 13. Paragraph (c) of subsection (1) of section
524 985.43, Florida Statutes, is amended, and subsection (4) is added
525 to that section, to read:

526 985.43 Predisposition reports; other evaluations.--

527 (1) Upon a finding that the child has committed a
528 delinquent act:

529 (a) The court may order the department to prepare a
530 predisposition report regarding the child's eligibility for
531 disposition other than by adjudication and commitment to the
532 department or for disposition of adjudication, commitment to the
533 department, and, if appropriate, assignment of a residential
534 commitment level. The predisposition report shall be the result
535 of the multidisciplinary assessment, when such assessment is
536 needed, and of the classification and placement process, and it
537 shall indicate and report the child's priority needs,
538 recommendations as to a classification of risk for the child in
539 the context of his or her program and supervision needs, and a
540 plan for treatment that recommends the most appropriate placement
541 setting to meet the child's needs with the minimum program
542 security that reasonably ensures public safety. A predisposition
543 report shall be ordered for any child for whom a residential
544 commitment disposition is anticipated or recommended by an
545 officer of the court or by the department.

546 (b) A comprehensive evaluation for physical health; mental
547 health; substance abuse; or academic, educational, or vocational
548 problems shall be ordered for any child for whom a residential
549 commitment disposition is anticipated or recommended by an
550 officer of the court or by the department. If a comprehensive
551 evaluation is ordered, the predisposition report shall include a
552 summary of the comprehensive evaluation.

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553 (c) A child who was not in secure detention at the time of
554 the adjudicatory hearing, but for whom residential commitment is
555 anticipated or recommended, may be placed under a special
556 detention order, as provided in s. 985.26(6)(5), for the purpose
557 of conducting a comprehensive evaluation.

558 (4) The Legislature finds that the court is in the best
559 position to weigh all facts and circumstances to determine
560 whether or not to commit a juvenile to the department and to
561 determine the most appropriate restrictiveness level for a
562 juvenile committed to the department.

563 Section 14. Paragraphs (a) and (b) of subsection (7) of
564 section 985.433, Florida Statutes, are amended to read:

565 985.433 Disposition hearings in delinquency cases.--When a
566 child has been found to have committed a delinquent act, the
567 following procedures shall be applicable to the disposition of
568 the case:

569 (7) If the court determines that the child should be
570 adjudicated as having committed a delinquent act and should be
571 committed to the department, such determination shall be in
572 writing or on the record of the hearing. The determination shall
573 include a specific finding of the reasons for the decision to
574 adjudicate and to commit the child to the department, including
575 any determination that the child was a member of a criminal
576 street gang.

577 (a) The juvenile probation officer shall make a
578 recommendation to the court concerning placement and any proposed
579 treatment plan ~~recommend to the court the most appropriate~~
580 ~~placement and treatment plan, specifically identifying the~~
581 ~~restrictiveness level most appropriate for the child.~~ If the
582 court has determined that the child was a member of a criminal

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583 street gang, that determination shall be given great weight in
584 identifying the most appropriate restrictiveness level for the
585 child. The court shall consider the department's recommendation
586 in making its commitment decision.

587 (b) The court may ~~shall~~ commit the child to the department
588 at the restrictiveness level identified by the department, or the
589 court may order placement at a different restrictiveness level.
590 The court may determine the disposition on the same factors as
591 the department considered in the department's predisposition
592 report and placement recommendation even if the court reaches a
593 different conclusion. The court may commit the child to a
594 different restrictiveness level than recommended by the
595 department. The court shall state for the record the reasons for
596 the disposition imposed ~~that establish by a preponderance of the~~
597 ~~evidence why the court is disregarding the assessment of the~~
598 ~~child and the restrictiveness level recommended by the~~
599 ~~department.~~ Any party may appeal the court's findings resulting
600 in a modified level of restrictiveness under this paragraph. The
601 department shall maintain data to identify the extent to which
602 the courts agree with the department's recommendation.

603 Section 15. Subsection (2) of section 985.439, Florida
604 Statutes, is amended to read:

605 985.439 Violation of probation or postcommitment
606 probation.--

607 (2) A child taken into custody under s. 985.101 for
608 violating the conditions of probation or postcommitment probation
609 shall be held in a consequence unit if such a unit is available
610 or may be detained under part V in a facility other than a
611 consequence unit if one is not available. The child shall be
612 afforded a hearing within 24 hours after being taken into custody

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613 to determine the existence of probable cause that the child
614 violated the conditions of probation or postcommitment probation.
615 A consequence unit is a secure facility specifically designated
616 by the department for children who are taken into custody under
617 s. 985.101 for violating probation or postcommitment probation,
618 or who have been found by the court to have violated the
619 conditions of probation or postcommitment probation. If the
620 violation involves a new charge of delinquency, the child may be
621 detained under part V in a facility other than a consequence
622 unit. If the child is not eligible for detention for the new
623 charge of delinquency, the child may be held in the consequence
624 unit pending a hearing and is subject to the time limitations
625 specified in part V.

626 Section 16. Section 938.20, Florida Statutes, is created to
627 read:

628 938.20 County juvenile crime prevention fund.--

629 (1) Notwithstanding s. 318.121, and in addition to ss.
630 938.19 and 939.185, in each county the board of county
631 commissioners may adopt a mandatory court cost to be assessed in
632 specific cases by incorporating by reference the provisions of
633 this section in a county ordinance. Assessments collected by the
634 clerk of the circuit court under this section shall be deposited
635 into an account specifically for the administration of the
636 county's juvenile crime prevention fund. The proceeds of the
637 county's juvenile crime prevention fund shall only be used to
638 fund local programs whose principal focus is the prevention of
639 juvenile crime, the creation of consequence or suspension
640 centers, and truancy programs and such other areas of local
641 concern relating to juvenile crime.

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

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

651 (4) (a) The clerk of the circuit court shall collect the
652 assessments for court costs under this section and shall remit
653 the assessments to the county's juvenile crime prevention fund
654 monthly.

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

658 (5) A county's juvenile crime prevention fund must account
659 for all funds received and disbursed under this section in a
660 written report to the board of county commissioners of that
661 county. The report must be given to the commissioners by August 1
662 of each year unless a different date is required by the
663 commissioners.

664 (6) A county's juvenile crime prevention fund may be
665 administered by a nonprofit organization, a law enforcement
666 agency, the court administrator, the clerk of the circuit court,
667 a county agency, or another similar agency authorized by the
668 board of county commissioners of that county.

669 Section 17. Subsection (8) of section 790.22, Florida
670 Statutes, is amended to read:



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671 790.22 Use of BB guns, air or gas-operated guns, or
672 electric weapons or devices by minor under 16; limitation;
673 possession of firearms by minor under 18 prohibited; penalties.--

674 (8) Notwithstanding s. 985.24 or s. 985.25(1), if a minor
675 under 18 years of age is charged with an offense that involves
676 the use or possession of a firearm, as defined in s. 790.001,
677 including a violation of subsection (3), or is charged for any
678 offense during the commission of which the minor possessed a
679 firearm, the minor shall be detained in secure detention, unless
680 the state attorney authorizes the release of the minor, and shall
681 be given a hearing within 24 hours after being taken into
682 custody. At the hearing, the court may order that the minor
683 continue to be held in secure detention in accordance with the
684 applicable time periods specified in s. 985.26 (1)-(6) ~~(1)-(5)~~, if
685 the court finds that the minor meets the criteria specified in s.
686 985.255, or if the court finds by clear and convincing evidence
687 that the minor is a clear and present danger to himself or
688 herself or the community. The Department of Juvenile Justice
689 shall prepare a form for all minors charged under this subsection
690 that states the period of detention and the relevant demographic
691 information, including, but not limited to, the sex, age, and
692 race of the minor; whether or not the minor was represented by
693 private counsel or a public defender; the current offense; and
694 the minor's complete prior record, including any pending cases.
695 The form shall be provided to the judge to be considered when
696 determining whether the minor should be continued in secure
697 detention under this subsection. An order placing a minor in
698 secure detention because the minor is a clear and present danger
699 to himself or herself or the community must be in writing, must
700 specify the need for detention and the benefits derived by the



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701 | minor or the community by placing the minor in secure detention,
 702 | and must include a copy of the form provided by the department.
 703 | The Department of Juvenile Justice must send the form, including
 704 | a copy of any order, without client-identifying information, to
 705 | the Office of Economic and Demographic Research.

706 | Section 18. The Legislature determines and declares that
 707 | this act fulfills an important state interest.

708 | Section 19. This act shall take effect July 1, 2008.

709 |
 710 | ===== T I T L E A M E N D M E N T =====

711 | And the title is amended as follows:

712 | Delete everything before the enacting clause
 713 | and insert:

714 | A bill to be entitled
 715 | An act relating to juvenile justice; amending s. 985.0301,
 716 | F.S.; permitting a court to retain jurisdiction over a
 717 | child and the child's parent or legal guardian whom the
 718 | court has ordered to pay costs, fees, and costs associated
 719 | with court-appointed counsel until the costs, fees, and
 720 | costs associated with court-appointed counsel are
 721 | satisfied; providing intent; creating s. 985.031, F.S.;
 722 | authorizing the court to set reasonable conditions of
 723 | preadjudicatory release; providing examples of such
 724 | conditions; amending s. 985.101, F.S.; permitting a child
 725 | to be taken into custody for violations of preadjudicatory
 726 | release conditions; providing that conditions of
 727 | preadjudicatory release may not be used to impose home
 728 | detention when not otherwise authorized; amending s.
 729 | 985.24, F.S.; providing an additional finding to support
 730 | the use of secure, nonsecure, or home detention care;

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731 amending s. 985.245, F.S.; providing that placement in
732 detention care under a specified provision does not
733 require a risk assessment; amending s. 985.25, F.S.;
734 providing additional grounds for placement of a child in
735 secure detention care; amending s. 985.255, F.S.;
736 providing for continuing home or nonsecure or home
737 detention care or secure detention care prior to a
738 detention hearing in certain circumstances; amending s.
739 985.26, F.S.; requiring that children who have been
740 released comply with preadjudicatory release conditions;
741 providing that certain time limits do not apply to secure
742 detention under specified provisions; amending s. 985.265,
743 F.S.; specifying some changed circumstances that permit
744 the Department of Juvenile Justice to transfer a child
745 from home or nonsecure or home detention care to secure
746 detention care; amending s. 985.27, F.S.; specifying
747 circumstances under which a child who is awaiting
748 placement in a low-risk or minimum-risk residential
749 program may be held in secure detention care; providing
750 time limits on such detention care; providing for secure
751 detention care for absconders from specified types of
752 care; revising provisions for detention care of a child
753 awaiting placement in a moderate-risk residential program;
754 providing for secure detention care in specified
755 circumstances; creating s. 985.28, F.S.; providing for
756 secure detention of a child in specified circumstances;
757 permitting a parent or legal guardian of a child to be
758 held in contempt of court if he or she knowingly and
759 willfully fails to bring or otherwise prevents the child
760 from appearing for trial; amending s. 985.35, F.S.;

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761 conforming a cross-reference to changes made by the act;
762 amending s. 985.43, F.S.; conforming a cross-reference to
763 changes made by the act; providing a legislative
764 declaration concerning the determination whether to commit
765 a juvenile to the department and the most appropriate
766 placement level if the juvenile is committed; amending s.
767 985.433, F.S.; revising provisions relating to
768 recommendations by probation officers to the court
769 concerning placement and any proposed treatment plan of
770 juveniles; specifying that the court has the power to
771 determine appropriate dispositions; requiring that reasons
772 for a disposition be stated for the record; amending s.
773 985.439, F.S.; permitting a child to be detained in a
774 facility other than a consequence unit if one is not
775 available for a violation of probation or postcommitment
776 probation under specified provisions; creating s. 938.20,
777 F.S.; permitting each county to create a juvenile crime
778 prevention fund; providing for an additional court cost;
779 providing for administration and use of funds; amending s.
780 790.22, F.S.; conforming a cross-reference; providing that
781 the act fulfills an important state interest; providing an
782 effective date.