

By the Committee on Criminal Justice; and Senator Baker

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1 A bill to be entitled

2 An act relating to juvenile justice; amending s. 985.0301,  
3 F.S.; permitting a court to retain jurisdiction over a  
4 child and the child's parent or legal guardian whom the  
5 court has ordered to pay costs, fees, and costs associated  
6 with court-appointed counsel until the costs, fees, and  
7 costs associated with court-appointed counsel are  
8 satisfied; providing intent; creating s. 985.031, F.S.;  
9 authorizing the court to set reasonable conditions of  
10 preadjudicatory release; providing examples of such  
11 conditions; amending s. 985.101, F.S.; permitting a child  
12 to be taken into custody for violations of preadjudicatory  
13 release conditions; providing that conditions of  
14 preadjudicatory release may not be used to impose home  
15 detention when not otherwise authorized; amending s.  
16 985.24, F.S.; providing an additional finding to support  
17 the use of secure, nonsecure, or home detention care;  
18 amending s. 985.245, F.S.; providing that placement in  
19 detention care under a specified provision does not  
20 require a risk assessment; amending s. 985.25, F.S.;  
21 providing additional grounds for placement of a child in  
22 secure detention care; amending s. 985.255, F.S.;  
23 providing for continuing home or nonsecure or home  
24 detention care or secure detention care prior to a  
25 detention hearing in certain circumstances; amending s.  
26 985.26, F.S.; requiring that children who have been  
27 released comply with preadjudicatory release conditions;  
28 providing that certain time limits do not apply to secure  
29 detention under specified provisions; amending s. 985.265,

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30 F.S.; specifying some changed circumstances that permit  
31 the Department of Juvenile Justice to transfer a child  
32 from home or nonsecure or home detention care to secure  
33 detention care; amending s. 985.27, F.S.; specifying  
34 circumstances under which a child who is awaiting  
35 placement in a low-risk or minimum-risk residential  
36 program may be held in secure detention care; providing  
37 time limits on such detention care; providing for secure  
38 detention care for absconders from specified types of  
39 care; revising provisions for detention care of a child  
40 awaiting placement in a moderate-risk residential program;  
41 providing for secure detention care in specified  
42 circumstances; creating s. 985.28, F.S.; providing for  
43 secure detention of a child in specified circumstances;  
44 permitting a parent or legal guardian of a child to be  
45 held in contempt of court if he or she knowingly and  
46 willfully fails to bring or otherwise prevents the child  
47 from appearing for trial; amending s. 985.35, F.S.;  
48 conforming a cross-reference to changes made by the act;  
49 amending s. 985.43, F.S.; conforming a cross-reference to  
50 changes made by the act; providing a legislative  
51 declaration concerning the determination whether to commit  
52 a juvenile to the department and the most appropriate  
53 placement level if the juvenile is committed; amending s.  
54 985.433, F.S.; revising provisions relating to  
55 recommendations by probation officers to the court  
56 concerning placement and any proposed treatment plan of  
57 juveniles; specifying that the court has the power to  
58 determine appropriate dispositions; requiring that reasons

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59 | for a disposition be stated for the record; amending s.  
60 | 985.439, F.S.; permitting a child to be detained in a  
61 | facility other than a consequence unit if one is not  
62 | available for a violation of probation or postcommitment  
63 | probation under specified provisions; creating s. 938.20,  
64 | F.S.; permitting each county to create a juvenile crime  
65 | prevention fund; providing for an additional court cost;  
66 | providing for administration and use of funds; amending s.  
67 | 790.22, F.S.; conforming a cross-reference; providing that  
68 | the act fulfills an important state interest; providing an  
69 | effective date.

70 |  
71 | Be It Enacted by the Legislature of the State of Florida:

72 |  
73 | Section 1. Paragraph (i) of subsection (5) of section  
74 | 985.0301, Florida Statutes, is amended to read:

75 | 985.0301 Jurisdiction.--

76 | (5)

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

79 | 1. The court has ordered to pay restitution until the  
80 | restitution order is satisfied. ~~To retain jurisdiction,~~ The court  
81 | shall enter a restitution order, which is separate from any  
82 | disposition or order of commitment, on or prior to the date that  
83 | the court's jurisdiction would cease under this section. The  
84 | contents of the restitution order shall be limited to the child's  
85 | name and address, the name and address of the parent or legal  
86 | guardian, the name and address of the payee, the case number, the  
87 | date and amount of restitution ordered, any amount of restitution

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88 | paid, the amount of restitution due and owing, and a notation  
89 | that costs, interest, penalties, and attorney's fees may also be  
90 | due and owing. The terms of the restitution order are subject to  
91 | s. 775.089(5).

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

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

108 | Section 2. Section 985.031, Florida Statutes, is created to  
109 | read:

110 | 985.031 Preadjudicatory release; circuit court  
111 | authority.--The circuit court shall have the authority to set  
112 | reasonable conditions of preadjudicatory release. The child shall  
113 | comply with all such preadjudicatory release conditions prior to  
114 | an adjudicatory hearing. Reasonable conditions of preadjudicatory  
115 | release may include, but are not limited to, the following:

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

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

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

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

123       (5) The child shall attend school regularly, including all  
124 classes.

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

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

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

131       Section 3. Paragraph (d) of subsection (1) of section  
132 985.101, Florida Statutes, is amended to read:

133       985.101 Taking a child into custody; preadjudicatory  
134 release conditions.--

135       (1) A child may be taken into custody under the following  
136 circumstances:

137       (d) By a law enforcement officer who has probable cause to  
138 believe that the child is in violation of the conditions of the  
139 child's preadjudicatory release, conditions of the child's  
140 probation, home detention, postcommitment probation, or  
141 conditional release supervision; has absconded from  
142 nonresidential commitment; or has escaped from residential  
143 commitment.

144  
145 Nothing in this subsection shall be construed to allow the

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146 detention of a child who does not meet the detention criteria in  
147 part V.

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

150 985.24 Use of detention; prohibitions.--

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

154 (a) Presents a substantial risk of not appearing at a  
155 subsequent hearing;

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

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

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

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

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

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

168 1. Intentionally disrupting the administration of the  
169 court;

170 2. Intentionally disobeying a court order; or

171 3. Engaging in a punishable act or speech in the court's  
172 presence which shows disrespect for the authority and dignity of  
173 the court; or

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

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

177 985.245 Risk assessment instrument.--

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

183 Section 6. Paragraph (b) of subsection (1) of section  
184 985.25, Florida Statutes, is amended to read:

185 985.25 Detention intake.--

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

191 (b) The juvenile probation officer shall base the decision  
192 whether ~~or not~~ to place the child into secure detention care,  
193 home detention care, or nonsecure detention care on an assessment  
194 of risk in accordance with the risk assessment instrument and  
195 procedures developed by the department under s. 985.245. However,  
196 a child shall be placed in secure detention care if:

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

199 2. The child is alleged to have absconded from home or  
200 nonsecure detention care or the child otherwise violates the  
201 terms of release after adjudication and commitment to the  
202 department but before placement in a residential facility; or

203 3. There is probable cause to believe the child has

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204 committed a new violation of law while on home or nonsecure  
205 detention care after adjudication and commitment but before  
206 placement in a residential facility ~~shall be placed in secure~~  
207 ~~detention care.~~

208

209 Under no circumstances shall the juvenile probation officer or  
210 the state attorney or law enforcement officer authorize the  
211 detention of any child in a jail or other facility intended or  
212 used for the detention of adults, without an order of the court.

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

215 985.255 Detention criteria; detention hearing.--

216 (1) Subject to s. 985.25(1), a child taken into custody and  
217 placed into nonsecure or home detention care or detained in  
218 secure detention care prior to a detention hearing may continue  
219 to be detained by the court if:

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

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

228 (c) ~~(a)~~ The child is alleged to be an escapee from a  
229 residential commitment program; or an absconder from a  
230 nonresidential commitment program, a probation program, or  
231 conditional release supervision; or is alleged to have escaped  
232 while being lawfully transported to or from a residential



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233 | commitment program.

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

236 |       (e)~~(e)~~ The child is charged with a delinquent act or  
237 | violation of law and requests in writing through legal counsel to  
238 | be detained for protection from an imminent physical threat to  
239 | his or her personal safety.

240 |       (f)~~(d)~~ The child is charged with committing an offense of  
241 | domestic violence as defined in s. 741.28 and is detained as  
242 | provided in subsection (2).

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

245 |       (h)~~(f)~~ The child is charged with a capital felony, a life  
246 | felony, a felony of the first degree, a felony of the second  
247 | degree that does not involve a violation of chapter 893, or a  
248 | felony of the third degree that is also a crime of violence,  
249 | including any such offense involving the use or possession of a  
250 | firearm.

251 |       (i)~~(g)~~ The child is charged with any second degree or third  
252 | degree felony involving a violation of chapter 893 or any third  
253 | degree felony that is not also a crime of violence, and the  
254 | child:

255 |           1. Has a record of failure to appear at court hearings  
256 | after being properly notified in accordance with the Rules of  
257 | Juvenile Procedure;

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

259 |           3. Has already been detained or has been released and is  
260 | awaiting final disposition of the case;

261 |           4. Has a record of violent conduct resulting in physical

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262 injury to others; or

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

264 ~~(j)-(h)~~ The child is alleged to have violated the conditions  
265 of the child's probation or conditional release supervision.  
266 However, a child detained under this paragraph may be held only  
267 in a consequence unit as provided in s. 985.439. If a consequence  
268 unit is not available, the child may be placed in secure  
269 detention care, home detention care, or home detention care with  
270 electronic monitoring ~~shall be placed on home detention with~~  
271 ~~electronic monitoring.~~

272 ~~(k)-(i)~~ The child is detained on a judicial order for  
273 failure to appear and has previously willfully failed to appear,  
274 after proper notice, for an adjudicatory hearing on the same case  
275 regardless of the results of the risk assessment instrument. A  
276 child may be held in secure detention for up to 72 hours in  
277 advance of the next scheduled court hearing pursuant to this  
278 paragraph. The child's failure to keep the clerk of court and  
279 defense counsel informed of a current and valid mailing address  
280 where the child will receive notice to appear at court  
281 proceedings does not provide an adequate ground for excusal of  
282 the child's nonappearance at the hearings.

283 ~~(l)-(j)~~ The child is detained on a judicial order for  
284 failure to appear and has previously willfully failed to appear,  
285 after proper notice, at two or more court hearings of any nature  
286 on the same case regardless of the results of the risk assessment  
287 instrument. A child may be held in secure detention for up to 72  
288 hours in advance of the next scheduled court hearing pursuant to  
289 this paragraph. The child's failure to keep the clerk of court  
290 and defense counsel informed of a current and valid mailing

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291 address where the child will receive notice to appear at court  
292 proceedings does not provide an adequate ground for excusal of  
293 the child's nonappearance at the hearings.

294 (3) (a) A child who meets any of the criteria in subsection  
295 (1) and who is ordered to be detained under that subsection shall  
296 be given a hearing within 24 hours after being taken into  
297 custody. The purpose of the detention hearing is to determine the  
298 existence of probable cause that the child has committed the  
299 delinquent act or violation of law that he or she is charged with  
300 and the need for continued detention. Unless a child is detained  
301 under paragraph (1) (a), paragraph (1) (b), paragraph (1) (f) ~~(d)~~, or  
302 paragraph (1) (g) ~~(e)~~, the court shall use the results of the risk  
303 assessment performed by the juvenile probation officer and, based  
304 on the criteria in subsection (1), shall determine the need for  
305 continued detention. A child placed into secure, nonsecure, or  
306 home detention care may continue to be so detained by the court.  
307 A child detained under paragraph (1) (a) or paragraph (1) (b) may  
308 be placed into secure detention care pending placement in a  
309 residential facility.

310 (b) If the court orders a placement more restrictive than  
311 indicated by the results of the risk assessment instrument, the  
312 court shall state, in writing, clear and convincing reasons for  
313 such placement.

314 (c) Except as provided in paragraph (1) (a), paragraph  
315 (1) (b), s. 790.22 (8), or ~~in~~ s. 985.27, when a child is placed  
316 into secure or nonsecure detention care, or into a respite home  
317 or other placement pursuant to a court order following a hearing,  
318 the court order must include specific instructions that direct  
319 the release of the child from such placement no later than 5 p.m.

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320 on the last day of the detention period specified in s. 985.26 or  
321 s. 985.27, whichever is applicable, unless the requirements of  
322 such applicable provision have been met or an order of  
323 continuance has been granted under s. 985.26(4).

324 Section 8. Section 985.26, Florida Statutes, is amended to  
325 read:

326 985.26 Length of detention.--

327 (1) A child may not be placed into or held in secure,  
328 nonsecure, or home detention care for longer than 24 hours unless  
329 the court orders such detention care, and the order includes  
330 specific instructions that direct the release of the child from  
331 such detention care, in accordance with s. 985.255. The order  
332 shall be a final order, reviewable by appeal under s. 985.534 and  
333 the Florida Rules of Appellate Procedure. Appeals of such orders  
334 shall take precedence over other appeals and other pending  
335 matters.

336 (2) A child may not be held in secure, nonsecure, or home  
337 detention care under a special detention order for more than 21  
338 days unless an adjudicatory hearing for the case has been  
339 commenced in good faith by the court. However, upon good cause  
340 being shown that the nature of the charge requires additional  
341 time for the prosecution or defense of the case, the court may  
342 extend the length of detention for an additional 9 days if the  
343 child is charged with an offense that would be, if committed by  
344 an adult, a capital felony, a life felony, a felony of the first  
345 degree, or a felony of the second degree involving violence  
346 against any individual. For purposes of this subsection, if a  
347 child is released, the child must comply with all conditions of  
348 preadjudicatory release set by the circuit court.

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

352 (4) The time limits in subsections (2) and (3) do not  
353 include periods of delay resulting from a continuance granted by  
354 the court for cause on motion of the child or his or her counsel  
355 or of the state. Upon the issuance of an order granting a  
356 continuance for cause on a motion by either the child, the  
357 child's counsel, or the state, the court shall conduct a hearing  
358 at the end of each 72-hour period, excluding Saturdays, Sundays,  
359 and legal holidays, to determine the need for continued detention  
360 of the child and the need for further continuance of proceedings  
361 for the child or the state.

362 (5) The time limits required under this section do not  
363 apply to children held in secure detention care pursuant to ss.  
364 985.255(1) and (3), 985.27(1)(a) and (b), and 985.28.

365 (6)~~(5)~~ A child who was not in secure detention care at the  
366 time of the adjudicatory hearing, but for whom residential  
367 commitment is anticipated or recommended, may be placed under a  
368 special detention order for a period not to exceed 72 hours,  
369 excluding weekends and legal holidays, for the purpose of  
370 conducting a comprehensive evaluation as provided in s. 985.185.  
371 Motions for the issuance of such special detention order may be  
372 made subsequent to a finding of delinquency. Upon said motion,  
373 the court shall conduct a hearing to determine the  
374 appropriateness of such special detention order and shall order  
375 the least restrictive level of detention care necessary to  
376 complete the comprehensive evaluation process that is consistent  
377 with public safety. Such special detention order may be extended

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378 for an additional 72 hours upon further order of the court.

379 ~~(7)(6)~~ If a child is detained and a petition for  
380 delinquency is filed, the child shall be arraigned in accordance  
381 with the Florida Rules of Juvenile Procedure within 48 hours  
382 after the filing of the petition for delinquency.

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

385 985.265 Detention transfer and release; education; adult  
386 jails.--

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

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

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

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

402 985.27 Postcommitment detention while awaiting placement.--

403 (1) The court must place all children who are adjudicated  
404 and awaiting placement in a commitment program in secure  
405 detention care, home detention care, or nonsecure detention care.  
406 Children who are in home detention care or nonsecure detention

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407 care may be placed on electronic monitoring.

408 (a) A child who is awaiting placement in a low-risk  
409 residential program must be removed from detention within 5 days,  
410 excluding Saturdays, Sundays, and legal holidays. Any child held  
411 in secure detention during the 5 days must meet detention  
412 admission criteria under this part. A child who is placed in home  
413 detention care, nonsecure detention care, or home or nonsecure  
414 detention care with electronic monitoring, while awaiting  
415 placement in a minimum-risk or low-risk program, may be held in  
416 secure detention care for 5 days, if the child violates the  
417 conditions of the home detention care, the nonsecure detention  
418 care, or the electronic monitoring agreement. For any subsequent  
419 violation, the court may impose an additional 15 ~~5~~ days,  
420 excluding Saturdays, Sundays, and legal holidays, in secure  
421 detention care.

422 (b) 1. A child who is awaiting placement in a moderate-risk  
423 residential program must be placed in secure detention care, home  
424 detention care, or nonsecure detention care. Any child held in  
425 secure detention care must meet detention admission criteria  
426 under this part.

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

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

435 b. Probable cause exists that a child committed a new

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436 violation of law while on home detention care, nonsecure  
437 detention care, or electronic monitoring and the child is  
438 awaiting placement in a residential program. A child who is  
439 ~~awaiting placement in a moderate-risk residential program must be~~  
440 ~~removed from detention within 5 days, excluding Saturdays,~~  
441 ~~Sundays, and legal holidays. Any child held in secure detention~~  
442 ~~during the 5 days must meet detention admission criteria under~~  
443 ~~this part. The department may seek an order from the court~~  
444 ~~authorizing continued detention for a specific period of time~~  
445 ~~necessary for the appropriate residential placement of the child.~~  
446 ~~However, such continued detention in secure detention care may~~  
447 ~~not exceed 15 days after entry of the commitment order, excluding~~  
448 ~~Saturdays, Sundays, and legal holidays, and except as otherwise~~  
449 ~~provided in this section. A child who is placed in home detention~~  
450 ~~care, nonsecure detention care, or home or nonsecure detention~~  
451 ~~care with electronic monitoring, while awaiting placement in a~~  
452 ~~moderate-risk program, may be held in secure detention care for 5~~  
453 ~~days, if the child violates the conditions of the home detention~~  
454 ~~care, the nonsecure detention care, or the electronic monitoring~~  
455 ~~agreement. For any subsequent violation, the court may impose an~~  
456 ~~additional 5 days in secure detention care.~~

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

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

463 Section 11. Section 985.28, Florida Statutes, is created to  
464 read:



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465 985.28 Appearance in court; preadjudicatory detention;  
466 contempt.--

467 (1) A child may be held in secure detention care if, after  
468 proper notice, the child fails to appear in court because the  
469 child refuses to appear, runs away, or otherwise intentionally  
470 avoids his or her appearance. The court may hold the child in  
471 secure detention care until the trial concludes, regardless of  
472 the results of the risk assessment instrument.

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

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

479 985.35 Adjudicatory hearings; withheld adjudications;  
480 orders of adjudication.--

481 (1) The adjudicatory hearing must be held as soon as  
482 practicable after the petition alleging that a child has  
483 committed a delinquent act or violation of law is filed and in  
484 accordance with the Florida Rules of Juvenile Procedure; but  
485 reasonable delay for the purpose of investigation, discovery, or  
486 procuring counsel or witnesses shall be granted. If the child is  
487 being detained, the time limitations in s. 985.26(2) ~~and (3)~~  
488 apply.

489 Section 13. Paragraph (c) of subsection (1) of section  
490 985.43, Florida Statutes, is amended, and subsection (4) is added  
491 to that section, to read:

492 985.43 Predisposition reports; other evaluations.--

493 (1) Upon a finding that the child has committed a

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494 delinquent act:

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

500 (4) The Legislature finds that the court is in the best  
501 position to weigh all facts and circumstances to determine  
502 whether or not to commit a juvenile to the department and to  
503 determine the most appropriate restrictiveness level for a  
504 juvenile committed to the department.

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

507 985.433 Disposition hearings in delinquency cases.--When a  
508 child has been found to have committed a delinquent act, the  
509 following procedures shall be applicable to the disposition of  
510 the case:

511 (7) If the court determines that the child should be  
512 adjudicated as having committed a delinquent act and should be  
513 committed to the department, such determination shall be in  
514 writing or on the record of the hearing. The determination shall  
515 include a specific finding of the reasons for the decision to  
516 adjudicate and to commit the child to the department, including  
517 any determination that the child was a member of a criminal  
518 street gang.

519 (a) The juvenile probation officer shall make a  
520 recommendation to the court concerning placement and any proposed  
521 treatment plan ~~recommend to the court the most appropriate~~  
522 ~~placement and treatment plan, specifically identifying the~~

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523 ~~restrictiveness level most appropriate for the child.~~ If the  
524 court has determined that the child was a member of a criminal  
525 street gang, that determination shall be given great weight in  
526 identifying the most appropriate restrictiveness level for the  
527 child. The court shall consider the department's recommendation  
528 in making its commitment decision.

529 (b) The court may ~~shall~~ commit the child to the department  
530 at the restrictiveness level identified by the department, or the  
531 court may order placement at a different restrictiveness level.  
532 The court may determine the disposition on the same factors as  
533 the department considered in the department's predisposition  
534 report and placement recommendation even if the court reaches a  
535 different conclusion. The court may commit the child to a  
536 different restrictiveness level than recommended by the  
537 department. The court shall state for the record the reasons for  
538 the disposition imposed ~~that establish by a preponderance of the~~  
539 ~~evidence why the court is disregarding the assessment of the~~  
540 ~~child and the restrictiveness level recommended by the~~  
541 ~~department.~~ Any party may appeal the court's findings resulting  
542 in a modified level of restrictiveness under this paragraph. The  
543 department shall maintain data to identify the extent to which  
544 the courts agree with the department's recommendation.

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

547 985.439 Violation of probation or postcommitment  
548 probation.--

549 (2) A child taken into custody under s. 985.101 for  
550 violating the conditions of probation or postcommitment probation  
551 shall be held in a consequence unit if such a unit is available

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552 or may be detained under part V in a facility other than a  
553 consequence unit if one is not available. The child shall be  
554 afforded a hearing within 24 hours after being taken into custody  
555 to determine the existence of probable cause that the child  
556 violated the conditions of probation or postcommitment probation.  
557 A consequence unit is a secure facility specifically designated  
558 by the department for children who are taken into custody under  
559 s. 985.101 for violating probation or postcommitment probation,  
560 or who have been found by the court to have violated the  
561 conditions of probation or postcommitment probation. If the  
562 violation involves a new charge of delinquency, the child may be  
563 detained under part V in a facility other than a consequence  
564 unit. If the child is not eligible for detention for the new  
565 charge of delinquency, the child may be held in the consequence  
566 unit pending a hearing and is subject to the time limitations  
567 specified in part V.

568 Section 16. Section 938.20, Florida Statutes, is created to  
569 read:

570 938.20 County juvenile crime prevention fund.--

571 (1) Notwithstanding s. 318.121, and in addition to ss.  
572 938.19 and 939.185, in each county the board of county  
573 commissioners may adopt a mandatory court cost to be assessed in  
574 specific cases by incorporating by reference the provisions of  
575 this section in a county ordinance. Assessments collected by the  
576 clerk of the circuit court under this section shall be deposited  
577 into an account specifically for the administration of the  
578 county's juvenile crime prevention fund. The proceeds of the  
579 county's juvenile crime prevention fund shall be used only to  
580 fund local programs whose principal focus is the prevention of

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581 juvenile crime, the creation of consequence or suspension  
582 centers, and truancy programs and other areas of local concern  
583 relating to juvenile crime.

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

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

593 (4) (a) The clerk of the circuit court shall collect the  
594 assessments for court costs under this section and shall remit  
595 the assessments to the county's juvenile crime prevention fund  
596 monthly.

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

600 (5) A county's juvenile crime prevention fund must account  
601 for all funds received and disbursed under this section in a  
602 written report to the board of county commissioners of that  
603 county. The report must be given to the commissioners by August 1  
604 of each year unless a different date is required by the  
605 commissioners.

606 (6) A county's juvenile crime prevention fund may be  
607 administered by a nonprofit organization, a law enforcement  
608 agency, the court administrator, the clerk of the circuit court,  
609 a county agency, or another similar agency authorized by the

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610 board of county commissioners of that county.

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

613 790.22 Use of BB guns, air or gas-operated guns, or  
614 electric weapons or devices by minor under 16; limitation;  
615 possession of firearms by minor under 18 prohibited; penalties.--

616 (8) Notwithstanding s. 985.24 or s. 985.25(1), if a minor  
617 under 18 years of age is charged with an offense that involves  
618 the use or possession of a firearm, as defined in s. 790.001,  
619 including a violation of subsection (3), or is charged for any  
620 offense during the commission of which the minor possessed a  
621 firearm, the minor shall be detained in secure detention, unless  
622 the state attorney authorizes the release of the minor, and shall  
623 be given a hearing within 24 hours after being taken into  
624 custody. At the hearing, the court may order that the minor  
625 continue to be held in secure detention in accordance with the  
626 applicable time periods specified in s. 985.26(1)-(6)~~(1)-(5)~~, if  
627 the court finds that the minor meets the criteria specified in s.  
628 985.255, or if the court finds by clear and convincing evidence  
629 that the minor is a clear and present danger to himself or  
630 herself or the community. The Department of Juvenile Justice  
631 shall prepare a form for all minors charged under this subsection  
632 that states the period of detention and the relevant demographic  
633 information, including, but not limited to, the sex, age, and  
634 race of the minor; whether or not the minor was represented by  
635 private counsel or a public defender; the current offense; and  
636 the minor's complete prior record, including any pending cases.  
637 The form shall be provided to the judge to be considered when  
638 determining whether the minor should be continued in secure

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639 detention under this subsection. An order placing a minor in  
640 secure detention because the minor is a clear and present danger  
641 to himself or herself or the community must be in writing, must  
642 specify the need for detention and the benefits derived by the  
643 minor or the community by placing the minor in secure detention,  
644 and must include a copy of the form provided by the department.  
645 The Department of Juvenile Justice must send the form, including  
646 a copy of any order, without client-identifying information, to  
647 the Office of Economic and Demographic Research.

648 Section 18. The Legislature determines and declares that  
649 this act fulfills an important state interest.

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