



314376

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2009	.	
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The Committee on Criminal Justice (Dean) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 985.031, Florida Statutes, is created to
read:

985.031 Preadjudicatory release; circuit court authority.-
The circuit court shall have the authority to set reasonable
conditions of preadjudicatory release for a child charged with
the commission of a delinquent act which constitutes a felony or
when the child has previously been charged with or found to have



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12 committed, regardless of adjudication, a delinquent act. The
13 child shall comply with all such preadjudicatory release
14 conditions before an adjudicatory hearing. Reasonable conditions
15 of preadjudicatory release may include, but are not limited to,
16 the following:

17 (1) The child may not engage in a violation of law.

18 (2) The child may not possess or carry any weapon.

19 (3) The child may not possess or use any alcoholic beverage
20 or illegal drug or associate with those who are currently
21 possessing or using any alcoholic beverage or illegal drug.

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

23 (5) The child shall attend school regularly, including all
24 classes.

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

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

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

31 Section 2. Section 985.101, Florida Statutes, is amended,
32 to read:

33 985.101 Taking a child into custody; preadjudicatory
34 release conditions.—

35 (1) A child may be taken into custody under the following
36 circumstances:

37 (a) Pursuant to an order of the circuit court issued under
38 this chapter, based upon sworn testimony, either before or after
39 a petition is filed.

40 (b) For a delinquent act or violation of law, pursuant to



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41 Florida law pertaining to a lawful arrest. If the such
42 delinquent act or violation of law would be a felony if
43 committed by an adult or involves a crime of violence, the
44 arresting authority shall immediately notify the district school
45 superintendent, or the superintendent's designee, of the school
46 district with educational jurisdiction of the child. The Such
47 notification shall include other education providers such as the
48 Florida School for the Deaf and the Blind, university
49 developmental research schools, and private elementary and
50 secondary schools. The information obtained by the
51 superintendent of schools pursuant to this section shall ~~must~~ be
52 released within 48 hours after receipt to appropriate school
53 personnel, including the principal of the child's school, or as
54 otherwise provided by law. The principal shall ~~must~~ immediately
55 notify the child's immediate classroom teachers. Information
56 provided by an arresting authority under this paragraph may not
57 be placed in the student's permanent record and must ~~shall~~ be
58 removed from all school records no later than 9 months after the
59 date of the arrest.

60 (c) By a law enforcement officer for failing to appear at a
61 court hearing after being properly noticed.

62 (d) By a law enforcement officer who has probable cause to
63 believe that the child is in violation of the conditions of the
64 child's preadjudicatory release, conditions of the child's
65 probation, home detention, postcommitment probation, or
66 conditional release supervision; has absconded from
67 nonresidential commitment; or has escaped from residential
68 commitment.

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70 ~~Nothing in~~ This subsection does not ~~shall be construed to~~ allow
71 the detention of a child who does not meet the detention
72 criteria in part V.

73 (2) Except in emergency situations, a child may not be
74 placed into or transported in any police car or similar vehicle
75 that at the same time contains an adult under arrest, unless the
76 adult is alleged or believed to be involved in the same offense
77 or transaction as the child.

78 (3) ~~If~~ When a child is taken into custody as provided in
79 this section, the person taking the child into custody shall
80 attempt to notify the parent, guardian, or legal custodian of
81 the child. The person taking the child into custody shall
82 continue such attempt until the parent, guardian, or legal
83 custodian of the child is notified or the child is delivered to
84 a juvenile probation officer under ss. 985.14 and 985.145,
85 whichever occurs first. If the child is delivered to a juvenile
86 probation officer before the parent, guardian, or legal
87 custodian is notified, the juvenile probation officer shall
88 continue the attempt to notify until the parent, guardian, or
89 legal custodian of the child is notified. Following
90 notification, the parent or guardian must provide identifying
91 information, including name, address, date of birth, social
92 security number, and driver's license number or identification
93 card number of the parent or guardian to the person taking the
94 child into custody or the juvenile probation officer.

95 (4) Taking a child into custody is not an arrest except for
96 the purpose of determining whether the taking into custody or
97 the obtaining of any evidence in conjunction therewith is
98 lawful.



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99 (5) If a child is taken into custody under paragraph (1)(d)
100 for a violation of the conditions of preadjudicatory release,
101 the child must appear before a judge within 24 hours.

102 Section 3. Subsection (1) of section 985.24, Florida
103 Statutes, is amended to read:

104 985.24 Use of detention; prohibitions.—

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

108 (a) Presents a substantial risk of not appearing at a
109 subsequent hearing;

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

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

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

117 1. Absconds from home or nonsecure detention care or
118 otherwise violates the terms of release; or

119 2. There is probable cause to believe that the child has
120 committed a new violation of law;

121 (e) ~~(d)~~ Has committed contempt of court by:

122 1. Intentionally disrupting the administration of the
123 court;

124 2. Intentionally disobeying a court order; or

125 3. Engaging in a punishable act or speech in the court's
126 presence which shows disrespect for the authority and dignity of
127 the court; or



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128 (f)~~(e)~~ Requests protection from imminent bodily harm.

129 Section 4. Subsection (1) of section 985.245, Florida
130 Statutes, is amended to read:

131 985.245 Risk assessment instrument.—

132 (1) All determinations and court orders regarding placement
133 of a child into detention care shall comply with all
134 requirements and criteria provided in this part and shall be
135 based on a risk assessment of the child, unless the child is
136 placed into detention care as provided in s. 985.255(2) or s.
137 985.28.

138 Section 5. Paragraph (b) of subsection (1) of section
139 985.25, Florida Statutes, is amended to read:

140 985.25 Detention intake.—

141 (1) The juvenile probation officer shall receive custody of
142 a child who has been taken into custody from the law enforcement
143 agency and shall review the facts in the law enforcement report
144 or probable cause affidavit and make such further inquiry as may
145 be necessary to determine whether detention care is required.

146 (b) The juvenile probation officer shall base the decision
147 whether ~~or not~~ to place the child into secure detention care,
148 home detention care, or nonsecure detention care on an
149 assessment of risk in accordance with the risk assessment
150 instrument and procedures developed by the department under s.
151 985.245. However, a child shall be placed in secure detention
152 care if:

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

155 2. The child is alleged to have absconded from home or
156 nonsecure detention care or the child otherwise violates the



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157 terms of release after adjudication and commitment to the
158 department but before placement in a residential facility; or

159 3. There is probable cause to believe the child has
160 committed a new violation of law while on home or nonsecure
161 detention care after adjudication and commitment but before
162 placement in a residential facility ~~shall be placed in secure~~
163 ~~detention care.~~

164
165 ~~A Under no circumstances shall the juvenile probation officer or~~
166 ~~the state attorney or law enforcement officer~~ may not authorize
167 the detention of any child in a jail or other facility intended
168 or used for the detention of adults, without an order of the
169 court.

170 Section 6. Subsections (1) and (3) of section 985.255,
171 Florida Statutes, are amended to read:

172 985.255 Detention criteria; detention hearing.—

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

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

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

185 (c) ~~(a)~~ The child is alleged to be an escapee from a



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186 residential commitment program; or an absconder from a
187 nonresidential commitment program, a probation program, or
188 conditional release supervision; or is alleged to have escaped
189 while being lawfully transported to or from a residential
190 commitment program.

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

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

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

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

202 (h)~~(f)~~ The child is charged with a capital felony, a life
203 felony, a felony of the first degree, a felony of the second
204 degree that does not involve a violation of chapter 893, or a
205 felony of the third degree that is also a crime of violence,
206 including any such offense involving the use or possession of a
207 firearm.

208 (i)~~(g)~~ The child is charged with any second degree or third
209 degree felony involving a violation of chapter 893 or any third
210 degree felony that is not also a crime of violence, and the
211 child:

212 1. Has a record of failure to appear at court hearings
213 after being properly notified in accordance with the Rules of
214 Juvenile Procedure;



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215 2. Has a record of law violations prior to court hearings;

216 3. Has already been detained or has been released and is
217 awaiting final disposition of the case;

218 4. Has a record of violent conduct resulting in physical
219 injury to others; or

220 5. Is found to have been in possession of a firearm.

221 (j)~~(h)~~ The child is alleged to have violated the conditions
222 of the child's probation or conditional release supervision.

223 However, a child detained under this paragraph may be held only
224 in a consequence unit as provided in s. 985.439. If a

225 consequence unit is not available, the child may be placed in
226 secure detention care, home detention care, or home detention
227 care with electronic monitoring ~~shall be placed on home~~
228 ~~detention with electronic monitoring.~~

229 (k)~~(i)~~ The child is detained on a judicial order for
230 failure to appear and has previously willfully failed to appear,
231 after proper notice, for an adjudicatory hearing on the same
232 case regardless of the results of the risk assessment

233 instrument. A child may be held in secure detention for up to 72
234 hours in advance of the next scheduled court hearing pursuant to
235 this paragraph. The child's failure to keep the clerk of court
236 and defense counsel informed of a current and valid mailing
237 address where the child will receive notice to appear at court
238 proceedings does not provide an adequate ground for excusal of
239 the child's nonappearance at the hearings.

240 (l)~~(j)~~ The child is detained on a judicial order for
241 failure to appear and has previously willfully failed to appear,
242 after proper notice, at two or more court hearings of any nature
243 on the same case regardless of the results of the risk



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244 assessment instrument. A child may be held in secure detention
245 for up to 72 hours in advance of the next scheduled court
246 hearing pursuant to this paragraph. The child's failure to keep
247 the clerk of court and defense counsel informed of a current and
248 valid mailing address where the child will receive notice to
249 appear at court proceedings does not provide an adequate ground
250 for excusal of the child's nonappearance at the hearings.

251 (3) (a) A child who meets any of the criteria in subsection
252 (1) and who is ordered to be detained under that subsection
253 shall be given a hearing within 24 hours after being taken into
254 custody. The purpose of the detention hearing is to determine
255 the existence of probable cause that the child has committed the
256 delinquent act or violation of law that he or she is charged
257 with and the need for continued detention. Unless a child is
258 detained under paragraph (1) (a), paragraph (1) (b), paragraph
259 (1) (f) ~~(d)~~, or paragraph (1) (g) ~~(e)~~, the court shall use the
260 results of the risk assessment performed by the juvenile
261 probation officer and, based on the criteria in subsection (1),
262 shall determine the need for continued detention. A child placed
263 into secure, nonsecure, or home detention care may continue to
264 be so detained by the court. A child detained under paragraph
265 (1) (a) or paragraph (1) (b) may be placed into secure detention
266 care pending placement in a residential facility.

267 (c) Except as provided in paragraph (1) (a), paragraph
268 (1) (b), s. 790.22 (8), or ~~in~~ s. 985.27, when a child is placed
269 into secure or nonsecure detention care, or into a respite home
270 or other placement pursuant to a court order following a
271 hearing, the court order must include specific instructions that
272 direct the release of the child from such placement no later



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273 than 5 p.m. on the last day of the detention period specified in
274 s. 985.26 or s. 985.27, whichever is applicable, unless the
275 requirements of such applicable provision have been met or an
276 order of continuance has been granted under s. 985.26(4).

277 Section 7. Section 985.26, Florida Statutes, is amended to
278 read:

279 985.26 Length of detention.—

280 (1) A child may not be placed into or held in secure,
281 nonsecure, or home detention care for longer than 24 hours
282 unless the court orders such detention care, and the order
283 includes specific instructions that direct the release of the
284 child from ~~such~~ detention care, in accordance with s. 985.255.
285 The order shall be a final order, reviewable by appeal under s.
286 985.534 and the Florida Rules of Appellate Procedure. Appeals of
287 such orders shall take precedence over other appeals and other
288 pending matters.

289 (2) A child may not be held in secure, nonsecure, or home
290 detention care under a special detention order for more than 21
291 days unless an adjudicatory hearing for the case has been
292 commenced in good faith by the court. However, upon good cause
293 being shown that the nature of the charge requires additional
294 time for the prosecution or defense of the case, the court may
295 extend the length of detention for an additional 9 days if the
296 child is charged with an offense that would be, if committed by
297 an adult, a capital felony, a life felony, a felony of the first
298 degree, or a felony of the second degree involving violence
299 against any individual. For purposes of this subsection, if a
300 child is released, the child must comply with all conditions of
301 preadjudicatory release set by the circuit court.



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

305 (4) The time limits in subsections (2) and (3) do not
306 include periods of delay resulting from a continuance granted by
307 the court for cause on motion of the child or his or her counsel
308 or of the state. Upon the issuance of an order granting a
309 continuance for cause on a motion by either the child, the
310 child's counsel, or the state, the court shall conduct a hearing
311 at the end of each 72-hour period, excluding Saturdays, Sundays,
312 and legal holidays, to determine the need for continued
313 detention of the child and the need for further continuance of
314 proceedings for the child or the state.

315 (5) The time limits required under this section do not
316 apply to a child held in secure detention care pursuant to ss.
317 985.255(1)(a) and (b) and (3), 985.27(1)(a) and (b), and 985.28.

318 (6)~~(5)~~ A child who was not in secure detention care at the
319 time of the adjudicatory hearing, but for whom residential
320 commitment is anticipated or recommended, may be placed under a
321 special detention order for a period not to exceed 72 hours,
322 excluding weekends and legal holidays, for the purpose of
323 conducting a comprehensive evaluation as provided in s. 985.185.
324 Motions for the issuance of such special detention order may be
325 made subsequent to a finding of delinquency. Upon said motion,
326 the court shall conduct a hearing to determine the
327 appropriateness of such special detention order and shall order
328 the least restrictive level of detention care necessary to
329 complete the comprehensive evaluation process that is consistent
330 with public safety. Such special detention order may be extended



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331 for an additional 72 hours upon further order of the court.

332 ~~(7)-(6)~~ If a child is detained and a petition for
333 delinquency is filed, the child shall be arraigned in accordance
334 with the Florida Rules of Juvenile Procedure within 48 hours
335 after the filing of the petition for delinquency.

336 Section 8. Subsection (1) of section 985.265, Florida
337 Statutes, is amended to read:

338 985.265 Detention transfer and release; education; adult
339 jails.—

340 (1) If a child is detained under this part, the department
341 may transfer the child from nonsecure or home detention care to
342 secure detention care only if significantly changed
343 circumstances warrant such transfer. Such circumstances include,
344 but are not limited to:

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

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

353 Section 9. Subsection (1) of section 985.27, Florida
354 Statutes, is amended to read:

355 985.27 Postcommitment detention while awaiting placement.—

356 (1) The court shall ~~must~~ place all children who are
357 adjudicated and awaiting placement in a commitment program in
358 secure detention care, home detention care, or nonsecure
359 detention care. Children who are in home detention care or



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360 nonsecure detention care may be placed on electronic monitoring.

361 (a) A child who is awaiting placement in a low-risk
362 residential program must be removed from detention within 5
363 days, excluding Saturdays, Sundays, and legal holidays. Any
364 child held in secure detention during the 5 days must meet
365 detention admission criteria under this part. A child who is
366 placed in home detention care, nonsecure detention care, or home
367 or nonsecure detention care with electronic monitoring, while
368 awaiting placement in a minimum-risk or low-risk program, may be
369 held in secure detention care for 5 days, if the child violates
370 the conditions of the home detention care, the nonsecure
371 detention care, or the electronic monitoring agreement. For any
372 subsequent violation, the court may impose an additional 15 ~~5~~
373 days, excluding Saturdays, Sundays, and legal holidays, in
374 secure detention care.

375 (b) 1. A child who is awaiting placement in a moderate-risk
376 residential program must be placed in secure detention care,
377 home detention care, or nonsecure detention care. Any child held
378 in secure detention care must meet detention admission criteria
379 under this part.

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

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

388 b. Probable cause exists that a child committed a new



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389 violation of law while on home detention care, nonsecure
390 detention care, or electronic monitoring and the child is
391 awaiting placement in a residential program. ~~A child who is~~
392 ~~awaiting placement in a moderate-risk residential program must~~
393 ~~be removed from detention within 5 days, excluding Saturdays,~~
394 ~~Sundays, and legal holidays. Any child held in secure detention~~
395 ~~during the 5 days must meet detention admission criteria under~~
396 ~~this part. The department may seek an order from the court~~
397 ~~authorizing continued detention for a specific period of time~~
398 ~~necessary for the appropriate residential placement of the~~
399 ~~child. However, such continued detention in secure detention~~
400 ~~care may not exceed 15 days after entry of the commitment order,~~
401 ~~excluding Saturdays, Sundays, and legal holidays, and except as~~
402 ~~otherwise provided in this section. A child who is placed in~~
403 ~~home detention care, nonsecure detention care, or home or~~
404 ~~nonsecure detention care with electronic monitoring, while~~
405 ~~awaiting placement in a moderate-risk program, may be held in~~
406 ~~secure detention care for 5 days, if the child violates the~~
407 ~~conditions of the home detention care, the nonsecure detention~~
408 ~~care, or the electronic monitoring agreement. For any subsequent~~
409 ~~violation, the court may impose an additional 5 days in secure~~
410 ~~detention care.~~

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

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

417 Section 10. Section 985.28, Florida Statutes, is created to



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418 read:

419 985.28 Appearance in court; preadjudicatory detention;
420 contempt-.

421 (1) A child may be held in secure detention care if, after
422 proper notice, the child fails to appear in court because the
423 child refuses to appear, runs away, or otherwise intentionally
424 avoids his or her appearance. The court may hold the child in
425 secure detention care until the trial concludes, regardless of
426 the results of the risk assessment instrument.

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

431 Section 11. Subsection (1) of section 985.35, Florida
432 Statutes, is amended to read:

433 985.35 Adjudicatory hearings; withheld adjudications;
434 orders of adjudication.-

435 (1) The adjudicatory hearing must be held as soon as
436 practicable after the petition alleging that a child has
437 committed a delinquent act or violation of law is filed and in
438 accordance with the Florida Rules of Juvenile Procedure; but
439 reasonable delay for the purpose of investigation, discovery, or
440 procuring counsel or witnesses shall be granted. If the child is
441 being detained, the time limitations in s. 985.26(2) ~~and (3)~~
442 apply.

443 Section 12. Paragraph (c) of subsection (1) of section
444 985.43, Florida Statutes, is amended, and subsection (4) is
445 added to that section, to read:

446 985.43 Predisposition reports; other evaluations.-



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447 (1) Upon a finding that the child has committed a
448 delinquent act:

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

454 (4) The Legislature finds that the court is in the best
455 position to weigh all facts and circumstances to determine
456 whether to commit a juvenile to the department and to determine
457 the most appropriate restrictiveness level for a juvenile
458 committed to the department.

459 Section 13. Paragraphs (a) and (b) of subsection (7) of
460 section 985.433, Florida Statutes, are amended to read:

461 985.433 Disposition hearings in delinquency cases.—When a
462 child has been found to have committed a delinquent act, the
463 following procedures shall be applicable to the disposition of
464 the case:

465 (7) If the court determines that the child should be
466 adjudicated as having committed a delinquent act and should be
467 committed to the department, such determination shall be in
468 writing or on the record of the hearing. The determination shall
469 include a specific finding of the reasons for the decision to
470 adjudicate and to commit the child to the department, including
471 any determination that the child was a member of a criminal
472 gang.

473 (a) The juvenile probation officer shall make a
474 recommendation to the court concerning placement and any
475 proposed treatment plan ~~recommend to the court the most~~



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476 ~~appropriate placement and treatment plan, specifically~~
477 ~~identifying the restrictiveness level most appropriate for the~~
478 ~~child.~~ If the court has determined that the child was a member
479 of a criminal gang, that determination shall be given great
480 weight in identifying the most appropriate restrictiveness level
481 for the child. The court shall consider the department's
482 recommendation in making its commitment decision.

483 (b) The court may ~~shall~~ commit the child to the department
484 at the restrictiveness level identified by the department, or
485 the court may order placement at a different restrictiveness
486 level. The court may determine the disposition on the same
487 factors as the department considered in the department's
488 predisposition report and placement recommendation even if the
489 court reaches a different conclusion. The court may commit the
490 child to a different restrictiveness level than recommended by
491 the department. The court shall state for the record the reasons
492 for the disposition imposed that establish by a preponderance of
493 ~~the evidence why the court is disregarding the assessment of the~~
494 ~~child and the restrictiveness level recommended by the~~
495 ~~department.~~ Any party may appeal the court's findings resulting
496 in a modified level of restrictiveness under this paragraph. The
497 department shall maintain data to identify the extent to which
498 the courts agree with the department's recommendation.

499 Section 14. Subsection (2) of section 985.439, Florida
500 Statutes, is amended to read:

501 985.439 Violation of probation or postcommitment
502 probation.—

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



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505 probation shall be held in a consequence unit if such a unit is
506 available or may be detained under part V in a facility other
507 than a consequence unit if one is not available. The child shall
508 be afforded a hearing within 24 hours after being taken into
509 custody to determine the existence of probable cause that the
510 child violated the conditions of probation or postcommitment
511 probation. A consequence unit is a secure facility specifically
512 designated by the department for children who are taken into
513 custody under s. 985.101 for violating probation or
514 postcommitment probation, or who have been found by the court to
515 have violated the conditions of probation or postcommitment
516 probation. If the violation involves a new charge of
517 delinquency, the child may be detained under part V in a
518 facility other than a consequence unit. If the child is not
519 eligible for detention for the new charge of delinquency, the
520 child may be held in the consequence unit pending a hearing and
521 is subject to the time limitations specified in part V.

522 Section 15. Section 938.20, Florida Statutes, is created to
523 read:

524 938.20 County juvenile crime prevention fund.—

525 (1) Notwithstanding s. 318.121, and in addition to ss.
526 938.19 and 939.185, in each county the board of county
527 commissioners may adopt a mandatory court cost to be assessed in
528 specific cases by incorporating by reference the provisions of
529 this section in a county ordinance. Assessments collected by the
530 clerk of the circuit court under this section shall be deposited
531 into an account specifically for the administration of the
532 county's juvenile crime prevention fund. The proceeds of the
533 county's juvenile crime prevention fund shall be used only to



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534 fund local programs whose principal focus is the prevention of
535 juvenile crime, the creation of consequence or suspension
536 centers, and truancy programs and such other areas of local
537 concern relating to juvenile crime.

538 (2) A sum of up to \$50 shall be assessed as a court cost in
539 the circuit court in the county against each juvenile who pleads
540 guilty or nolo contendere to, or is found guilty of, regardless
541 of adjudication, a delinquent act. A juvenile may not be
542 assessed court costs under this section if the juvenile and the
543 juvenile's parents or other legal guardian are found to be
544 indigent.

545 (3) The assessment for court costs under this section must
546 be assessed in addition to any other cost or fee and may not be
547 deducted from the proceeds of any other cost that is received by
548 the county.

549 (4) (a) The clerk of the circuit court shall collect the
550 assessments for court costs under this section and shall remit
551 the assessments to the county's juvenile crime prevention fund
552 monthly.

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

556 (5) A county's juvenile crime prevention fund must account
557 for all funds received and disbursed under this section in a
558 written report to the board of county commissioners of that
559 county. The report must be given to the commissioners by August
560 1 of each year unless a different date is required by the
561 commissioners.

562 (6) A county's juvenile crime prevention fund may be



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563 administered by a nonprofit organization, a law enforcement
564 agency, the court administrator, the clerk of the circuit court,
565 a county agency, or another similar agency authorized by the
566 board of county commissioners of that county.

567 Section 16. Subsection (8) of section 790.22, Florida
568 Statutes, is amended to read:

569 790.22 Use of BB guns, air or gas-operated guns, or
570 electric weapons or devices by minor under 16; limitation;
571 possession of firearms by minor under 18 prohibited; penalties.—

572 (8) Notwithstanding s. 985.24 or s. 985.25(1), if a minor
573 under 18 years of age is charged with an offense that involves
574 the use or possession of a firearm, as defined in s. 790.001,
575 including a violation of subsection (3), or is charged for any
576 offense during the commission of which the minor possessed a
577 firearm, the minor shall be detained in secure detention, unless
578 the state attorney authorizes the release of the minor, and
579 shall be given a hearing within 24 hours after being taken into
580 custody. At the hearing, the court may order that the minor
581 continue to be held in secure detention in accordance with the
582 applicable time periods specified in s. 985.26(1)-(6) ~~s.~~
583 ~~985.26(1)-(5)~~, if the court finds that the minor meets the
584 criteria specified in s. 985.255, or if the court finds by clear
585 and convincing evidence that the minor is a clear and present
586 danger to himself or herself or the community. The Department of
587 Juvenile Justice shall prepare a form for all minors charged
588 under this subsection that states the period of detention and
589 the relevant demographic information, including, but not limited
590 to, the sex, age, and race of the minor; whether or not the
591 minor was represented by private counsel or a public defender;



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592 the current offense; and the minor's complete prior record,
593 including any pending cases. The form shall be provided to the
594 judge to be considered when determining whether the minor should
595 be continued in secure detention under this subsection. An order
596 placing a minor in secure detention because the minor is a clear
597 and present danger to himself or herself or the community must
598 be in writing, must specify the need for detention and the
599 benefits derived by the minor or the community by placing the
600 minor in secure detention, and must include a copy of the form
601 provided by the department. The Department of Juvenile Justice
602 must send the form, including a copy of any order, without
603 client-identifying information, to the Office of Economic and
604 Demographic Research.

605 Section 17. The Legislature determines and declares that
606 this act fulfills an important state interest.

607 Section 18. It is the intent of the Legislature with this
608 act to ensure public safety and to provide appropriate and
609 effective treatment to address physical, social, and emotional
610 needs of juveniles, including, but not limited to, substance
611 abuse services, mental health services, family counseling, anger
612 management, other behavioral services, and health care services.

613 Section 19. This act shall take effect July 1, 2009.

614
615 ===== T I T L E A M E N D M E N T =====

616 And the title is amended as follows:

617
618 Delete everything before the enacting clause
619 and insert:

620 A bill to be entitled



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621 An act relating to juvenile justice; creating s.
622 985.031, F.S.; authorizing the court to set reasonable
623 conditions of preadjudicatory release for children
624 charged with specified acts or who have previously
625 been charged with or committed delinquent acts;
626 providing examples of such conditions; amending s.
627 985.101, F.S.; permitting a child to be taken into
628 custody for violations of preadjudicatory release
629 conditions; providing that a child taken into custody
630 for a violation of preadjudicatory release conditions
631 must appear before a judge within 24 hours; providing
632 that conditions of preadjudicatory release may not be
633 used to impose home detention when not otherwise
634 authorized; amending s. 985.24, F.S.; providing an
635 additional finding to support the use of secure,
636 nonsecure, or home detention care; amending s.
637 985.245, F.S.; providing that placement in detention
638 care under a specified provision does not require a
639 risk assessment; amending s. 985.25, F.S.; providing
640 additional grounds for placement of a child in secure
641 detention care; amending s. 985.255, F.S.; providing
642 for continuing home or nonsecure or home detention
643 care or secure detention care prior to a detention
644 hearing in certain circumstances; amending s. 985.26,
645 F.S.; requiring that a child who have been released
646 comply with preadjudicatory release conditions;
647 providing that certain time limits do not apply to
648 secure detention under specified provisions; amending
649 s. 985.265, F.S.; specifying some changed



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650 circumstances that permit the Department of Juvenile
651 Justice to transfer a child from home or nonsecure or
652 home detention care to secure detention care; amending
653 s. 985.27, F.S.; specifying circumstances under which
654 a child who is awaiting placement in a low-risk or
655 minimum-risk residential program may be held in secure
656 detention care; providing time limits on such
657 detention care; providing for secure detention care
658 for a child who absconds from specified types of care;
659 revising provisions for detention care of a child
660 awaiting placement in a moderate-risk residential
661 program; providing for secure detention care in
662 specified circumstances; creating s. 985.28, F.S.;
663 providing for secure detention of a child in specified
664 circumstances; permitting a parent or legal guardian
665 of a child to be held in contempt of court if he or
666 she knowingly and willfully fails to bring or
667 otherwise prevents the child from appearing for trial;
668 amending s. 985.35, F.S.; conforming a cross-reference
669 to changes made by the act; amending s. 985.43, F.S.;
670 conforming a cross-reference to changes made by the
671 act; providing a legislative declaration concerning
672 the determination whether to commit a juvenile to the
673 department and the most appropriate placement level if
674 the juvenile is committed; amending s. 985.433, F.S.;
675 revising provisions relating to recommendations by
676 probation officers to the court concerning placement
677 and any proposed treatment plan of juveniles;
678 specifying that the court has the power to determine



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679 appropriate dispositions; requiring that reasons for a
680 disposition be stated for the record; amending s.
681 985.439, F.S.; permitting a child to be detained in a
682 facility other than a consequence unit if one is not
683 available for a violation of probation or
684 postcommitment probation under specified provisions;
685 creating s. 938.20, F.S.; permitting each county to
686 create a juvenile crime prevention fund; providing for
687 an additional court cost; providing that a juvenile
688 may not be assessed the additional court cost if the
689 juvenile and the juvenile's parents or other legal
690 guardian are found to be indigent; providing for
691 administration and use of funds; amending s. 790.22,
692 F.S.; conforming a cross-reference; providing that the
693 act fulfills an important state interest; providing
694 legislative intent; providing an effective date.