

By Senator Crist

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

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30 independently validated; amending s. 985.664, F.S.;

31 authorizing each juvenile justice circuit board to

32 increase the number of board members from three to

33 five; providing an effective date.

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

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37 Section 1. Paragraph (i) is added to subsection (4) of

38 section 394.492, Florida Statutes, to read:

39 394.492 Definitions.—As used in ss. 394.490-394.497, the

40 term:

41 (4) "Child or adolescent at risk of emotional disturbance"

42 means a person under 18 years of age who has an increased

43 likelihood of becoming emotionally disturbed because of risk

44 factors that include, but are not limited to:

45 (i) Being 9 years of age or younger at the time of referral

46 for committing a delinquent act.

47 Section 2. Subsection (9) of section 984.03, Florida

48 Statutes, is amended to read:

49 984.03 Definitions.—When used in this chapter, the term:

50 (9) "Child in need of services" means a child for whom

51 there is no pending investigation into an allegation or

52 suspicion of abuse, neglect, or abandonment; no pending referral

53 alleging the child is delinquent, except for a child 9 years of

54 age or younger who is referred to the department; or no current

55 supervision by the department ~~of Juvenile Justice~~ or the

56 Department of Children and Family Services for an adjudication

57 of dependency or delinquency. The child must also, pursuant to

58 this chapter, be found by the court:

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

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

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

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

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

85 985.02 Legislative intent for the juvenile justice system.—

86 (9) CHILDREN 9 YEARS OF AGE OR YOUNGER.—The Legislature
87 finds that very young children need age-appropriate services in

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

99 (10) RESTORATIVE JUSTICE.—

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

109 (b) Offender accountability is one of the basic principles
110 of restorative justice. The premise of this principle is that
111 the juvenile justice system must respond to delinquent behavior
112 in such a way that the offender is made aware of and takes
113 responsibility for repaying or restoring loss, damage, or injury
114 to the victim and the community. This goal is achieved when the
115 offender understands the consequences of delinquent behavior in
116 terms of harm to others, and when the offender compensates for

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117 the harm, loss, or damage through restitution, community
118 service, or other appropriate reparation.

119 (11) IMPLEMENTATION OF PREVENTION AND DIVERSION

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

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

145 985.03 Definitions.—As used in this chapter, the term:

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

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

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

170 (c) To have persistently disobeyed the reasonable and
171 lawful demands of the child's parents or legal custodians, and
172 to be beyond their control despite efforts by the child's
173 parents or legal custodians and appropriate agencies to remedy
174 the conditions contributing to the behavior. Reasonable efforts

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175 may include such things as good faith participation in family or
176 individual counseling; or

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

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

181 985.125 Prearrest or postarrest diversion programs.—

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

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

190 985.245 Risk assessment instrument.—

191 (2) (a) The risk assessment instrument for detention care
192 placement determinations and court orders shall be developed by
193 the department in agreement with a committee composed of two
194 ~~representatives appointed by the following associations: the~~
195 Conference of Circuit Judges of Florida, the Prosecuting
196 Attorneys Association, the Public Defenders Association, the
197 Florida Sheriffs Association, and the Florida Association of
198 Chiefs of Police. Each association shall appoint two
199 individuals, one representing an urban area and one representing
200 a rural area. The committee must also include two
201 representatives from child advocacy organizations appointed by
202 the secretary of the department. The parties involved shall
203 evaluate and revise the risk assessment instrument as is

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204 considered necessary using the method for revision as agreed by
205 the parties.

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

222 (c) The risk assessment instrument shall be independently
223 validated. The department shall review the population, policies,
224 and procedures affecting the use of detention every 7 years and
225 determine the necessity of revalidating the risk assessment
226 instrument. Validation shall include an assessment of the
227 effectiveness of the instrument's ability to measure the risk
228 that the child will commit a repeat offense or fail to appear
229 for court proceedings. The risk assessment instrument shall also
230 be evaluated to determine if the instrument contributes to
231 disproportionate minority contact.

232 Section 7. Subsection (8) of section 985.664, Florida

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233 Statutes, is amended to read:

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

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

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

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