

By Senator Dean

3-00689-09

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1                   A bill to be entitled  
2       An act relating to juvenile justice; amending s.  
3       985.0301, F.S.; authorizing a court to retain  
4       jurisdiction over a child and the child's parent or  
5       guardian until the costs, fees, and costs associated  
6       with court-appointed counsel are satisfied; providing  
7       intent; creating s. 985.031, F.S.; authorizing the  
8       court to set reasonable conditions of preadjudicatory  
9       release for children charged with specified acts or  
10      who have previously been charged with or committed  
11      delinquent acts; providing examples of such  
12      conditions; amending s. 985.101, F.S.; permitting a  
13      child to be taken into custody for violations of  
14      preadjudicatory release conditions; amending s.  
15      985.24, F.S.; providing an additional finding to  
16      support the use of secure, nonsecure, or home  
17      detention care; amending s. 985.245, F.S.; providing  
18      that placement in detention care under a specified  
19      provision does not require a risk assessment; amending  
20      s. 985.25, F.S.; providing additional grounds for  
21      placement of a child in secure detention care;  
22      amending s. 985.255, F.S.; providing for continuing  
23      home or nonsecure or home detention care or secure  
24      detention care before a detention hearing in certain  
25      circumstances; amending s. 985.26, F.S.; requiring  
26      that a child who has been released to comply with  
27      preadjudicatory release conditions; providing that  
28      certain time limits do not apply to secure detention  
29      under specified provisions; amending s. 985.265, F.S.;

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30 specifying circumstances that permit the Department of  
31 Juvenile Justice to transfer a child from home or  
32 nonsecure or home detention care to secure detention  
33 care; amending s. 985.27, F.S.; revising provisions  
34 relating to the child's placement in detention care;  
35 specifying circumstances under which a child who is  
36 awaiting placement in a moderate-risk residential  
37 program may be held in secure detention care; revising  
38 time limits on such detention care; providing for  
39 secure detention care in specified circumstances;  
40 creating s. 985.28, F.S.; providing for  
41 preadjudicatory secure detention of a child under  
42 specified circumstances; permitting a parent or  
43 guardian of a child to be held in contempt of court if  
44 he or she knowingly and willfully fails to bring or  
45 otherwise prevents the child from appearing for trial;  
46 amending s. 985.35, F.S.; conforming a cross-  
47 reference; amending s. 985.43, F.S.; conforming a  
48 cross-reference; providing a legislative declaration  
49 concerning the court's determination of whether to  
50 commit a juvenile to the department and the most  
51 appropriate placement level; amending s. 985.433,  
52 F.S.; revising provisions relating to recommendations  
53 by probation officers to the court concerning  
54 placement and the proposed treatment plan of  
55 juveniles; specifying that the court has the power to  
56 determine appropriate dispositions; requiring that  
57 reasons for a disposition be stated for the record;  
58 requiring the department to maintain certain related

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59 data; amending s. 985.439, F.S.; permitting a child to  
 60 be detained in a facility other than a consequence  
 61 unit if one is not available; creating s. 938.20,  
 62 F.S.; permitting each county to create a juvenile  
 63 crime prevention fund; providing for an additional  
 64 court cost; providing for administration and use of  
 65 funds; amending s. 790.22, F.S.; conforming a cross-  
 66 reference; providing that the act fulfills an  
 67 important state interest; providing an effective date.

68  
 69 Be It Enacted by the Legislature of the State of Florida:  
 70

71 Section 1. Paragraph (i) of subsection (5) of section  
 72 985.0301, Florida Statutes, is amended to read:

73 985.0301 Jurisdiction.-

74 (5)

75 (i) The court shall ~~may~~ retain jurisdiction over a child  
 76 and the child's parent or legal guardian whom the court has  
 77 ordered to pay:

78 1. Restitution until the restitution order is satisfied. ~~To~~  
 79 ~~retain jurisdiction,~~ The court shall enter a restitution order,  
 80 which is separate from any disposition or order of commitment,  
 81 on or before ~~prior to~~ the date that the court's jurisdiction  
 82 would cease under this section. The contents of the restitution  
 83 order are ~~shall be~~ limited to the child's name and address, the  
 84 name and address of the parent or legal guardian, the name and  
 85 address of the payee, the case number, the date and amount of  
 86 restitution ordered, any amount of restitution paid, the amount  
 87 of restitution due and owing, and a notation that costs,

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88 interest, penalties, and attorney's fees may also be due and  
89 owing. The terms of the restitution order are subject to s.  
90 775.089(5).

91 2. Costs, fees, and costs associated with court-appointed  
92 counsel until such costs and fees are satisfied, regardless of  
93 adjudication. The child and the child's parent or guardian  
94 remain responsible for the unpaid costs and fees until the  
95 unpaid costs and fees are satisfied, even after the child turns  
96 19 years of age. The implementation of this subparagraph does  
97 not authorize or otherwise allow details of the juvenile court  
98 record to be disclosed except as provided by law.

99  
100 The retention of jurisdiction under this paragraph does not  
101 preclude the department from closing out the community  
102 supervision case for a child if the child has successfully met  
103 all other conditions of the supervision case plan.

104 Section 2. Section 985.031, Florida Statutes, is created to  
105 read:

106 985.031 Preadjudicatory release.—The court shall set  
107 reasonable conditions of preadjudicatory release for a child  
108 charged with the commission of a delinquent act that constitutes  
109 a felony or if the child has previously been charged with or  
110 found to have committed, regardless of adjudication, a  
111 delinquent act. The child must comply with all such conditions  
112 before an adjudicatory hearing. Reasonable conditions of  
113 preadjudicatory release may include, but are not limited to, the  
114 following:

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

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

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

120       (4) The child must obey all reasonable household rules.

121       (5) The child must attend school regularly, including all  
122 classes.

123       (6) The child must abide by the curfew set by his or her  
124 parents or guardians, or as set by the court.

125       (7) The child may not have contact with any codefendants,  
126 an alleged victim, or the family of an alleged victim.

127       (8) The child may not return to the scene of the alleged  
128 crime, unless approved by the court.

129       Section 3. Paragraph (d) of subsection (1) of section  
130 985.101, Florida Statutes, is amended to read:

131       985.101 Taking a child into custody.-

132       (1) A child may be taken into custody under the following  
133 circumstances:

134       (d) By a law enforcement officer who has probable cause to  
135 believe that the child is in violation of the conditions of the  
136 child's preadjudicatory release, probation, home detention,  
137 postcommitment probation, or conditional release supervision;  
138 has absconded from nonresidential commitment; or has escaped  
139 from residential commitment.

140  
141 Nothing in this subsection shall be construed to allow the  
142 detention of a child who does not meet the detention criteria in  
143 part V.

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

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146 985.24 Use of detention; prohibitions.-

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

150 (a) Presents a substantial risk of not appearing at a  
151 subsequent hearing;

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

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

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

159 1. Absconded from home or nonsecure detention care or  
160 otherwise violates the terms of release; or

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

163 (e)-(d) Has committed contempt of court by:

164 1. Intentionally disrupting the administration of the  
165 court;

166 2. Intentionally disobeying a court order; or

167 3. Engaging in a punishable act or speech in the court's  
168 presence which shows disrespect for the authority and dignity of  
169 the court; or

170 (f)-(e) Requests protection from imminent bodily harm.

171 Section 5. Subsection (1) of section 985.245, Florida  
172 Statutes, is amended to read:

173 985.245 Risk assessment instrument.-

174 (1) All determinations and court orders regarding placement

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175 of a child into detention care must ~~shall~~ comply with all  
176 requirements and criteria provided in this part and ~~shall~~ be  
177 based on a risk assessment of the child, unless the child is  
178 placed into detention care as provided in s. 985.255(2) or s.  
179 985.28.

180 Section 6. Paragraph (b) of subsection (1) of section  
181 985.25, Florida Statutes, is amended to read:

182 985.25 Detention intake.—

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

188 (b) The juvenile probation officer shall base the decision  
189 ~~whether or not~~ to place the child into secure detention care,  
190 home detention care, or nonsecure detention care on an  
191 assessment of risk in accordance with the risk assessment  
192 instrument and procedures developed by the department under s.  
193 985.245. However, a child shall be placed in secure detention  
194 care if:

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

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

201 3. There is probable cause to believe that the child has  
202 committed a new violation of law while on home or nonsecure  
203 detention care after adjudication and commitment but before

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204 placement in a residential facility ~~shall be placed in secure~~  
205 ~~detention care.~~

206  
207 Under no circumstances shall the juvenile probation officer or  
208 the state attorney or law enforcement officer authorize the  
209 detention of any child in a jail or other facility intended or  
210 used for the detention of adults, without an order of the court.

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

213 985.255 Detention criteria; detention hearing.—

214 (1) Subject to s. 985.25(1), a child taken into custody and  
215 placed into nonsecure or home detention care or detained in  
216 secure detention care before ~~prior to~~ a detention hearing may  
217 continue to be detained by the court if:

218 (a) The child is alleged to have absconded from home or  
219 nonsecure detention care or otherwise violates the terms of  
220 release after adjudication and commitment while awaiting  
221 placement in a residential facility.

222 (b) There is probable cause to believe that the child has  
223 committed a new violation of law while on home or nonsecure  
224 detention care after adjudication and commitment while awaiting  
225 placement in a residential facility.

226 (c) ~~(a)~~ The child is alleged to be an escapee from a  
227 residential commitment program; or an absconder from a  
228 nonresidential commitment program, a probation program, or  
229 conditional release supervision; or is alleged to have escaped  
230 while being lawfully transported to or from a residential  
231 commitment program.

232 (d) ~~(b)~~ The child is wanted in another jurisdiction for an



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233 offense which, if committed by an adult, would be a felony.

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

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

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

243 (h)~~(f)~~ The child is charged with a capital felony, a life  
244 felony, a felony of the first degree, a felony of the second  
245 degree that does not involve a violation of chapter 893, or a  
246 felony of the third degree that is also a crime of violence,  
247 including any such offense involving the use or possession of a  
248 firearm.

249 (i)~~(g)~~ The child is charged with a ~~any~~ second degree or  
250 third degree felony involving a violation of chapter 893 or a  
251 ~~any~~ third degree felony that is not also a crime of violence,  
252 and the child:

- 253 1. Has a record of failure to appear at court hearings  
254 after being properly notified in accordance with the Rules of  
255 Juvenile Procedure;
- 256 2. Has a record of law violations prior to court hearings;
- 257 3. Has already been detained or has been released and is  
258 awaiting final disposition of the case;
- 259 4. Has a record of violent conduct resulting in physical  
260 injury to others; or
- 261 5. Is found to have been in possession of a firearm.

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262        (j)~~(h)~~ The child is alleged to have violated the conditions  
263 of the child's probation or conditional release supervision.  
264 However, a child detained under this paragraph may be held only  
265 in a consequence unit as provided in s. 985.439. If a  
266 consequence unit is not available, the child may be placed in  
267 secure detention care, home detention care, or home detention  
268 care ~~shall be placed on home detention~~ with electronic  
269 monitoring.

270        (k)~~(i)~~ The child is detained on a judicial order for  
271 failure to appear and has previously willfully failed to appear,  
272 after proper notice, for an adjudicatory hearing on the same  
273 case regardless of the results of the risk assessment  
274 instrument. A child may be held in secure detention for up to 72  
275 hours in advance of the next scheduled court hearing pursuant to  
276 this paragraph. The child's failure to keep the clerk of court  
277 and defense counsel informed of a current and valid mailing  
278 address where the child will receive notice to appear at court  
279 proceedings does not provide an adequate ground for excusal of  
280 the child's nonappearance at the hearings.

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

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291 for excusal of the child's nonappearance at the hearings.

292 (3)~~(a)~~ A child who meets any of the criteria in subsection  
293 (1) and who is ordered to be detained under that subsection must  
294 ~~shall~~ be given a hearing within 24 hours after being taken into  
295 custody. The purpose of the detention hearing is to determine  
296 the existence of probable cause that the child has committed the  
297 delinquent act or violation of law that he or she is charged  
298 with and the need for continued detention.

299 (a) Unless a child is detained under paragraph (1) (a),  
300 paragraph (1) (b), paragraph (1) (f) ~~(1) (d)~~, or paragraph (1) (g)  
301 ~~(1) (e)~~, the court shall use the results of the risk assessment  
302 performed by the juvenile probation officer and, based on the  
303 criteria in subsection (1), shall determine the need for  
304 continued detention. A child placed into secure, nonsecure, or  
305 home detention care may continue to be so detained by the court.  
306 A child detained under paragraph (1) (a) or paragraph (1) (b) may  
307 be placed into secure detention care pending placement in a  
308 residential facility.

309 (b) If the court orders a placement more restrictive than  
310 indicated by the results of the risk assessment instrument, the  
311 court shall state, in writing, clear and convincing reasons for  
312 such placement.

313 (c) Except as provided in paragraph (1) (a), paragraph  
314 (1) (b), s. 790.22 (8), or in s. 985.27, when a child is placed  
315 into secure or nonsecure detention care, or into a respite home  
316 or other placement pursuant to a court order following a  
317 hearing, the court order must include specific instructions that  
318 direct the release of the child from such placement by no later  
319 than 5 p.m. on the last day of the detention period specified in

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320 s. 985.26 or s. 985.27, as ~~whichever is~~ applicable, unless the  
321 requirements of such applicable provision have been met or an  
322 order of continuance has been granted under s. 985.26(4).

323 Section 8. Section 985.26, Florida Statutes, is amended to  
324 read:

325 985.26 Length of detention.—

326 (1) A child may not be placed into or held in secure,  
327 nonsecure, or home detention care for longer than 24 hours  
328 unless the court orders such detention care, and the order  
329 includes specific instructions that direct the release of the  
330 child from such ~~detention~~ care, in accordance with s. 985.255.  
331 The order is ~~shall be~~ a final order, reviewable by appeal under  
332 s. 985.534 and the Florida Rules of Appellate Procedure. Appeals  
333 of such orders ~~shall~~ take precedence over other appeals and  
334 other pending matters.

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

348 (3) Except as provided in subsection (2), a child may not

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349 be held in secure, nonsecure, or home detention care for more  
350 than 15 days following the entry of an order of adjudication.

351 (4) The time limits in subsections (2) and (3) do not  
352 include periods of delay resulting from a continuance granted by  
353 the court for cause on motion of the child or his or her counsel  
354 or of the state. Upon the issuance of an order granting a  
355 continuance for cause on a motion by ~~either~~ the child, the  
356 child's counsel, or the state, the court shall conduct a hearing  
357 at the end of each 72-hour period, excluding Saturdays, Sundays,  
358 and legal holidays, to determine the need for continued  
359 detention of the child and the need for further continuance of  
360 proceedings for the child or the state.

361 (5) The time limits required under this section do not  
362 apply to children held in secure detention care pursuant to ss.  
363 985.255(1) (a) and (b) and (3), 985.27(1) (a) and (b), and 985.28.

364 (6)~~(5)~~ A child who was not in secure detention care at the  
365 time of the adjudicatory hearing, but for whom residential  
366 commitment is anticipated or recommended, may be placed under a  
367 special detention order for up to ~~a period not to exceed~~ 72  
368 hours, excluding weekends and legal holidays, for the purpose of  
369 conducting a comprehensive evaluation as provided in s. 985.185.  
370 Motions for the issuance of such ~~special detention~~ order may be  
371 made subsequent to a finding of delinquency. Upon such ~~said~~  
372 motion, the court shall conduct a hearing to determine the  
373 appropriateness of a ~~such~~ special detention order and shall  
374 order the least restrictive level of detention care necessary to  
375 complete the comprehensive evaluation process that is consistent  
376 with public safety. Such ~~special detention~~ order may be extended  
377 for an additional 72 hours upon further order of the court.

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378        ~~(7)(6)~~ If a child is detained and a petition for  
379 delinquency is filed, the child shall be arraigned in accordance  
380 with the Florida Rules of Juvenile Procedure within 48 hours  
381 after ~~the~~ filing ~~of~~ the petition for delinquency.

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

384        985.265 Detention transfer and release; education; adult  
385 jails.-

386        (1) If a child is detained under this part, the department  
387 may transfer the child from nonsecure or home detention care to  
388 secure detention care only if significantly changed  
389 circumstances warrant such transfer. Such circumstances include,  
390 but are not limited to:

391        (a) Where a child is alleged to have absconded from home or  
392 nonsecure detention care or otherwise violates the terms of  
393 release after adjudication and commitment while awaiting  
394 placement in a residential facility.

395        (b) Where probable cause exists that a child has committed  
396 a new violation of law while on home or nonsecure detention care  
397 after adjudication and commitment while awaiting placement in a  
398 residential facility.

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

401        985.27 Postcommitment detention while awaiting placement.-

402        (1) The court must place all children who are adjudicated  
403 and awaiting placement in a commitment program in secure  
404 detention care, home detention care, or nonsecure detention  
405 care. Children who are in home detention care or nonsecure  
406 detention care may be placed on electronic monitoring.

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407 (a) A child who is awaiting placement in a low-risk  
408 residential program must be removed from detention within 5  
409 days, excluding Saturdays, Sundays, and legal holidays. Any  
410 child held in secure detention during the 5 days must meet  
411 detention admission criteria under this part. A child who is  
412 placed in home detention care, nonsecure detention care, or home  
413 or nonsecure detention care with electronic monitoring, while  
414 awaiting placement in a minimum-risk or low-risk program, may be  
415 held in secure detention care for 5 days, if the child violates  
416 the conditions of the home detention care, the nonsecure  
417 detention care, or the electronic monitoring agreement. For any  
418 subsequent violation, the court may impose an additional 15 5  
419 days in secure detention care, excluding Saturdays, Sundays, and  
420 legal holidays.

421 (b) A child who is awaiting placement in a moderate-risk  
422 residential program must be placed in secure detention care,  
423 home detention care, or nonsecure detention care.

424 1. Any child held in secure detention care must meet  
425 detention admission criteria under this part.

426 2. A child may not be held in secure detention care for  
427 more than 15 days, excluding Saturdays, Sundays, and legal  
428 holidays, while awaiting placement in a moderate-risk  
429 residential facility, except that a child must be held in secure  
430 detention care until placed in a residential facility if:

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

434 b. Probable cause exists that a child committed a new  
435 violation of law while on home detention care, nonsecure

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

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

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

463 Section 11. Section 985.28, Florida Statutes, is created to  
464 read:



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465 985.28 Preadjudicatory detention; contempt.-

466 (1) A child may be held in secure detention care if, after  
467 proper notice, the child fails to appear in court because the  
468 child refuses to appear, runs away, or otherwise intentionally  
469 avoids his or her appearance. The court may hold the child in  
470 secure detention care until the trial concludes, regardless of  
471 the results of the risk assessment instrument.

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

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

478 985.35 Adjudicatory hearings; withheld adjudications;  
479 orders of adjudication.-

480 (1) The adjudicatory hearing must be held as soon as  
481 practicable after the petition alleging that a child has  
482 committed a delinquent act or violation of law is filed and in  
483 accordance with the Florida Rules of Juvenile Procedure; but  
484 reasonable delay for the purpose of investigation, discovery, or  
485 procuring counsel or witnesses shall be granted. If the child is  
486 being detained, the time limitations in s. 985.26(2) ~~and (3)~~  
487 apply.

488 Section 13. Paragraph (c) of subsection (1) of section  
489 985.43, Florida Statutes, is amended, and subsection (4) is  
490 added to that section, to read:

491 985.43 Predisposition reports; other evaluations.-

492 (1) Upon a finding that the child has committed a  
493 delinquent act:

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

499 (4) The Legislature finds that the court is in the best  
500 position to weigh all facts and circumstances to determine  
501 whether to commit a juvenile to the department and to determine  
502 the most appropriate restrictiveness level for a juvenile  
503 committed to the department.

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

506 985.433 Disposition hearings in delinquency cases.—When a  
507 child has been found to have committed a delinquent act, the  
508 following procedures shall be applicable to the disposition of  
509 the case:

510 (7) If the court determines that the child should be  
511 adjudicated as having committed a delinquent act and should be  
512 committed to the department, such determination shall be in  
513 writing or on the record of the hearing. The determination shall  
514 include a specific finding of the reasons for the decision to  
515 adjudicate and to commit the child to the department, including  
516 any determination that the child was a member of a criminal  
517 gang.

518 (a) The juvenile probation officer shall make a  
519 recommendation to the court concerning placement and any  
520 proposed treatment plan ~~recommend to the court the most~~  
521 ~~appropriate placement and treatment plan, specifically~~  
522 ~~identifying the restrictiveness level most appropriate for the~~

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523 ~~child~~. If the court has determined that the child was a member  
524 of a criminal gang, that determination must ~~shall~~ be given great  
525 weight in identifying the most appropriate restrictiveness level  
526 for the child. The court shall consider the department's  
527 recommendation in making its commitment decision.

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

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

547 985.439 Violation of probation or postcommitment  
548 probation.—

549 (2) A child taken into custody under s. 985.101 for  
550 violating the conditions of probation or postcommitment  
551 probation shall be held in a consequence unit, if such a unit is

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552 available, or may be detained under part V in a facility other  
553 than a consequence unit if one is not available. The child shall  
554 be afforded a hearing within 24 hours after being taken into  
555 custody to determine the existence of probable cause that the  
556 child violated the conditions of probation or postcommitment  
557 probation. A consequence unit is a secure facility specifically  
558 designated by the department for children who are taken into  
559 custody under s. 985.101 for violating probation or  
560 postcommitment probation, or who have been found by the court to  
561 have violated the conditions of probation or postcommitment  
562 probation.

563 (a) If the violation involves a new charge of delinquency,  
564 the child may be detained under part V in a facility other than  
565 a consequence unit.

566 (b) If the child is not eligible for detention for the new  
567 charge of delinquency, the child may be held in the consequence  
568 unit pending a hearing and is subject to the time limitations  
569 specified in part V.

570 Section 16. Section 938.20, Florida Statutes, is created to  
571 read:

572 938.20 County juvenile crime prevention fund.—

573 (1) Notwithstanding s. 318.121 and in addition to ss.  
574 938.19 and 939.185, the board of county commissioners in each  
575 county may adopt a mandatory court cost to be assessed in  
576 accordance with this section by incorporating by reference the  
577 provisions of this section in a county ordinance. Assessments  
578 collected shall be deposited into an account specifically for  
579 the administration of the county's juvenile crime prevention  
580 fund and used to fund only local programs whose principal focus

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581 is the prevention of juvenile crime, the creation of consequence  
582 or suspension centers, truancy programs, and such other areas of  
583 local concern relating to juvenile crime.

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

588 (3) The assessment for court costs under this section are  
589 in addition to any other cost or fee and may not be deducted  
590 from the proceeds of any other cost that is received by the  
591 county.

592 (4) The clerk of the circuit court shall collect the  
593 assessments for court costs under this section and shall remit  
594 the assessments to the county's juvenile crime prevention fund  
595 monthly. The clerk shall withhold 3 percent of the assessments  
596 collected, which shall be retained as fee income of the clerk's  
597 office.

598 (5) A county's juvenile crime prevention fund must account  
599 for all funds received and disbursed under this section in a  
600 written report to the board of county commissioners of that  
601 county. The report must be given to the commissioners by August  
602 1 of each year unless a different date is required by the  
603 commissioners.

604 (6) A county's juvenile crime prevention fund may be  
605 administered by a nonprofit organization, a law enforcement  
606 agency, the court administrator, the clerk of the circuit court,  
607 a county agency, or another similar agency authorized by the  
608 board of county commissioners of that county.

609 Section 17. Subsection (8) of section 790.22, Florida

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610 Statutes, is amended to read:

611 790.22 Use of BB guns, air or gas-operated guns, or  
612 electric weapons or devices by minor under 16; limitation;  
613 possession of firearms by minor under 18 prohibited; penalties.-

614 (8) Notwithstanding s. 985.24 or s. 985.25(1), if a minor  
615 under 18 years of age is charged with an offense that involves  
616 the use or possession of a firearm, as defined in s. 790.001,  
617 including a violation of subsection (3), or is charged for any  
618 offense during the commission of which the minor possessed a  
619 firearm, the minor shall be detained in secure detention, unless  
620 the state attorney authorizes the release of the minor, and  
621 shall be given a hearing within 24 hours after being taken into  
622 custody. At the hearing, the court may order that the minor  
623 continue to be held in secure detention in accordance with the  
624 applicable time periods specified in s. 985.26 ~~s. 985.26(1)-(5)~~,  
625 if the court finds that the minor meets the criteria specified  
626 in s. 985.255, or if the court finds by clear and convincing  
627 evidence that the minor is a clear and present danger to himself  
628 or herself or the community. The Department of Juvenile Justice  
629 shall prepare a form for all minors charged under this  
630 subsection that states the period of detention and the relevant  
631 demographic information, including, but not limited to, the sex,  
632 age, and race of the minor; whether or not the minor was  
633 represented by private counsel or a public defender; the current  
634 offense; and the minor's complete prior record, including any  
635 pending cases. The form shall be provided to the judge to be  
636 considered when determining whether the minor should be  
637 continued in secure detention under this subsection. An order  
638 placing a minor in secure detention because the minor is a clear

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639 and present danger to himself or herself or the community must  
640 be in writing, must specify the need for detention and the  
641 benefits derived by the minor or the community by placing the  
642 minor in secure detention, and must include a copy of the form  
643 provided by the department. The Department of Juvenile Justice  
644 must send the form, including a copy of any order, without  
645 client-identifying information, to the Office of Economic and  
646 Demographic Research.

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

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