

By Senator Wise

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1 A bill to be entitled
2 An act relating to juvenile justice; amending s.
3 985.35, F.S.; requiring the Department of Juvenile
4 Justice to adopt rules governing the procedures that
5 may be used to restrain a child upon his or her
6 arrival at the courthouse and the length of time a
7 child may be placed in isolation; requiring the
8 department to comply with the Protective Action
9 Response policy whenever mechanical restraints are
10 used; amending s. 985.483, F.S.; conforming a cross-
11 reference; amending s. 985.664, F.S.; requiring that a
12 juvenile justice circuit board and a juvenile justice
13 county council be established in each judicial circuit
14 and county, respectively; providing a purpose for each
15 board and council; requiring the Children and Youth
16 Cabinet to monitor the comprehensive plan of each
17 circuit; requiring a circuit board and county council
18 to enter into a written county or circuit interagency
19 agreement specifying the nature and extent of
20 contributions that each signatory agency will make to
21 achieve the goals of the county or circuit plan;
22 specifying the parties that must be included in the
23 interagency agreement; providing for the sharing of
24 information useful in carrying out the goals of the
25 interagency agreement; requiring each circuit board to
26 prepare an annual report; requiring the annual
27 legislative budget request to reflect the needs of
28 each board and council; providing for membership on
29 the circuit board; requiring the secretary of the

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30 Department of Juvenile Justice to attend quarterly
31 meetings with the chairpersons of the county councils
32 and circuit boards; providing for the content of the
33 meetings; providing for reimbursement for
34 nongovernmental members of circuit boards and county
35 councils; requiring the department to provide legal
36 counsel to advise boards and councils; requiring each
37 circuit board and county council to use due diligence
38 to encourage community participation by using
39 community outreach outlets; amending s. 985.668 F.S.;
40 requiring the department to encourage circuit boards
41 and county councils to propose at least one innovation
42 zone; amending s. 985.676, F.S.; providing that
43 certain specified criteria be used when awarding
44 community juvenile justice partnership grants;
45 allowing the department to extend indefinitely the
46 funding period of a grant under specified
47 circumstances; providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Section 985.35, Florida Statutes, is amended to
52 read:

53 985.35 Adjudicatory hearings; withheld adjudications;
54 orders of adjudication.—

55 (1) The adjudicatory hearing must be held as soon as
56 practicable after the petition alleging that a child has
57 committed a delinquent act or violation of law is filed and in
58 accordance with the Florida Rules of Juvenile Procedure; but

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59 reasonable delay for the purpose of investigation, discovery, or
60 procuring counsel or witnesses shall be granted. If the child is
61 being detained, the time limitations in s. 985.26(2) and (3)
62 apply. The department shall adopt rules governing the procedures
63 for restraining a child upon his or her arrival at the
64 courthouse. The rules must describe when a mechanical device may
65 be used and how long a child may be placed in isolation.

66 (2) Adjudicatory hearings must ~~shall~~ be conducted without a
67 jury by the court, applying in delinquency cases the rules of
68 evidence in use in criminal cases; adjourning the hearings from
69 time to time as necessary; and conducting a fundamentally fair
70 hearing in language understandable, to the fullest extent
71 practicable, to the child before the court.

72 (a) In a hearing on a petition alleging that a child has
73 committed a delinquent act or violation of law, the evidence
74 must establish the findings beyond a reasonable doubt.

75 (b) The child is entitled to the opportunity to introduce
76 evidence and otherwise be heard in the child's own behalf and to
77 cross-examine witnesses.

78 (c) A child charged with a delinquent act or violation of
79 law must be afforded all rights against self-incrimination.
80 Evidence illegally seized or obtained may not be received to
81 establish the allegations against the child.

82 (3) The department must comply with the Protective Action
83 Response policy adopted pursuant to s. 985.645(2) whenever
84 mechanical restraints are used.

85 (4) ~~(3)~~ If the court finds that the child named in a
86 petition has not committed a delinquent act or violation of law,
87 it shall enter an order so finding and dismissing the case.

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88 (5)~~(4)~~ If the court finds that the child named in the
89 petition has committed a delinquent act or violation of law, it
90 may, in its discretion, enter an order stating the facts upon
91 which its finding is based but withholding adjudication of
92 delinquency.

93 (a) Upon withholding adjudication of delinquency, the court
94 may place the child in a probation program under the supervision
95 of the department or under the supervision of any other person
96 or agency specifically authorized and appointed by the court.
97 The court may, as a condition of the program, impose as a
98 penalty component restitution in money or in kind, community
99 service, a curfew, urine monitoring, revocation or suspension of
100 the driver's license of the child, or other nonresidential
101 punishment appropriate to the offense, and may impose as a
102 rehabilitative component a requirement of participation in
103 substance abuse treatment, or school or other educational
104 program attendance.

105 (b) If the child is attending public school and the court
106 finds that the victim or a sibling of the victim in the case was
107 assigned to attend or is eligible to attend the same school as
108 the child, the court order shall include a finding pursuant to
109 the proceedings described in s. 985.455, regardless of whether
110 adjudication is withheld.

111 (c) If the court later finds that the child has not
112 complied with the rules, restrictions, or conditions of the
113 community-based program, the court may, after a hearing to
114 establish the lack of compliance, but without further evidence
115 of the state of delinquency, enter an adjudication of
116 delinquency and shall thereafter have full authority under this

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117 chapter to deal with the child as adjudicated.

118 (6)~~(5)~~ If the court finds that the child named in a
119 petition has committed a delinquent act or violation of law, but
120 elects not to proceed under subsection (5) ~~(4)~~, it shall
121 incorporate that finding in an order of adjudication of
122 delinquency entered in the case, briefly stating the facts upon
123 which the finding is made, and the court shall thereafter have
124 full authority under this chapter to deal with the child as
125 adjudicated.

126 (7)~~(6)~~ Except as the term "conviction" is used in chapter
127 322, and except for use in a subsequent proceeding under this
128 chapter, an adjudication of delinquency by a court with respect
129 to any child who has committed a delinquent act or violation of
130 law shall not be deemed a conviction; nor shall the child be
131 deemed to have been found guilty or to be a criminal by reason
132 of that adjudication; nor shall that adjudication operate to
133 impose upon the child any of the civil disabilities ordinarily
134 imposed by or resulting from conviction or to disqualify or
135 prejudice the child in any civil service application or
136 appointment, with the exception of the use of records of
137 proceedings under this chapter as provided in s. 985.045(4).

138 (8)~~(7)~~ Notwithstanding any other provision of law, an
139 adjudication of delinquency for an offense classified as a
140 felony shall disqualify a person from lawfully possessing a
141 firearm until such person reaches 24 years of age.

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

144 985.483 Intensive residential treatment program for
145 offenders less than 13 years of age.—

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146 (2) DETERMINATION.—After a child has been adjudicated
147 delinquent under s. 985.35(6) ~~s. 985.35(5)~~, the court shall
148 determine whether the child is eligible for an intensive
149 residential treatment program for offenders less than 13 years
150 of age under subsection (1). If the court determines that the
151 child does not meet the criteria, ss. 985.435, 985.437, 985.439,
152 985.441, 985.445, 985.45, and 985.455 shall apply.

153 Section 3. Section 985.664, Florida Statutes, is amended to
154 read:

155 985.664 Juvenile justice circuit boards and juvenile
156 justice county councils.—

157 (1) ~~There is authorized~~ A juvenile justice circuit board
158 must ~~to~~ be established in each of the 20 judicial circuits and a
159 juvenile justice county council must ~~to~~ be established in each
160 of the 67 counties. The purpose of each juvenile justice circuit
161 board and each juvenile justice county council is to provide
162 advice and direction to the department in the development and
163 implementation of juvenile justice programs and to work
164 collaboratively with the department, the Department of Children
165 and Family Services, and the Children and Youth Cabinet in
166 seeking program improvements and policy changes to address the
167 emerging and changing needs of Florida's youth who are at risk
168 of delinquency and dependency.

169 (2) Each juvenile justice county council shall develop a
170 juvenile justice prevention and early intervention plan for the
171 county and shall collaborate with the circuit board and other
172 county councils assigned to that circuit in the development of a
173 comprehensive plan for the circuit. The Children and Youth
174 Cabinet shall monitor the local plans and design, direct, and

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175 monitor a statewide plan, which shall be implemented by and
176 through the boards and councils. A circuit board and county
177 council may design programs and projects necessary to accomplish
178 the comprehensive plan for the circuit. Each county council and
179 circuit board must continually monitor the implementation of the
180 comprehensive plan to identify and remedy any situations that
181 may result in minority juveniles' coming in disproportionate
182 contact with the juvenile justice system.

183 (3) Juvenile justice circuit boards and county councils
184 shall also participate in facilitating interagency cooperation
185 and information sharing by entering into a written county or
186 circuit interagency agreement specifying the nature and extent
187 of contributions that each signatory agency will make in order
188 to achieve the goals of the county or circuit plan and their
189 commitment to share any information that is useful in carrying
190 out the goals of the interagency agreement. The interagency
191 agreement must include as parties, at a minimum, local school
192 authorities or representatives, local law enforcement agencies,
193 state attorneys, public defenders, and local representatives of
194 the Department of Juvenile Justice and the Department of
195 Children and Family Services. The agreement must specify how
196 community entities will cooperate, collaborate, and share
197 information to achieve the goals of the juvenile justice
198 prevention and early intervention plan or the comprehensive plan
199 of the circuit. Each circuit board shall provide a forum for the
200 presentation of interagency recommendations and the resolution
201 of any disagreements relating to the contents of the county or
202 circuit interagency agreement or the performance by the parties
203 of their respective obligations under the agreement.

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204 (4) Juvenile justice circuit boards and county councils may
205 apply for and receive public or private grants to be
206 administered by one of the community partners that support one
207 or more components of the county or circuit plan and to be used
208 as otherwise directed in their bylaws. To aid in this process,
209 the department shall provide fiscal agency services for the
210 circuit boards and county councils.

211 (5) Juvenile justice circuit boards and county councils
212 shall advise and assist the department in the evaluation and
213 award of prevention and early intervention grant programs,
214 including the Community Juvenile Justice Partnership Grant
215 program established in s. 985.676 and proceeds from the Invest
216 in Children license plate annual use fees.

217 (6) Each juvenile justice circuit board shall provide an
218 annual report to the department and the Children and Youth
219 Cabinet describing the activities of the circuit board and each
220 of the county councils contained within its circuit. The acting
221 chairs of the circuit board and of each county council within
222 the circuit shall agree on the descriptions of the activities
223 and sign the report. The department may prescribe a format and
224 content requirements for submission of annual reports, and shall
225 present and submit the proposed annual legislative budget
226 request reflecting the required material and fiscal needs of
227 each board and council.

228 (7) Membership of the juvenile justice circuit board may
229 not exceed 18 members, except as provided in subsections (8) and
230 (9). Members must include the state attorney, the public
231 defender, and the chief judge of the circuit, or their
232 respective designees, who shall preside each on a rotating basis

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233 as chair in intervals of 2-year terms. The remaining 15 members
234 of the board must be appointed by the county councils within
235 that circuit. County council members may serve as ex officio
236 members of the circuit board. The board, when possible for
237 purposes of equity, must be composed of an equal number of
238 active members ~~include at least one representative~~ from each
239 county council within the circuit, taking into account the
240 differences in population. In appointing members to the circuit
241 board, the county councils must reflect:

242 (a) The circuit's geography and population distribution.

243 (b) Juvenile justice partners, including, but not limited
244 to, representatives of law enforcement, the school system, and
245 the Department of Children and Family Services.

246 (c) Diversity in the judicial circuit.

247 (d) Representation from residents of high-crime zip code
248 communities as identified by the department and based on
249 referral rates within the communities.

250 (8) At any time after the adoption of initial bylaws
251 pursuant to subsection (12) and absent any county councils
252 formed within a circuit, a juvenile justice circuit board may
253 revise the bylaws to increase the number of members by not more
254 than three in order to adequately reflect the diversity of the
255 population and community organizations or agencies in the
256 circuit.

257 (9) If county councils are not formed within a circuit, the
258 circuit board may establish its membership in accordance with
259 subsection (10) of not more than 18 members. For juvenile
260 justice circuit boards organized pursuant to this subsection,
261 the state attorney, public defender, and chief circuit judge, or

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262 their respective designees, shall be members of the circuit
263 board.

264 (10) Membership of the juvenile justice county councils, or
265 juvenile justice circuit boards established under subsection
266 (9), must include representation from residents of high-crime
267 zip code communities as identified by the department and based
268 on referral rates within the county, and may also include
269 representatives from the following entities:

270 (a) Representatives from the school district, which may
271 include elected school board officials, the school
272 superintendent, school or district administrators, teachers, and
273 counselors.

274 (b) Representatives of the board of county commissioners.

275 (c) Representatives of the governing bodies of local
276 municipalities within the county.

277 (d) A representative of the corresponding circuit or
278 regional entity of the Department of Children and Family
279 Services.

280 (e) Representatives of local law enforcement agencies,
281 including the sheriff or the sheriff's designee.

282 (f) Representatives of the judicial system.

283 (g) Representatives of the business community.

284 (h) Representatives of other interested officials, groups,
285 or entities, including, but not limited to, a children's
286 services council, public or private providers of juvenile
287 justice programs and services, students, parents, and advocates.
288 Private providers of juvenile justice programs may not exceed
289 one-third of the voting membership.

290 (i) Representatives of the faith community.

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291 (j) Representatives of victim-service programs and victims
292 of crimes.

293 (k) Representatives of the Department of Corrections.

294 (11) Each juvenile justice county council, or juvenile
295 justice circuit board established under subsection (9), must
296 provide for the establishment of an executive committee of not
297 more than 10 members. The duties and authority of the executive
298 committee must be addressed in the bylaws.

299 (12) Each juvenile justice circuit board and county council
300 shall develop and adopt bylaws that provide for officers and
301 committees as the board or council deems necessary and shall
302 specify the qualifications, method of selection, ~~and~~ term for
303 each office created, and other rules of procedure for the
304 board's or council's operation, if the bylaws are not
305 inconsistent with federal and state laws or county ordinances.
306 The bylaws shall address at least the following issues: process
307 for appointments to the board or council; election or
308 appointment of officers; filling of vacant positions; duration
309 of member terms; provisions for voting; meeting attendance
310 requirements; and the establishment and duties of an executive
311 committee, if required under subsection (11).

312 (13) Members of juvenile justice circuit boards and county
313 councils are subject to the provisions of part III of chapter
314 112 and s. 11.25. Juvenile justice circuit boards and county
315 councils are state agency units as prescribed by s. 11.135.

316 (14) The secretary of the department shall hold quarterly
317 meetings with the chairs of the juvenile justice boards and
318 councils and the Children and Youth Cabinet in order to:

319 (a) Advise juvenile justice boards and councils of

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320 statewide juvenile justice issues and activities.

321 (b) Provide feedback on budget priorities in the prevention
322 and intervention programs.

323 (c) Obtain input into the strategic planning process.

324 (d) Discuss program development, program implementation,
325 and quality assurance.

326 (15) Nongovernmental members of the juvenile justice
327 circuit boards and county councils shall serve without
328 compensation, unless stated otherwise in the bylaws, but are
329 entitled to receive per diem and travel expenses in accordance
330 with s. 112.061, and all other costs and expenses that may be
331 necessary and required while in performance of their duties
332 under this section. The department shall provide each board and
333 council with an allotted fund for administrating the board's or
334 council's duties. The department shall adopt rules pursuant to
335 s. 985.64 in order to apply for and approve the funds.

336 (16) The department shall provide legal counsel on all
337 internal matters to the boards and councils where necessary as
338 to their duties, responsibilities, and jurisdiction.

339 (17) The boards and councils shall use due diligence in
340 notifying and encouraging the community of public participation
341 and membership through various community outreach outlets, such
342 as community newspapers, churches, and free public
343 announcements.

344 Section 4. Section 985.668, Florida Statutes, is amended to
345 read:

346 985.668 Innovation zones.—The department shall encourage
347 each of the juvenile justice circuit boards and councils to
348 propose at least one innovation zone within the circuit for the

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349 purpose of implementing any experimental, pilot, or
350 demonstration project that furthers the legislatively
351 established goals of the department. An innovation zone is a
352 defined geographic area such as a circuit, commitment region,
353 county, municipality, service delivery area, school campus, or
354 neighborhood providing a laboratory for the research,
355 development, and testing of the applicability and efficacy of
356 model programs, policy options, and new technologies for the
357 department.

358 (1) (a) The juvenile justice circuit board, in conjunction
359 with and with written approval from the county councils, if
360 formed, within its circuit, shall submit a proposal for an
361 innovation zone to the secretary. If the purpose of the proposed
362 innovation zone is to demonstrate that specific statutory goals
363 can be achieved more effectively by using procedures that
364 require modification of existing rules, policies, or procedures,
365 the proposal may request the secretary to waive such existing
366 rules, policies, or procedures or to otherwise authorize use of
367 alternative procedures or practices. Waivers of such existing
368 rules, policies, or procedures must comply with applicable state
369 or federal law.

370 (b) For innovation zone proposals that the secretary
371 determines require changes to state law, the secretary may
372 submit a request for a waiver from such laws, together with any
373 proposed changes to state law, to the chairs of the appropriate
374 legislative committees for consideration.

375 (c) For innovation zone proposals that the secretary
376 determines require waiver of federal law, the secretary may
377 submit a request for such waivers to the applicable federal

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378 agency.

379 (2) An innovation zone project may not have a duration of
380 more than 2 years, but the secretary may grant an extension.

381 (3) Before implementing an innovation zone under this
382 subsection, the secretary shall, in conjunction with the Office
383 of Program Policy Analysis and Government Accountability,
384 develop measurable and valid objectives for such zone within a
385 negotiated reasonable period of time. Moneys designated for an
386 innovation zone in one operating circuit may not be used to fund
387 an innovation zone in another operating circuit.

388 (4) Program models for innovation zone projects include,
389 but are not limited to:

390 (a) A forestry alternative work program that provides
391 selected juvenile offenders an opportunity to serve in a
392 forestry work program as an alternative to incarceration, in
393 which offenders assist in wildland firefighting, enhancement of
394 state land management, environmental enhancement, and land
395 restoration.

396 (b) A collaborative public/private dropout prevention
397 partnership that trains personnel from both the public and
398 private sectors of a target community who are identified and
399 brought into the school system as an additional resource for
400 addressing problems which inhibit and retard learning, including
401 abuse, neglect, financial instability, pregnancy, and substance
402 abuse.

403 (c) A support services program that provides economically
404 disadvantaged youth with support services, jobs, training,
405 counseling, mentoring, and prepaid postsecondary tuition
406 scholarships.

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407 (d) A juvenile offender job training program that offers an
408 opportunity for juvenile offenders to develop educational and
409 job skills in a 12-month to 18-month nonresidential training
410 program, teaching the offenders skills such as computer-aided
411 design, modular panel construction, and heavy vehicle repair and
412 maintenance which will readily transfer to the private sector,
413 thereby promoting responsibility and productivity.

414 (e) An infant mortality prevention program that is designed
415 to discourage unhealthy behaviors such as smoking and alcohol or
416 drug consumption, reduce the incidence of babies born
417 prematurely or with low birth weight, reduce health care cost by
418 enabling babies to be safely discharged earlier from the
419 hospital, reduce the incidence of child abuse and neglect, and
420 improve parenting and problem-solving skills.

421 (f) A regional crime prevention and intervention program
422 that serves as an umbrella agency to coordinate and replicate
423 existing services to at-risk children, first-time juvenile
424 offenders, youth crime victims, and school dropouts.

425 (g) An alternative education outreach school program that
426 serves delinquent repeat offenders between 14 and 18 years of
427 age who have demonstrated failure in school and who are referred
428 by the juvenile court.

429 (h) A drug treatment and prevention program that provides
430 early identification of children with alcohol or drug problems
431 to facilitate treatment, comprehensive screening and assessment,
432 family involvement, and placement options.

433 (i) A community resource mother or father program that
434 emphasizes parental responsibility for the behavior of children,
435 and requires the availability of counseling services for

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436 children at high risk for delinquent behavior.

437 Section 5. Paragraph (b) of subsection (1), paragraph (a)
438 of subsection (2), and subsection (3) of section 985.676,
439 Florida Statutes, are amended to read:

440 985.676 Community juvenile justice partnership grants.—

441 (1) GRANTS; CRITERIA.—

442 (b) In awarding these grants, the department shall consider
443 applications that at a minimum provide for the following:

444 1. The participation of the agencies and programs needed to
445 implement the project or program for which the applicant is
446 applying;

447 2. The reduction of truancy and in-school and out-of-school
448 suspensions and expulsions, the enhancement of school safety,
449 and other delinquency early-intervention and diversion services;

450 3. The number of youths from 10 through 17 years of age
451 within the geographic area to be served by the program, giving
452 those geographic areas having the highest number of youths from
453 10 to 17 years of age priority for selection;

454 4. The extent to which the program targets high-juvenile-
455 crime neighborhoods and those public schools serving juveniles
456 from high-crime neighborhoods;

457 5. The validity and cost-effectiveness of the program; ~~and~~

458 6. The degree to which the program is located in and
459 managed by local leaders of the target neighborhoods and public
460 schools serving the target neighborhoods; and—

461 7. The development and implementation of the goals of the
462 local juvenile justice county council or circuit board and the
463 Children and Youth Cabinet, along with other departmental
464 purposes.

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465 (2) GRANT APPLICATION PROCEDURES.—

466 (a) Each entity wishing to apply for an annual community
467 juvenile justice partnership grant, which may be renewed for a
468 maximum of 2 additional years for the same provision of
469 services, unless subject to extension as prescribed under
470 subsection (3), shall submit a grant proposal for funding or
471 continued funding to the department. The department shall
472 establish the grant application procedures. In order to be
473 considered for funding, the grant proposal shall include the
474 following assurances and information:

475 1. A letter from each ~~the~~ chair of the juvenile justice
476 circuit board and council confirming that the grant application
477 has been reviewed and found to support one or more purposes or
478 goals of the juvenile justice plan as developed by the board.

479 2. A rationale and description of the program and the
480 services to be provided, including goals and objectives.

481 3. A method for identification of the juveniles most likely
482 to be involved in the juvenile justice system who will be the
483 focus of the program.

484 4. Provisions for the participation of parents and
485 guardians in the program.

486 5. Coordination with other community-based and social
487 service prevention efforts, including, but not limited to, drug
488 and alcohol abuse prevention and dropout prevention programs,
489 that serve the target population or neighborhood.

490 6. An evaluation component to measure the effectiveness of
491 the program in accordance with s. 985.632.

492 7. A program budget, including the amount and sources of
493 local cash and in-kind resources committed to the budget. The

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494 proposal must establish to the satisfaction of the department
495 that the entity will make a cash or in-kind contribution to the
496 program of a value that is at least equal to 20 percent of the
497 amount of the grant.

498 8. The necessary program staff.

499 (3) RESTRICTIONS.—

500 (a) This section does not prevent a program initiated under
501 a community juvenile justice partnership grant established
502 pursuant to this section from continuing to operate beyond the
503 3-year maximum funding period if it can find other funding
504 sources. Likewise, this section does not restrict the number of
505 programs an entity may apply for or operate.

506 (b) Notwithstanding the 3-year maximum funding period, the
507 department, upon the request of the entity or the recommendation
508 of the affected juvenile justice circuit board or county council
509 and the Children and Youth Cabinet, may indefinitely extend the
510 funding period for the same provision of services if the
511 entity's evaluation report, submitted annually to the department
512 pursuant to paragraph (2) (e), shows that the entity's services
513 in 3 previous years were unique and extraordinary in achieving
514 the goals of the department, the juvenile justice circuit board
515 or county council, or the Children and Youth Cabinet.

516 Section 6. This act shall take effect July 1, 2009.