

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 for children charged with  
11          specified acts or who have previously been charged with or  
12          committed delinquent acts; providing examples of such  
13          conditions; amending s. 985.101, F.S.; permitting a child  
14          to be taken into custody for violations of preadjudicatory  
15          release conditions; providing that conditions of  
16          preadjudicatory release may not be used to impose home  
17          detention when not otherwise authorized; amending s.  
18          985.24, F.S.; providing an additional finding to support  
19          the use of secure, nonsecure, or home detention care;  
20          amending s. 985.245, F.S.; providing that placement in  
21          detention care under a specified provision does not  
22          require a risk assessment; amending s. 985.25, F.S.;  
23          providing additional grounds for placement of a child in  
24          secure detention care; amending s. 985.255, F.S.;  
25          providing for continuing home or nonsecure or home  
26          detention care or secure detention care prior to a  
27          detention hearing in certain circumstances; amending s.  
28          985.26, F.S.; requiring that children who have been

29 released comply with preadjudicatory release conditions;  
30 providing that certain time limits do not apply to secure  
31 detention under specified provisions; amending s. 985.265,  
32 F.S.; specifying some changed circumstances that permit  
33 the Department of Juvenile Justice to transfer a child  
34 from home or nonsecure or home detention care to secure  
35 detention care; amending s. 985.27, F.S.; specifying  
36 circumstances under which a child who is awaiting  
37 placement in a low-risk or minimum-risk residential  
38 program may be held in secure detention care; providing  
39 time limits on such detention care; providing for secure  
40 detention care for absconders from specified types of  
41 care; revising provisions for detention care of a child  
42 awaiting placement in a moderate-risk residential program;  
43 providing for secure detention care in specified  
44 circumstances; creating s. 985.28, F.S.; providing for  
45 secure detention of a child in specified circumstances;  
46 permitting a parent or legal guardian of a child to be  
47 held in contempt of court if he or she knowingly and  
48 willfully fails to bring or otherwise prevents the child  
49 from appearing for trial; amending s. 985.35, F.S.;  
50 conforming a cross-reference to changes made by the act;  
51 amending s. 985.43, F.S.; conforming a cross-reference to  
52 changes made by the act; providing a legislative  
53 declaration concerning the determination whether to commit  
54 a juvenile to the department and the most appropriate  
55 placement level if the juvenile is committed; amending s.  
56 985.433, F.S.; revising provisions relating to

57 | recommendations by probation officers to the court  
 58 | concerning placement and any proposed treatment plan of  
 59 | juveniles; specifying that the court has the power to  
 60 | determine appropriate dispositions; requiring that reasons  
 61 | for a disposition be stated for the record; amending s.  
 62 | 985.439, F.S.; permitting a child to be detained in a  
 63 | facility other than a consequence unit if one is not  
 64 | available for a violation of probation or postcommitment  
 65 | probation under specified provisions; creating s. 938.20,  
 66 | F.S.; permitting each county to create a juvenile crime  
 67 | prevention fund; providing for an additional court cost;  
 68 | providing for administration and use of funds; amending s.  
 69 | 790.22, F.S.; conforming a cross-reference; providing that  
 70 | the act fulfills an important state interest; providing  
 71 | legislative intent; providing an effective date.

72 |  
 73 | Be It Enacted by the Legislature of the State of Florida:

74 |  
 75 | Section 1. Paragraph (i) of subsection (5) of section  
 76 | 985.0301, Florida Statutes, is amended to read:

77 | 985.0301 Jurisdiction.--

78 | (5)

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

81 | 1. The court has ordered to pay restitution until the  
 82 | restitution order is satisfied. ~~To retain jurisdiction,~~ The  
 83 | court shall enter a restitution order, which is separate from  
 84 | any disposition or order of commitment, on or prior to the date

CS/HB 173

2009

85 that the court's jurisdiction would cease under this section.  
86 The contents of the restitution order shall be limited to the  
87 child's name and address, the name and address of the parent or  
88 legal guardian, the name and address of the payee, the case  
89 number, the date and amount of restitution ordered, any amount  
90 of restitution paid, the amount of restitution due and owing,  
91 and a notation that costs, interest, penalties, and attorney's  
92 fees may also be due and owing. The terms of the restitution  
93 order are subject to s. 775.089(5).

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

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

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

112 985.031 Preadjudicatory release; circuit court

CS/HB 173

2009

113 authority.--The circuit court shall have the authority to set  
114 reasonable conditions of preadjudicatory release for a child  
115 charged with the commission of a delinquent act which  
116 constitutes a felony or when the child has previously been  
117 charged with or found to have committed, regardless of  
118 adjudication, a delinquent act. The child shall comply with all  
119 such preadjudicatory release conditions prior to an adjudicatory  
120 hearing. Reasonable conditions of preadjudicatory release may  
121 include, but are not limited to, the following:

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

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

124 (3) The child shall not possess or use any alcoholic  
125 beverage or illegal drug or associate with those who are  
126 currently possessing or using any alcoholic beverage or illegal  
127 drug.

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

129 (5) The child shall attend school regularly, including all  
130 classes.

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

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

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

137 Section 3. Paragraph (d) of subsection (1) of section  
138 985.101, Florida Statutes, is amended to read:

139 985.101 Taking a child into custody; preadjudicatory  
140 release conditions.--

141 (1) A child may be taken into custody under the following  
 142 circumstances:

143 (d) By a law enforcement officer who has probable cause to  
 144 believe that the child is in violation of the conditions of the  
 145 child's preadjudicatory release, conditions of the child's  
 146 probation, home detention, postcommitment probation, or  
 147 conditional release supervision; has absconded from  
 148 nonresidential commitment; or has escaped from residential  
 149 commitment.

150  
 151 Nothing in this subsection shall be construed to allow the  
 152 detention of a child who does not meet the detention criteria in  
 153 part V.

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

156 985.24 Use of detention; prohibitions.--

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

160 (a) Presents a substantial risk of not appearing at a  
 161 subsequent hearing;

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

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

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

169           1. Absconds from home or nonsecure detention care or  
 170 otherwise violates the terms of release; or  
 171           2. There is probable cause to believe that the child has  
 172 committed a new violation of law;  
 173           ~~(e)~~ Has committed contempt of court by:  
 174           1. Intentionally disrupting the administration of the  
 175 court;  
 176           2. Intentionally disobeying a court order; or  
 177           3. Engaging in a punishable act or speech in the court's  
 178 presence which shows disrespect for the authority and dignity of  
 179 the court; or  
 180           ~~(f)~~ Requests protection from imminent bodily harm.  
 181           Section 5. Subsection (1) of section 985.245, Florida  
 182 Statutes, is amended to read:  
 183           985.245 Risk assessment instrument.--  
 184           (1) All determinations and court orders regarding  
 185 placement of a child into detention care shall comply with all  
 186 requirements and criteria provided in this part and shall be  
 187 based on a risk assessment of the child, unless the child is  
 188 placed into detention care as provided in s. 985.255(2) or s.  
 189 985.28.  
 190           Section 6. Paragraph (b) of subsection (1) of section  
 191 985.25, Florida Statutes, is amended to read:  
 192           985.25 Detention intake.--  
 193           (1) The juvenile probation officer shall receive custody  
 194 of a child who has been taken into custody from the law  
 195 enforcement agency and shall review the facts in the law  
 196 enforcement report or probable cause affidavit and make such

197 further inquiry as may be necessary to determine whether  
 198 detention care is required.

199 (b) The juvenile probation officer shall base the decision  
 200 whether ~~or not~~ to place the child into secure detention care,  
 201 home detention care, or nonsecure detention care on an  
 202 assessment of risk in accordance with the risk assessment  
 203 instrument and procedures developed by the department under s.  
 204 985.245. However, a child shall be placed in secure detention  
 205 care if:

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

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

212 3. There is probable cause to believe the child has  
 213 committed a new violation of law while on home or nonsecure  
 214 detention care after adjudication and commitment but before  
 215 placement in a residential facility ~~shall be placed in secure~~  
 216 ~~detention care.~~

217  
 218 Under no circumstances shall the juvenile probation officer or  
 219 the state attorney or law enforcement officer authorize the  
 220 detention of any child in a jail or other facility intended or  
 221 used for the detention of adults, without an order of the court.

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

224 985.255 Detention criteria; detention hearing.--



CS/HB 173

2009

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

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

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

237 (c)~~(a)~~ The child is alleged to be an escapee from a  
238 residential commitment program; or an absconder from a  
239 nonresidential commitment program, a probation program, or  
240 conditional release supervision; or is alleged to have escaped  
241 while being lawfully transported to or from a residential  
242 commitment program.

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

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

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

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

254            (h)~~(f)~~ The child is charged with a capital felony, a life  
 255 felony, a felony of the first degree, a felony of the second  
 256 degree that does not involve a violation of chapter 893, or a  
 257 felony of the third degree that is also a crime of violence,  
 258 including any such offense involving the use or possession of a  
 259 firearm.

260            (i)~~(g)~~ The child is charged with any second degree or  
 261 third degree felony involving a violation of chapter 893 or any  
 262 third degree felony that is not also a crime of violence, and  
 263 the child:

- 264            1. Has a record of failure to appear at court hearings  
 265 after being properly notified in accordance with the Rules of  
 266 Juvenile Procedure;
- 267            2. Has a record of law violations prior to court hearings;
- 268            3. Has already been detained or has been released and is  
 269 awaiting final disposition of the case;
- 270            4. Has a record of violent conduct resulting in physical  
 271 injury to others; or
- 272            5. Is found to have been in possession of a firearm.

273            (j)~~(h)~~ The child is alleged to have violated the  
 274 conditions of the child's probation or conditional release  
 275 supervision. However, a child detained under this paragraph may  
 276 be held only in a consequence unit as provided in s. 985.439. If  
 277 a consequence unit is not available, the child may be placed in  
 278 secure detention care, home detention care, or home detention

279 care with electronic monitoring ~~shall be placed on home~~  
280 ~~detention with electronic monitoring.~~

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

292 (l) ~~(j)~~ The child is detained on a judicial order for  
293 failure to appear and has previously willfully failed to appear,  
294 after proper notice, at two or more court hearings of any nature  
295 on the same case regardless of the results of the risk  
296 assessment instrument. A child may be held in secure detention  
297 for up to 72 hours in advance of the next scheduled court  
298 hearing pursuant to this paragraph. The child's failure to keep  
299 the clerk of court and defense counsel informed of a current and  
300 valid mailing address where the child will receive notice to  
301 appear at court proceedings does not provide an adequate ground  
302 for excusal of the child's nonappearance at the hearings.

303 (3) (a) A child who meets any of the criteria in subsection  
304 (1) and who is ordered to be detained under that subsection  
305 shall be given a hearing within 24 hours after being taken into  
306 custody. The purpose of the detention hearing is to determine

CS/HB 173

2009

307 the existence of probable cause that the child has committed the  
308 delinquent act or violation of law that he or she is charged  
309 with and the need for continued detention. Unless a child is  
310 detained under paragraph (1) (a), paragraph (1) (b), paragraph  
311 (1) (f) ~~(d)~~, or paragraph (1) (g) ~~(e)~~, the court shall use the  
312 results of the risk assessment performed by the juvenile  
313 probation officer and, based on the criteria in subsection (1),  
314 shall determine the need for continued detention. A child placed  
315 into secure, nonsecure, or home detention care may continue to  
316 be so detained by the court. A child detained under paragraph  
317 (1) (a) or paragraph (1) (b) may be placed into secure detention  
318 care pending placement in a residential facility.

319 (c) Except as provided in paragraph (1) (a), paragraph  
320 (1) (b), s. 790.22(8), or in s. 985.27, when a child is placed  
321 into secure or nonsecure detention care, or into a respite home  
322 or other placement pursuant to a court order following a  
323 hearing, the court order must include specific instructions that  
324 direct the release of the child from such placement no later  
325 than 5 p.m. on the last day of the detention period specified in  
326 s. 985.26 or s. 985.27, whichever is applicable, unless the  
327 requirements of such applicable provision have been met or an  
328 order of continuance has been granted under s. 985.26(4).

329 Section 8. Section 985.26, Florida Statutes, is amended to  
330 read:

331 985.26 Length of detention.--

332 (1) A child may not be placed into or held in secure,  
333 nonsecure, or home detention care for longer than 24 hours  
334 unless the court orders such detention care, and the order

335 includes specific instructions that direct the release of the  
336 child from such detention care, in accordance with s. 985.255.  
337 The order shall be a final order, reviewable by appeal under s.  
338 985.534 and the Florida Rules of Appellate Procedure. Appeals of  
339 such orders shall take precedence over other appeals and other  
340 pending matters.

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

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

357 (4) The time limits in subsections (2) and (3) do not  
358 include periods of delay resulting from a continuance granted by  
359 the court for cause on motion of the child or his or her counsel  
360 or of the state. Upon the issuance of an order granting a  
361 continuance for cause on a motion by either the child, the  
362 child's counsel, or the state, the court shall conduct a hearing

CS/HB 173

2009

363 at the end of each 72-hour period, excluding Saturdays, Sundays,  
364 and legal holidays, to determine the need for continued  
365 detention of the child and the need for further continuance of  
366 proceedings for the child or the state.

367 (5) The time limits required under this section do not  
368 apply to children held in secure detention care pursuant to ss.  
369 985.255(1)(a) and (b) and (3), 985.27(1)(a) and (b), and 985.28.

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

384 (7)~~(6)~~ If a child is detained and a petition for  
385 delinquency is filed, the child shall be arraigned in accordance  
386 with the Florida Rules of Juvenile Procedure within 48 hours  
387 after the filing of the petition for delinquency.

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

390 985.265 Detention transfer and release; education; adult  
 391 jails.--

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

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

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

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

407 985.27 Postcommitment detention while awaiting  
 408 placement.--

409 (1) The court must place all children who are adjudicated  
 410 and awaiting placement in a commitment program in secure  
 411 detention care, home detention care, or nonsecure detention  
 412 care. Children who are in home detention care or nonsecure  
 413 detention care may be placed on electronic monitoring.

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

418 detention admission criteria under this part. A child who is  
 419 placed in home detention care, nonsecure detention care, or home  
 420 or nonsecure detention care with electronic monitoring, while  
 421 awaiting placement in a minimum-risk or low-risk program, may be  
 422 held in secure detention care for 5 days, if the child violates  
 423 the conditions of the home detention care, the nonsecure  
 424 detention care, or the electronic monitoring agreement. For any  
 425 subsequent violation, the court may impose an additional 15 ~~5~~  
 426 days, excluding Saturdays, Sundays, and legal holidays, in  
 427 secure detention care.

428 (b)1. A child who is awaiting placement in a moderate-risk  
 429 residential program must be placed in secure detention care,  
 430 home detention care, or nonsecure detention care. Any child held  
 431 in secure detention care must meet detention admission criteria  
 432 under this part.

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

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

441 b. Probable cause exists that a child committed a new  
 442 violation of law while on home detention care, nonsecure  
 443 detention care, or electronic monitoring and the child is  
 444 awaiting placement in a residential program. ~~A child who is~~  
 445 ~~awaiting placement in a moderate-risk residential program must~~



CS/HB 173

2009

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

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

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

470 Section 11. Section 985.28, Florida Statutes, is created  
471 to read:

472 985.28 Appearance in court; preadjudicatory detention;  
473 contempt.--

CS/HB 173

2009

474       (1) A child may be held in secure detention care if, after  
475 proper notice, the child fails to appear in court because the  
476 child refuses to appear, runs away, or otherwise intentionally  
477 avoids his or her appearance. The court may hold the child in  
478 secure detention care until the trial concludes, regardless of  
479 the results of the risk assessment instrument.

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

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

486       985.35 Adjudicatory hearings; withheld adjudications;  
487 orders of adjudication.--

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

496       Section 13. Paragraph (c) of subsection (1) of section  
497 985.43, Florida Statutes, is amended, and subsection (4) is  
498 added to that section, to read:

499       985.43 Predisposition reports; other evaluations.--

500       (1) Upon a finding that the child has committed a  
501 delinquent act:

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

507 (4) The Legislature finds that the court is in the best  
 508 position to weigh all facts and circumstances to determine  
 509 whether or not to commit a juvenile to the department and to  
 510 determine the most appropriate restrictiveness level for a  
 511 juvenile committed to the department.

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

514 985.433 Disposition hearings in delinquency cases.--When a  
 515 child has been found to have committed a delinquent act, the  
 516 following procedures shall be applicable to the disposition of  
 517 the case:

518 (7) If the court determines that the child should be  
 519 adjudicated as having committed a delinquent act and should be  
 520 committed to the department, such determination shall be in  
 521 writing or on the record of the hearing. The determination shall  
 522 include a specific finding of the reasons for the decision to  
 523 adjudicate and to commit the child to the department, including  
 524 any determination that the child was a member of a criminal  
 525 gang.

526 (a) The juvenile probation officer shall make a  
 527 recommendation to the court concerning placement and any  
 528 proposed treatment plan ~~recommend to the court the most~~  
 529 ~~appropriate placement and treatment plan, specifically~~

CS/HB 173

2009

530 ~~identifying the restrictiveness level most appropriate for the~~  
531 ~~child.~~ If the court has determined that the child was a member  
532 of a criminal gang, that determination shall be given great  
533 weight in identifying the most appropriate restrictiveness level  
534 for the child. The court shall consider the department's  
535 recommendation in making its commitment decision.

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

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

554 985.439 Violation of probation or postcommitment  
555 probation.--

556 (2) A child taken into custody under s. 985.101 for  
557 violating the conditions of probation or postcommitment

CS/HB 173

2009

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

575 Section 16. Section 938.20, Florida Statutes, is created  
576 to read:

577 938.20 County juvenile crime prevention fund.--

578 (1) Notwithstanding s. 318.121, and in addition to ss.  
579 938.19 and 939.185, in each county the board of county  
580 commissioners may adopt a mandatory court cost to be assessed in  
581 specific cases by incorporating by reference the provisions of  
582 this section in a county ordinance. Assessments collected by the  
583 clerk of the circuit court under this section shall be deposited  
584 into an account specifically for the administration of the  
585 county's juvenile crime prevention fund. The proceeds of the

586 county's juvenile crime prevention fund shall only be used to  
587 fund local programs whose principal focus is the prevention of  
588 juvenile crime, the creation of consequence or suspension  
589 centers, and truancy programs and such other areas of local  
590 concern relating to juvenile crime.

591 (2) A sum of up to \$50 shall be assessed as a court cost  
592 in the circuit court in the county against each juvenile who  
593 pleads guilty or nolo contendere to, or is found guilty of,  
594 regardless of adjudication, a delinquent act.

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

599 (4) (a) The clerk of the circuit court shall collect the  
600 assessments for court costs under this section and shall remit  
601 the assessments to the county's juvenile crime prevention fund  
602 monthly.

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

606 (5) A county's juvenile crime prevention fund must account  
607 for all funds received and disbursed under this section in a  
608 written report to the board of county commissioners of that  
609 county. The report must be given to the commissioners by August  
610 1 of each year unless a different date is required by the  
611 commissioners.

612 (6) A county's juvenile crime prevention fund may be  
613 administered by a nonprofit organization, a law enforcement

614 agency, the court administrator, the clerk of the circuit court,  
 615 a county agency, or another similar agency authorized by the  
 616 board of county commissioners of that county.

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

619 790.22 Use of BB guns, air or gas-operated guns, or  
 620 electric weapons or devices by minor under 16; limitation;  
 621 possession of firearms by minor under 18 prohibited;  
 622 penalties.--

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

CS/HB 173

2009

642 represented by private counsel or a public defender; the current  
643 offense; and the minor's complete prior record, including any  
644 pending cases. The form shall be provided to the judge to be  
645 considered when determining whether the minor should be  
646 continued in secure detention under this subsection. An order  
647 placing a minor in secure detention because the minor is a clear  
648 and present danger to himself or herself or the community must  
649 be in writing, must specify the need for detention and the  
650 benefits derived by the minor or the community by placing the  
651 minor in secure detention, and must include a copy of the form  
652 provided by the department. The Department of Juvenile Justice  
653 must send the form, including a copy of any order, without  
654 client-identifying information, to the Office of Economic and  
655 Demographic Research.

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

658 Section 19. It is the intent of the Legislature with this  
659 act to ensure public safety and to provide appropriate and  
660 effective treatment to address physical, social, and emotional  
661 needs of juveniles, including, but not limited to, substance  
662 abuse services, mental health services, family counseling, anger  
663 management, other behavioral services, and health care services.

664 Section 20. This act shall take effect July 1, 2009.