

By the Committee on Children, Families, and Elder Affairs; and  
Senator Crist

586-04061-09

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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 the  
15          Department of Juvenile Justice to examine and revise  
16          its strategies, policies, and practices whenever a  
17          specific group of youth is overrepresented based upon  
18          their gender, ethnicity, or socioeconomic status in  
19          the juvenile justice system to ensure that all youth  
20          are treated equally; defining the term  
21          "overrepresentation"; amending s. 985.03, F.S.;  
22          redefining the term "child in need of services" to  
23          provide that a child is eligible to receive  
24          comprehensive services if the child is 9 years of age  
25          or younger at the time of referral for delinquency;  
26          amending s. 985.125, F.S.; encouraging law enforcement  
27          agencies, school districts, counties, municipalities,  
28          and the Department of Juvenile Justice to establish  
29          prearrest or postarrest diversion programs for first-

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30 time misdemeanor offenders who are 9 years of age or  
31 younger; amending s. 985.245, F.S.; modifying the size  
32 and composition of the risk assessment committee;  
33 requiring that the risk assessment instrument be  
34 independently validated; amending s. 985.664, F.S.;  
35 authorizing each juvenile justice circuit board to  
36 increase the number of board members from three to  
37 five; providing an effective date.

38  
39 Be It Enacted by the Legislature of the State of Florida:

40  
41 Section 1. Paragraph (i) is added to subsection (4) of  
42 section 394.492, Florida Statutes, to read:

43 394.492 Definitions.—As used in ss. 394.490–394.497, the  
44 term:

45 (4) “Child or adolescent at risk of emotional disturbance”  
46 means a person under 18 years of age who has an increased  
47 likelihood of becoming emotionally disturbed because of risk  
48 factors that include, but are not limited to:

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

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

53 984.03 Definitions.—When used in this chapter, the term:

54 (9) “Child in need of services” means a child for whom  
55 there is no pending investigation into an allegation or  
56 suspicion of abuse, neglect, or abandonment; no pending referral  
57 alleging the child is delinquent, except for a child 9 years of  
58 age or younger who is referred to the department; or no current

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59 supervision by the department ~~of Juvenile Justice~~ or the  
60 Department of Children and Family Services for an adjudication  
61 of dependency or delinquency. The child must also, pursuant to  
62 this chapter, be found by the court:

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

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

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

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

87 Section 3. Subsections (9), (10), and (11) are added to

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88 section 985.02, Florida Statutes, to read:

89 985.02 Legislative intent for the juvenile justice system.-

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

103 (10) RESTORATIVE JUSTICE.-

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

113 (b) Offender accountability is one of the basic principles  
114 of restorative justice. The premise of this principle is that  
115 the juvenile justice system must respond to delinquent behavior  
116 in such a way that the offender is made aware of and takes

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117 responsibility for repaying or restoring loss, damage, or injury  
118 to the victim and the community. This goal is achieved when the  
119 offender understands the consequences of delinquent behavior in  
120 terms of harm to others, and when the offender compensates for  
121 the harm, loss, or damage through restitution, community  
122 service, or other appropriate reparation.

123 (11) OVERREPRESENTATION OF SPECIFIC GROUPS OF YOUTH.—When  
124 specific groups of youth are overrepresented based upon their  
125 gender, ethnicity, or socioeconomic status in the juvenile  
126 justice system, the department shall examine and revise its  
127 strategies, policies, and practices to ensure that all youth are  
128 treated equally, without jeopardizing public safety. The  
129 department shall solicit input from community stakeholders and  
130 affected citizens to assist in the modification of strategies,  
131 policies, and practices to reduce overrepresentation. For the  
132 purpose of this subsection, the term "overrepresented" means a  
133 condition whereby a larger proportion of a particular group of  
134 youth is present at any stage of the juvenile justice system  
135 than would be expected based upon their percentage of the  
136 overall youth population in this state.

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

139 985.03 Definitions.—As used in this chapter, the term:

140 (7) "Child in need of services" means a child for whom  
141 there is no pending investigation into an allegation or  
142 suspicion of abuse, neglect, or abandonment; no pending referral  
143 alleging the child is delinquent, except for a child 9 years of  
144 age or younger who is referred to the department; or no current  
145 supervision by the department or the Department of Children and

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146 Family Services for an adjudication of dependency or  
147 delinquency. The child must also, under this chapter, be found  
148 by the court:

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

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

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

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

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

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175 985.125 Prearrest or postarrest diversion programs.—

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

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

184 985.245 Risk assessment instrument.—

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

200 (b) The risk assessment instrument shall take into  
201 consideration, but need not be limited to, prior history of  
202 failure to appear, prior offenses, offenses committed pending  
203 adjudication, any unlawful possession of a firearm, theft of a

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204 motor vehicle or possession of a stolen motor vehicle, and  
205 probation status at the time the child is taken into custody.  
206 The risk assessment instrument shall also take into  
207 consideration appropriate aggravating and mitigating  
208 circumstances, and ~~shall~~ be designed to identify target a  
209 narrower population of children than the population identified  
210 under s. 985.255. The risk assessment instrument shall also  
211 include any information concerning the child's history of abuse  
212 and neglect. The risk assessment shall indicate whether  
213 detention care is warranted, and, if detention care is  
214 warranted, whether the child should be placed into secure,  
215 nonsecure, or home detention care.

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

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

228 985.664 Juvenile justice circuit boards and juvenile  
229 justice county councils.—

230 (8) At any time after the adoption of initial bylaws  
231 pursuant to subsection (12), a juvenile justice circuit board  
232 may revise the bylaws to increase the number of members by not



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233 more than five ~~three~~ in order to adequately reflect the  
234 diversity of the population and community organizations or  
235 agencies in the circuit.

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

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