By Senator Wise

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A bill to be entitled An act relating to juvenile justice; amending s. 985.35, F.S.; requiring the Department of Juvenile Justice to adopt rules governing the procedures that may be used to restrain a child upon his or her arrival at the courthouse and the length of time a child may be placed in isolation; requiring the department to comply with the Protective Action Response policy whenever mechanical restraints are used; amending s. 985.483, F.S.; conforming a crossreference; amending s. 985.664, F.S.; requiring that a juvenile justice circuit board and a juvenile justice county council be established in each judicial circuit and county, respectively; providing a purpose for each board and council; requiring the Children and Youth Cabinet to monitor the comprehensive plan of each circuit; requiring a circuit board and county council to enter into a written county or circuit interagency agreement specifying the nature and extent of contributions that each signatory agency will make in order to achieve the goals of the county or circuit plan; specifying the parties that must be included in the interagency agreement; providing for the sharing of information useful in carrying out the goals of the interagency agreement; requiring each circuit board to prepare an annual report; requiring the annual legislative budget request to reflect the needs of each board and council; providing for membership on the circuit board; requiring the Secretary of Juvenile 5-00821-10 20101550

Justice to attend quarterly meetings with the chairpersons of the county councils and circuit boards; providing for the content of the meetings; providing for reimbursement for nongovernmental members of circuit boards and county councils; requiring the department to provide legal counsel to advise boards and councils; requiring each circuit board and county council to use due diligence to encourage community participation by using community outreach outlets; amending s. 985.668 F.S.; requiring the department to encourage circuit boards and county councils to propose at least one innovation zone; amending s. 985.676, F.S.; providing that certain specified criteria be used when awarding community juvenile justice partnership grants; allowing the department to extend indefinitely the funding period of a grant under specified circumstances; providing an effective date.

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

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Section 1. Section 985.35, Florida Statutes, is amended to read:

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985.35 Adjudicatory hearings; withheld adjudications; orders of adjudication.—

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(1) The adjudicatory hearing must be held as soon as practicable after the petition alleging that a child has committed a delinquent act or violation of law is filed and in accordance with the Florida Rules of Juvenile Procedure; but

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reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall be granted. If the child is being detained, the time limitations in s. 985.26(2) and (3) apply. The department shall adopt rules governing the procedures for restraining a child upon his or her arrival at the courthouse. The rules must describe when a mechanical device may be used and how long a child may be placed in isolation.

- (2) Adjudicatory hearings <u>must</u> <u>shall</u> be conducted without a jury by the court, applying in delinquency cases the rules of evidence in use in criminal cases; adjourning the hearings from time to time as necessary; and conducting a fundamentally fair hearing in language understandable, to the fullest extent practicable, to the child before the court.
- (a) In a hearing on a petition alleging that a child has committed a delinquent act or violation of law, the evidence must establish the findings beyond a reasonable doubt.
- (b) The child is entitled to the opportunity to introduce evidence and otherwise be heard in the child's own behalf and to cross-examine witnesses.
- (c) A child charged with a delinquent act or violation of law must be afforded all rights against self-incrimination. Evidence illegally seized or obtained may not be received to establish the allegations against the child.
- (3) The department must comply with the Protective Action Response policy adopted pursuant to s. 985.645(2) whenever mechanical restraints are used.
- $\underline{(4)}$  If the court finds that the child named in a petition has not committed a delinquent act or violation of law, it shall enter an order so finding and dismissing the case.

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(5)(4) If the court finds that the child named in the petition has committed a delinquent act or violation of law, it may, in its discretion, enter an order stating the facts upon which its finding is based but withholding adjudication of delinquency.

- (a) Upon withholding adjudication of delinquency, the court may place the child in a probation program under the supervision of the department or under the supervision of any other person or agency specifically authorized and appointed by the court. The court may, as a condition of the program, impose as a penalty component restitution in money or in kind, community service, a curfew, urine monitoring, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense, and may impose as a rehabilitative component a requirement of participation in substance abuse treatment, or school or other educational program attendance.
- (b) If the child is attending public school and the court finds that the victim or a sibling of the victim in the case was assigned to attend or is eligible to attend the same school as the child, the court order shall include a finding pursuant to the proceedings described in s. 985.455, regardless of whether adjudication is withheld.
- (c) If the court later finds that the child has not complied with the rules, restrictions, or conditions of the community-based program, the court may, after a hearing to establish the lack of compliance, but without further evidence of the state of delinquency, enter an adjudication of delinquency and shall thereafter have full authority under this

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chapter to deal with the child as adjudicated.

(6) (5) If the court finds that the child named in a petition has committed a delinquent act or violation of law, but elects not to proceed under subsection (5) (4), it shall incorporate that finding in an order of adjudication of delinquency entered in the case, briefly stating the facts upon which the finding is made, and the court shall thereafter have full authority under this chapter to deal with the child as adjudicated.

(7) (6) Except as the term "conviction" is used in chapter 322, and except for use in a subsequent proceeding under this chapter, an adjudication of delinquency by a court with respect to any child who has committed a delinquent act or violation of law shall not be deemed a conviction; nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication; nor shall that adjudication operate to impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction or to disqualify or prejudice the child in any civil service application or appointment, with the exception of the use of records of proceedings under this chapter as provided in s. 985.045(4).

(8) (7) Notwithstanding any other provision of law, an adjudication of delinquency for an offense classified as a felony shall disqualify a person from lawfully possessing a firearm until such person reaches 24 years of age.

Section 2. Subsection (2) of section 985.483, Florida Statutes, is amended to read:

985.483 Intensive residential treatment program for offenders less than 13 years of age.—

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(2) DETERMINATION.—After a child has been adjudicated delinquent under  $\underline{s.\ 985.35(6)}\ s.\ 985.35(5)$ , the court shall determine whether the child is eligible for an intensive residential treatment program for offenders less than 13 years of age under subsection (1). If the court determines that the child does not meet the criteria, ss. 985.435, 985.437, 985.439, 985.441, 985.445, 985.45, and 985.455 shall apply.

Section 3. Section 985.664, Florida Statutes, is amended to read:

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

- (1) There is authorized A juvenile justice circuit board shall to be established in each of the 20 judicial circuits and a juvenile justice county council shall to be established in each of the 67 counties. The purpose of each juvenile justice circuit board and each juvenile justice county council is to provide advice and direction to the department in the development and implementation of juvenile justice programs and to work collaboratively with the department, the Department of Children and Family Services, and the Children and Youth Cabinet in seeking program improvements and policy changes to address the emerging and changing needs of Florida's youth who are at risk of delinquency and dependency.
- (2) Each juvenile justice county council shall develop a juvenile justice prevention and early intervention plan for the county and shall collaborate with the circuit board and other county councils assigned to that circuit in the development of a comprehensive plan for the circuit. The Children and Youth Cabinet shall monitor the local plans and design, direct, and

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monitor a statewide plan, which shall be implemented by and through the boards and councils. A circuit board and county council may design programs and projects necessary to accomplish the comprehensive plan for the circuit. Each county council and circuit board must continually monitor the implementation of the comprehensive plan in order to identify and remedy any situations that may result in minority juveniles coming in disproportionate contact with the juvenile justice system.

(3) Juvenile justice circuit boards and county councils shall also participate in facilitating interagency cooperation and information sharing by entering into a written county or circuit interagency agreement specifying the nature and extent of contributions that each signatory agency will make in order to achieve the goals of the county or circuit plan and their commitment to share any information that is useful in carrying out the goals of the interagency agreement. The interagency agreement must include as parties, at a minimum, local school authorities or representatives, local law enforcement agencies, state attorneys, public defenders, and local representatives of the Department of Juvenile Justice and the Department of Children and Family Services. The agreement must specify how community entities will cooperate, collaborate, and share information to achieve the goals of the juvenile justice prevention and early intervention plan or the comprehensive plan of the circuit. Each circuit board shall provide a forum for the presentation of interagency recommendations and the resolution of any disagreements relating to the contents of the county or circuit interagency agreement or the performance by the parties of their respective obligations under the agreement.

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(4) Juvenile justice circuit boards and county councils may apply for and receive public or private grants to be administered by one of the community partners that support one or more components of the county or circuit plan and to be used as otherwise directed in their bylaws. To aid in this process, the department shall provide fiscal agency services for the circuit boards and county councils.

- (5) Juvenile justice circuit boards and county councils shall advise and assist the department in the evaluation and award of prevention and early intervention grant programs, including the Community Juvenile Justice Partnership Grant program established in s. 985.676 and proceeds from the Invest in Children license plate annual use fees.
- annual report to the department and the Children and Youth

  Cabinet describing the activities of the circuit board and each of the county councils contained within its circuit. The acting chairs of the circuit board and of each county council within the circuit shall agree on the descriptions of the activities and sign the report. The department may prescribe a format and content requirements for submission of annual reports, and shall present and submit the proposed annual legislative budget request reflecting the required material and fiscal needs of each board and council.
- (7) Membership of the juvenile justice circuit board may not exceed 18 members, except as provided in subsections (8) and (9). Members must include the state attorney, the public defender, and the chief judge of the circuit, or their respective designees, who shall preside each on a rotating basis

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as chair in intervals of 2-year terms. The remaining 15 members of the board must be appointed by the county councils within that circuit. County council members may serve as ex officio members of the circuit board. The board, when possible for purposes of equity, must be composed of an equal number of active members include at least one representative from each county council within the circuit, taking into account the differences in population. In appointing members to the circuit board, the county councils must reflect:

- (a) The circuit's geography and population distribution.
- (b) Juvenile justice partners, including, but not limited to, representatives of law enforcement, the school system, and the Department of Children and Family Services.
  - (c) Diversity in the judicial circuit.
- (d) Representation from residents of high-crime zip code communities as identified by the department and based on referral rates within the communities.
- (8) At any time after the adoption of initial bylaws pursuant to subsection (12) and absent any county councils formed within a circuit, a juvenile justice circuit board may revise the bylaws to increase the number of members by not more than three in order to adequately reflect the diversity of the population and community organizations or agencies in the circuit.
- (9) If county councils are not formed within a circuit, the circuit board may establish its membership in accordance with subsection (10) of not more than 18 members. For juvenile justice circuit boards organized pursuant to this subsection, the state attorney, public defender, and chief circuit judge, or

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their respective designees, shall be members of the circuit board.

- (10) Membership of the juvenile justice county councils, or juvenile justice circuit boards established under subsection (9), must include representation from residents of high-crime zip code communities as identified by the department and based on referral rates within the county, and may also include representatives from the following entities:
- (a) Representatives from the school district, which may include elected school board officials, the school superintendent, school or district administrators, teachers, and counselors.
  - (b) Representatives of the board of county commissioners.
- (c) Representatives of the governing bodies of local municipalities within the county.
- (d) A representative of the corresponding circuit or regional entity of the Department of Children and Family Services.
- (e) Representatives of local law enforcement agencies, including the sheriff or the sheriff's designee.
  - (f) Representatives of the judicial system.
  - (g) Representatives of the business community.
- (h) Representatives of other interested officials, groups, or entities, including, but not limited to, a children's services council, public or private providers of juvenile justice programs and services, students, parents, and advocates. Private providers of juvenile justice programs may not exceed one-third of the voting membership.
  - (i) Representatives of the faith community.

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(j) Representatives of victim-service programs and victims of crimes.

- (k) Representatives of the Department of Corrections.
- (11) Each juvenile justice county council, or juvenile justice circuit board established under subsection (9), must provide for the establishment of an executive committee of not more than 10 members. The duties and authority of the executive committee must be addressed in the bylaws.
- (12) Each juvenile justice circuit board and county council shall develop and adopt bylaws that provide for officers and committees as the board or council deems necessary and shall specify the qualifications, method of selection, and term for each office created, and other rules of procedure for the board's or council's operation, if the bylaws are not inconsistent with federal and state laws or county ordinances. The bylaws shall address at least the following issues: process for appointments to the board or council; election or appointment of officers; filling of vacant positions; duration of member terms; provisions for voting; meeting attendance requirements; and the establishment and duties of an executive committee, if required under subsection (11).
- (13) Members of juvenile justice circuit boards and county councils are subject to the provisions of part III of chapter 112 and s. 11.25. Juvenile justice circuit boards and county councils are state agency units as prescribed by s. 11.135.
- (14) The secretary of the department shall hold quarterly meetings with the chairs of the juvenile justice boards and councils and the Children and Youth Cabinet in order to:
  - (a) Advise juvenile justice boards and councils of

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320 statewide juvenile justice issues and activities.

- (b) Provide feedback on budget priorities in the prevention and intervention programs.
  - (c) Obtain input into the strategic planning process.
- (d) Discuss program development, program implementation, and quality assurance.
- circuit boards and county councils shall serve without compensation, unless stated otherwise in the bylaws, but are entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061, and for other costs and expenses that may be necessary and required while in performance of their duties under this section. The department shall provide each board and council with an allotted fund for administrating the board's or council's duties. The department shall adopt rules pursuant to s. 985.64 in order to apply for and approve the funds.
- (16) The department shall provide legal counsel on all internal matters to the boards and councils where necessary as to their duties, responsibilities, and jurisdiction.
- (17) The boards and councils shall use due diligence in notifying the community and encouraging public participation and membership through various community outreach outlets, such as community newspapers, churches, and free public announcements.

Section 4. Section 985.668, Florida Statutes, is amended to read:

985.668 Innovation zones.—The department shall encourage each of the juvenile justice circuit boards <u>and councils</u> to propose at least one innovation zone within the circuit for the

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purpose of implementing any experimental, pilot, or demonstration project that furthers the legislatively established goals of the department. An innovation zone is a defined geographic area such as a circuit, commitment region, county, municipality, service delivery area, school campus, or neighborhood providing a laboratory for the research, development, and testing of the applicability and efficacy of model programs, policy options, and new technologies for the department.

- (1) (a) The juvenile justice circuit board, in conjunction with and with written approval from the county councils within its circuit, if formed, shall submit a proposal for an innovation zone to the secretary. If the purpose of the proposed innovation zone is to demonstrate that specific statutory goals can be achieved more effectively by using procedures that require modification of existing rules, policies, or procedures, the proposal may request the secretary to waive such existing rules, policies, or procedures or to otherwise authorize use of alternative procedures or practices. Waivers of such existing rules, policies, or procedures must comply with applicable state or federal law.
- (b) For innovation zone proposals that the secretary determines require changes to state law, the secretary may submit a request for a waiver from such laws, together with any proposed changes to state law, to the chairs of the appropriate legislative committees for consideration.
- (c) For innovation zone proposals that the secretary determines require waiver of federal law, the secretary may submit a request for such waivers to the applicable federal

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(2) An innovation zone project may not have a duration of more than 2 years, but the secretary may grant an extension.

- (3) Before implementing an innovation zone under this subsection, the secretary shall, in conjunction with the Office of Program Policy Analysis and Government Accountability, develop measurable and valid objectives for such zone within a negotiated reasonable period of time. Moneys designated for an innovation zone in one operating circuit may not be used to fund an innovation zone in another operating circuit.
- (4) Program models for innovation zone projects include, but are not limited to:
- (a) A forestry alternative work program that provides selected juvenile offenders an opportunity to serve in a forestry work program as an alternative to incarceration, in which offenders assist in wildland firefighting, enhancement of state land management, environmental enhancement, and land restoration.
- (b) A collaborative public/private dropout prevention partnership that trains personnel from both the public and private sectors of a target community who are identified and brought into the school system as an additional resource for addressing problems which inhibit and retard learning, including abuse, neglect, financial instability, pregnancy, and substance abuse.
- (c) A support services program that provides economically disadvantaged youth with support services, jobs, training, counseling, mentoring, and prepaid postsecondary tuition scholarships.

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(d) A juvenile offender job training program that offers an opportunity for juvenile offenders to develop educational and job skills in a 12-month to 18-month nonresidential training program, teaching the offenders skills such as computer-aided design, modular panel construction, and heavy vehicle repair and maintenance which will readily transfer to the private sector, thereby promoting responsibility and productivity.

- (e) An infant mortality prevention program that is designed to discourage unhealthy behaviors such as smoking and alcohol or drug consumption, reduce the incidence of babies born prematurely or with low birth weight, reduce health care cost by enabling babies to be safely discharged earlier from the hospital, reduce the incidence of child abuse and neglect, and improve parenting and problem-solving skills.
- (f) A regional crime prevention and intervention program that serves as an umbrella agency to coordinate and replicate existing services to at-risk children, first-time juvenile offenders, youth crime victims, and school dropouts.
- (g) An alternative education outreach school program that serves delinquent repeat offenders between 14 and 18 years of age who have demonstrated failure in school and who are referred by the juvenile court.
- (h) A drug treatment and prevention program that provides early identification of children with alcohol or drug problems to facilitate treatment, comprehensive screening and assessment, family involvement, and placement options.
- (i) A community resource mother or father program that emphasizes parental responsibility for the behavior of children, and requires the availability of counseling services for

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436 children at high risk for delinquent behavior.

Section 5. Paragraph (b) of subsection (1), paragraph (a) of subsection (2), and subsection (3) of section 985.676, Florida Statutes, are amended to read:

985.676 Community juvenile justice partnership grants.-

- (1) GRANTS; CRITERIA.—
- (b) In awarding these grants, the department shall consider applications that at a minimum provide for the following:
- 1. The participation of the agencies and programs needed to implement the project or program for which the applicant is applying;
- 2. The reduction of truancy and in-school and out-of-school suspensions and expulsions, the enhancement of school safety, and other delinquency early-intervention and diversion services;
- 3. The number of youths from 10 through 17 years of age within the geographic area to be served by the program, giving those geographic areas having the highest number of youths from 10 to 17 years of age priority for selection;
- 4. The extent to which the program targets high-juvenile-crime neighborhoods and those public schools serving juveniles from high-crime neighborhoods;
  - 5. The validity and cost-effectiveness of the program; and
- 6. The degree to which the program is located in and managed by local leaders of the target neighborhoods and public schools serving the target neighborhoods; and  $\cdot$
- 7. The development and implementation of the goals of the local juvenile justice county council or circuit board and the Children and Youth Cabinet, along with other departmental purposes.

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- (2) GRANT APPLICATION PROCEDURES.-
- (a) Each entity wishing to apply for an annual community juvenile justice partnership grant, which may be renewed for a maximum of 2 additional years for the same provision of services, unless subject to extension as prescribed under subsection (3), shall submit a grant proposal for funding or continued funding to the department. The department shall establish the grant application procedures. In order to be considered for funding, the grant proposal shall include the following assurances and information:
- 1. A letter from <u>each</u> the chair of the juvenile justice circuit board <u>and council</u> confirming that the grant application has been reviewed and found to support one or more purposes or goals of the juvenile justice plan as developed by the board.
- 2. A rationale and description of the program and the services to be provided, including goals and objectives.
- 3. A method for identification of the juveniles most likely to be involved in the juvenile justice system who will be the focus of the program.
- 4. Provisions for the participation of parents and guardians in the program.
- 5. Coordination with other community-based and social service prevention efforts, including, but not limited to, drug and alcohol abuse prevention and dropout prevention programs, that serve the target population or neighborhood.
- 6. An evaluation component to measure the effectiveness of the program in accordance with s. 985.632.
- 7. A program budget, including the amount and sources of local cash and in-kind resources committed to the budget. The

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proposal must establish to the satisfaction of the department that the entity will make a cash or in-kind contribution to the program of a value that is at least equal to 20 percent of the amount of the grant.

- 8. The necessary program staff.
- (3) RESTRICTIONS.—
- (a) This section does not prevent a program initiated under a community juvenile justice partnership grant established pursuant to this section from continuing to operate beyond the 3-year maximum funding period if it can find other funding sources. Likewise, this section does not restrict the number of programs an entity may apply for or operate.
- (b) Notwithstanding the 3-year maximum funding period, the department, upon the request of the entity or the recommendation of the affected juvenile justice circuit board or county council and the Children and Youth Cabinet, may indefinitely extend the funding period for the same provision of services if the entity's evaluation report, submitted annually to the department pursuant to paragraph (2)(e), shows that the entity's services in 3 previous years were unique and extraordinary in achieving the goals of the department, the juvenile justice circuit board or county council, or the Children and Youth Cabinet.
  - Section 6. This act shall take effect July 1, 2010.