

1                   A bill to be entitled  
 2           An act relating to criminal prosecution of juveniles;  
 3           amending s. 985.557, F.S.; providing additional  
 4           circumstances for the direct filing of charges against  
 5           certain juveniles; providing criteria for determining when  
 6           a case against a juvenile should be recommended to the  
 7           court to be transferred for criminal prosecution;  
 8           providing criteria for consideration of a child's request  
 9           to an adult court to return a criminal case to the  
 10          juvenile justice system; providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:  
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14           Section 1. Paragraph (c) is added to subsection (1) of  
 15           section 985.557, Florida Statutes, subsection (4) of that  
 16           section is amended, present subsection (5) of that section is  
 17           redesignated as subsection (6) and amended, and a new subsection  
 18           (5) is added to that section, to read:

19           985.557 Direct filing of an information; discretionary and  
 20           mandatory criteria.—

21           (1) DISCRETIONARY DIRECT FILE.—

22           (c) Except as provided in paragraph (b), the state  
 23           attorney may file an information against a child otherwise  
 24           eligible under this section if the child has prior felony or  
 25           misdemeanor adjudications or adjudications withheld.

26           (4) DIRECT-FILE CRITERIA ~~POLICIES AND GUIDELINES~~.—

27           (a) When a child is eligible to have an information filed  
 28           by the state attorney under subsection (1), the state attorney

29 shall use the following criteria to determine whether to file an  
 30 information:

31 1. The seriousness of the alleged offense and whether  
 32 transferring the child is necessary for protection of the  
 33 community, including:

34 a. The recommendation of the department, through review  
 35 and consideration of the recommendations of the department's  
 36 caseworker.

37 b. The probable cause as found in the report, affidavit,  
 38 or complaint, including:

39 (I) Whether the alleged offense was committed in an  
 40 aggressive, violent, premeditated, or willful manner.

41 (II) Whether the alleged offense was against persons or  
 42 against property, with greater weight being given to offenses  
 43 against persons, especially if personal injury resulted.

44 (III) The strength of the state's evidence.

45 c. The sophistication and maturity of the child.

46 2. The record and previous history of the child,  
 47 including:

48 a. Previous contacts with the department, the Department  
 49 of Corrections, the former Department of Health and  
 50 Rehabilitative Services, the Department of Children and Family  
 51 Services, other law enforcement agencies, and courts.

52 b. Prior periods of probation.

53 c. Prior adjudications that the child committed a  
 54 delinquent act or violation of law, with greater weight being  
 55 given if the child has previously been found by a court to have

56 committed a delinquent act or violation of law involving  
 57 violence to persons.

58 d. Prior commitments to institutions of the department,  
 59 the Department of Corrections, or agencies under contract with  
 60 either of them.

61 e. Patterns of criminality or patterns of escalation.

62 3. The prospects for adequate protection of the public and  
 63 the likelihood of reasonable rehabilitation of the child, if the  
 64 child is found to have committed the alleged offense, by the use  
 65 of procedures, services, and facilities currently available to  
 66 the juvenile court.

67 4. Cost-effective alternatives available to divert the  
 68 child from the criminal and juvenile justice systems and offer  
 69 rehabilitative services for the child.

70 (b) If the state attorney files an information against a  
 71 child under this section, the state attorney shall file with the  
 72 court his or her written explanation, addressing the factors  
 73 listed in paragraph (a), as to why the child should be  
 74 transferred for criminal prosecution. Each state attorney shall  
 75 develop written policies and guidelines to govern determinations  
 76 for filing an information on a juvenile, to be submitted to the  
 77 Executive Office of the Governor, the President of the Senate,  
 78 and the Speaker of the House of Representatives not later than  
 79 January 1 of each year.

80 (5) REVERSE WAIVER.—Any child over whom the adult court  
 81 has obtained original jurisdiction may request, in writing, a  
 82 hearing to determine whether the child shall remain in adult  
 83 court. The adult court shall retain jurisdiction unless the

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84 child proves by a preponderance of evidence all of the  
85 following:

86 (a) The child could obtain services available in the  
87 juvenile justice system that could lessen the possibility of the  
88 child reoffending in the future.

89 (b) The child's best interests would be served by  
90 prosecuting the case in juvenile court.

91 (c) The child could receive juvenile sanctions that would  
92 provide adequate safety and protection for the community.

93 (d) The child is not charged with a felony that is  
94 punishable by death or life imprisonment.

95 (e) The child has not previously been convicted and  
96 sentenced as an adult.

97 (6) ~~(5)~~ CHARGES INCLUDED.—An information filed pursuant to  
98 this section may include all charges that are based on the same  
99 act, criminal episode, or transaction as the primary offenses.

100 Section 2. This act shall take effect July 1, 2010.