

1 A bill to be entitled
2 An act relating to juvenile justice; amending s. 394.492,
3 F.S.; including children 9 years of age or younger at the
4 time of referral for delinquency within the definition of
5 those children who are eligible to receive comprehensive
6 mental health services; amending s. 984.03, F.S.;
7 redefining the term "child in need of services" to provide
8 that a child is eligible to receive comprehensive services
9 if the child is 9 years of age or younger at the time of
10 referral for delinquency; amending s. 985.02, F.S.;
11 providing additional legislative findings and intent;
12 directing the Department of Juvenile Justice to focus on
13 the principles of restorative justice; requiring that the
14 department direct services toward at-risk children in
15 order to divert them from the juvenile justice system;
16 amending s. 985.03, F.S.; redefining the term "child in
17 need of services" to provide that a child is eligible to
18 receive comprehensive services if the child is 9 years of
19 age or younger at the time of referral for delinquency;
20 amending s. 985.125, F.S.; encouraging law enforcement
21 agencies, school districts, counties, municipalities and
22 the Department of Juvenile Justice to establish prearrest
23 or postarrest diversion programs for first-time
24 misdemeanor offenders who are 9 years of age or younger;
25 amending s. 985.245, F.S.; modifying the size and
26 composition of the risk assessment committee; requiring
27 that the risk assessment instrument be independently
28 validated; amending s. 985.664, F.S.; authorizing each

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29 juvenile justice circuit board to increase the number of
 30 board members from three to five; providing an effective
 31 date.

32

33 Be It Enacted by the Legislature of the State of Florida:

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35 Section 1. Paragraph (i) is added to subsection (4) of
 36 section 394.492, Florida Statutes, to read:

37 394.492 Definitions.--As used in ss. 394.490-394.497, the
 38 term:

39 (4) "Child or adolescent at risk of emotional disturbance"
 40 means a person under 18 years of age who has an increased
 41 likelihood of becoming emotionally disturbed because of risk
 42 factors that include, but are not limited to:

43 (i) Being 9 years of age or younger at the time of
 44 referral for committing a delinquent act.

45 Section 2. Subsection (9) of section 984.03, Florida
 46 Statutes, is amended to read:

47 984.03 Definitions.--When used in this chapter, the term:

48 (9) "Child in need of services" means a child for whom
 49 there is no pending investigation into an allegation or
 50 suspicion of abuse, neglect, or abandonment; no pending referral
 51 alleging the child is delinquent, except for a child 9 years of
 52 age or younger who is referred to the department; or no current
 53 supervision by the department ~~of Juvenile Justice~~ or the
 54 Department of Children and Family Services for an adjudication
 55 of dependency or delinquency. The child must also, pursuant to
 56 this chapter, be found by the court:

57 (a) To have persistently run away from the child's parents
 58 or legal custodians despite reasonable efforts of the child, the
 59 parents or legal custodians, and appropriate agencies to remedy
 60 the conditions contributing to the behavior. Reasonable efforts
 61 shall include voluntary participation by the child's parents or
 62 legal custodians and the child in family mediation, services,
 63 and treatment offered by the department ~~of Juvenile Justice~~ or
 64 the Department of Children and Family Services;

65 (b) To be habitually truant from school, while subject to
 66 compulsory school attendance, despite reasonable efforts to
 67 remedy the situation pursuant to ss. 1003.26 and 1003.27 and
 68 through voluntary participation by the child's parents or legal
 69 custodians and by the child in family mediation, services, and
 70 treatment offered by the department ~~of Juvenile Justice~~ or the
 71 Department of Children and Family Services; ~~or~~

72 (c) To have persistently disobeyed the reasonable and
 73 lawful demands of the child's parents or legal custodians, and
 74 to be beyond their control despite efforts by the child's
 75 parents or legal custodians and appropriate agencies to remedy
 76 the conditions contributing to the behavior. Reasonable efforts
 77 may include such things as good faith participation in family or
 78 individual counseling; or

79 (d) To be 9 years of age or younger and have been referred
 80 to the department for committing a delinquent act.

81 Section 3. Subsections (9), (10), and (11) are added to
 82 section 985.02, Florida Statutes, to read:

83 985.02 Legislative intent for the juvenile justice
 84 system.--

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85 (9) CHILDREN 9 YEARS OF AGE OR YOUNGER.--The Legislature
86 finds that very young children need age-appropriate services in
87 order to prevent and reduce future acts of delinquency. Children
88 who are 9 years of age or younger, who have been determined by
89 the court to pose no danger to the community and are unlikely to
90 recidivate, should be diverted into prearrest or postarrest
91 programs, civil citation programs, or children-in-need-of-
92 services and families-in-need-of-services programs, as
93 appropriate. If, following a needs assessment, the child is
94 found to be in need of mental health services or substance abuse
95 treatment services, the department shall cooperate with the
96 Department of Children and Family Services to provide the most
97 appropriate services for the child.

98 (10) RESTORATIVE JUSTICE.--

99 (a) It is the intent of the Legislature that the juvenile
100 justice system advance the principles of restorative justice.
101 The department shall focus on repairing the harm to victims of
102 delinquent behavior, ensuring that the child understands the
103 effect of his or her delinquent behavior on the victim and the
104 community, and restoring the loss suffered by the victim. The
105 department shall ensure that victims of juvenile crime are
106 afforded all rights as enumerated in the State Constitution,
107 chapter 960, and this chapter.

108 (b) Offender accountability is one of the basic principles
109 of restorative justice. The premise of this principle is that
110 the juvenile justice system must respond to delinquent behavior
111 in such a way that the offender is made aware of and takes
112 responsibility for repaying or restoring loss, damage, or injury

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113 to the victim and the community. This goal is achieved when the
114 offender understands the consequences of delinquent behavior in
115 terms of harm to others, and when the offender compensates for
116 the harm, loss, or damage through restitution, community
117 service, or other appropriate payback.

118 (11) IMPLEMENTATION OF PREVENTION AND DIVERSION
119 INITIATIVES.--The Legislature finds that the leadership role of
120 community stakeholders and citizens is invaluable to any effort
121 aimed at reducing juvenile delinquency and of the contact of at-
122 risk youth with the juvenile justice system. Services must be
123 directed toward youth who reside in communities that generate
124 the most juvenile delinquency referrals to the juvenile justice
125 system. Prevention and diversion initiatives serve at-risk youth
126 best when facilitated by community or faith-based organizations
127 that do not benefit financially from the delivery or
128 facilitation of these services, and which are designed to
129 prevent at-risk youth from entering the justice system. State
130 entities that comprise the justice system are encouraged to
131 maintain an active role in supporting the localized planning and
132 implementation efforts of community organizations which seek to
133 reduce juvenile delinquency. For purposes of this subsection,
134 term "at-risk youth" means that identified portion of
135 adjudicated youth who, whether based on age, gender, ethnicity,
136 or socioeconomic status, are numerically overrepresented in the
137 juvenile justice system. For the purpose of this subsection, the
138 term "overrepresented" means a condition whereby a larger
139 proportion of a particular group is present at various stages of
140 the juvenile justice system than would be expected based on the

141 percentage of youth in the state's overall youth population.

142 Section 4. Subsection (7) of section 985.03, Florida
 143 Statutes, is amended to read:

144 985.03 Definitions.--As used in this chapter, the term:

145 (7) "Child in need of services" means a child for whom
 146 there is no pending investigation into an allegation or
 147 suspicion of abuse, neglect, or abandonment; no pending referral
 148 alleging the child is delinquent, except for a child 9 years of
 149 age or younger who is referred to the department; or no current
 150 supervision by the department or the Department of Children and
 151 Family Services for an adjudication of dependency or
 152 delinquency. The child must also, under this chapter, be found
 153 by the court:

154 (a) To have persistently run away from the child's parents
 155 or legal custodians despite reasonable efforts of the child, the
 156 parents or legal custodians, and appropriate agencies to remedy
 157 the conditions contributing to the behavior. Reasonable efforts
 158 shall include voluntary participation by the child's parents or
 159 legal custodians and the child in family mediation, services,
 160 and treatment offered by the department or the Department of
 161 Children and Family Services;

162 (b) To be habitually truant from school, while subject to
 163 compulsory school attendance, despite reasonable efforts to
 164 remedy the situation under ss. 1003.26 and 1003.27 and through
 165 voluntary participation by the child's parents or legal
 166 custodians and by the child in family mediation, services, and
 167 treatment offered by the department ~~of Juvenile Justice~~ or the
 168 Department of Children and Family Services; ~~or~~

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169 (c) To have persistently disobeyed the reasonable and
 170 lawful demands of the child's parents or legal custodians, and
 171 to be beyond their control despite efforts by the child's
 172 parents or legal custodians and appropriate agencies to remedy
 173 the conditions contributing to the behavior. Reasonable efforts
 174 may include such things as good faith participation in family or
 175 individual counseling; or

176 (d) To be 9 years of age or younger and have been referred
 177 to the department for committing a delinquent act.

178 Section 5. Subsection (1) of section 985.125, Florida
 179 Statutes, is amended to read:

180 985.125 Prearrest or postarrest diversion programs.--

181 (1) A law enforcement agency, ~~or~~ school district, county,
 182 municipality, or the department, in cooperation with the state
 183 attorney, is encouraged to ~~may~~ establish a prearrest or
 184 postarrest diversion programs for first-time misdemeanor
 185 offenders and offenders who are 9 years of age or younger
 186 ~~program.~~

187 Section 6. Subsection (2) of section 985.245, Florida
 188 Statutes, is amended to read:

189 985.245 Risk assessment instrument.--

190 (2)(a) The risk assessment instrument for detention care
 191 placement determinations and court orders shall be developed by
 192 the department in agreement with a committee composed of two
 193 ~~representatives appointed by the following associations: the~~
 194 Conference of Circuit Judges of Florida, the Prosecuting
 195 Attorneys Association, the Public Defenders Association, the
 196 Florida Sheriffs Association, and the Florida Association of

197 Chiefs of Police. Each association shall appoint two
 198 individuals, one representing an urban area and one representing
 199 a rural area. The committee must also include two
 200 representatives from child advocacy organizations appointed by
 201 the secretary of the department. The parties involved shall
 202 evaluate and revise the risk assessment instrument as is
 203 considered necessary using the method for revision as agreed by
 204 the parties.

205 (b) The risk assessment instrument shall take into
 206 consideration, but need not be limited to, prior history of
 207 failure to appear, prior offenses, offenses committed pending
 208 adjudication, any unlawful possession of a firearm, theft of a
 209 motor vehicle or possession of a stolen motor vehicle, and
 210 probation status at the time the child is taken into custody.
 211 The risk assessment instrument shall also take into
 212 consideration appropriate aggravating and mitigating
 213 circumstances, ~~and shall~~ be designed to identify target a
 214 narrower population of children than the population identified
 215 under s. 985.255. The risk assessment instrument shall also
 216 include any information concerning the child's history of abuse
 217 and neglect. The risk assessment shall indicate whether
 218 detention care is warranted, and, if detention care is
 219 warranted, whether the child should be placed into secure,
 220 nonsecure, or home detention care.

221 (c) The risk assessment instrument shall be independently
 222 validated. The department shall review the population, policies,
 223 and procedures affecting the use of detention every 7 years and
 224 determine the necessity of revalidating the risk assessment

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225 instrument. Validation shall include an assessment of the
226 effectiveness of the instrument's ability to measure the risk
227 that the child will commit a repeat offense or fail to appear
228 for court proceedings. The risk assessment instrument shall also
229 be evaluated to determine if the instrument contributes to
230 disproportionate minority contact.

231 Section 7. Subsection (8) of section 985.664, Florida
232 Statutes, is amended to read:

233 985.664 Juvenile justice circuit boards and juvenile
234 justice county councils.--

235 (8) At any time after the adoption of initial bylaws
236 pursuant to subsection (12), a juvenile justice circuit board
237 may revise the bylaws to increase the number of members by not
238 more than five ~~three~~ in order to adequately reflect the
239 diversity of the population and community organizations or
240 agencies in the circuit.

241 Section 8. This act shall take effect July 1, 2009.