

1 A bill to be entitled
2 An act relating to juvenile justice; creating s. 985.031,
3 F.S.; authorizing the court to set reasonable conditions
4 of preadjudicatory release for children charged with
5 specified acts or who have previously been charged with or
6 committed delinquent acts; providing examples of such
7 conditions; amending s. 985.101, F.S.; permitting a child
8 to be taken into custody for violations of preadjudicatory
9 release conditions; providing that a child taken into
10 custody for a violation of preadjudicatory release
11 conditions must appear before a judge within 24 hours;
12 amending s. 985.24, F.S.; providing an additional finding
13 to support the use of secure, nonsecure, or home detention
14 care; amending s. 985.245, F.S.; providing that placement
15 in detention care under a specified provision does not
16 require a risk assessment; amending s. 985.25, F.S.;
17 providing additional grounds for placement of a child in
18 secure detention care; amending s. 985.255, F.S.;
19 providing for continuing home or nonsecure or home
20 detention care or secure detention care prior to a
21 detention hearing in certain circumstances; amending s.
22 985.26, F.S.; requiring that children who have been
23 released comply with preadjudicatory release conditions;
24 providing that certain time limits do not apply to secure
25 detention under specified provisions; amending s. 985.265,
26 F.S.; specifying some changed circumstances that permit
27 the Department of Juvenile Justice to transfer a child
28 from nonsecure or home detention care to secure detention

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29 | care; amending s. 985.27, F.S.; specifying circumstances
30 | under which a child who is awaiting placement in a low-
31 | risk or minimum-risk residential program may be held in
32 | secure detention care; providing time limits on such
33 | detention care; providing for secure detention care for
34 | absconders from specified types of care; revising
35 | provisions for detention care of a child awaiting
36 | placement in a moderate-risk residential program;
37 | providing for secure detention care in specified
38 | circumstances; creating s. 985.28, F.S.; providing for
39 | secure detention of a child in specified circumstances;
40 | permitting a parent or legal guardian of a child to be
41 | held in contempt of court if he or she knowingly and
42 | willfully fails to bring or otherwise prevents the child
43 | from appearing for trial; amending s. 985.35, F.S.;
44 | conforming a cross-reference to changes made by the act;
45 | amending s. 985.43, F.S.; conforming a cross-reference to
46 | changes made by the act; providing a legislative
47 | declaration concerning the determination whether to commit
48 | a juvenile to the department and the most appropriate
49 | placement level if the juvenile is committed; amending s.
50 | 985.433, F.S.; revising provisions relating to
51 | recommendations by probation officers to the court
52 | concerning placement and any proposed treatment plan of
53 | juveniles; specifying that the court has the power to
54 | determine appropriate dispositions; requiring that reasons
55 | for a disposition be stated for the record; amending s.
56 | 985.439, F.S.; permitting a child to be detained in a

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57 facility other than a consequence unit if one is not
 58 available for a violation of probation or postcommitment
 59 probation under specified provisions; creating s. 938.20,
 60 F.S.; permitting each county to create a juvenile crime
 61 prevention fund; providing for an additional court cost;
 62 providing that no juvenile shall be assessed the
 63 additional court cost if the juvenile and the juvenile's
 64 parents or other legal guardian are found to be indigent;
 65 providing for administration and use of funds; amending s.
 66 790.22, F.S.; conforming a cross-reference; providing that
 67 the act fulfills an important state interest; providing
 68 legislative intent; providing an effective date.

69

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

71

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

74 985.031 Preadjudicatory release; circuit court
 75 authority.--The circuit court shall have the authority to set
 76 reasonable conditions of preadjudicatory release for a child
 77 charged with the commission of a delinquent act which
 78 constitutes a felony or when the child has previously been
 79 charged with or found to have committed, regardless of
 80 adjudication, a delinquent act. The child shall comply with all
 81 such preadjudicatory release conditions prior to an adjudicatory
 82 hearing. Reasonable conditions of preadjudicatory release may
 83 include, but are not limited to, the following:

84 (1) The child shall not engage in a violation of law.

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85 (2) The child shall not possess or carry any weapon.

86 (3) The child shall not possess or use any alcoholic
 87 beverage or illegal drug or associate with those who are
 88 currently possessing or using any alcoholic beverage or illegal
 89 drug.

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

91 (5) The child shall attend school regularly, including all
 92 classes.

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

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

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

99 Section 2. Paragraph (d) of subsection (1) of section
 100 985.101, Florida Statutes, is amended, and subsection (5) is
 101 added to that section, to read:

102 985.101 Taking a child into custody; preadjudicatory
 103 release conditions.--

104 (1) A child may be taken into custody under the following
 105 circumstances:

106 (d) By a law enforcement officer who has probable cause to
 107 believe that the child is in violation of the conditions of the
 108 child's preadjudicatory release, conditions of the child's
 109 probation, home detention, postcommitment probation, or
 110 conditional release supervision; has absconded from
 111 nonresidential commitment; or has escaped from residential
 112 commitment.

113
 114 Nothing in this subsection shall be construed to allow the
 115 detention of a child who does not meet the detention criteria in
 116 part V.

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

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

122 985.24 Use of detention; prohibitions.--

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

126 (a) Presents a substantial risk of not appearing at a
 127 subsequent hearing;

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

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

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

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

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

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

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- 140 1. Intentionally disrupting the administration of the
 141 court;
 142 2. Intentionally disobeying a court order; or
 143 3. Engaging in a punishable act or speech in the court's
 144 presence which shows disrespect for the authority and dignity of
 145 the court; or

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

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

149 985.245 Risk assessment instrument.--

150 (1) All determinations and court orders regarding
 151 placement of a child into detention care shall comply with all
 152 requirements and criteria provided in this part and shall be
 153 based on a risk assessment of the child, unless the child is
 154 placed into detention care as provided in s. 985.255(2) or s.
 155 985.28.

156 Section 5. Paragraph (b) of subsection (1) of section
 157 985.25, Florida Statutes, is amended to read:

158 985.25 Detention intake.--

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

165 (b) The juvenile probation officer shall base the decision
 166 whether ~~or not~~ to place the child into secure detention care,
 167 home detention care, or nonsecure detention care on an

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168 assessment of risk in accordance with the risk assessment
 169 instrument and procedures developed by the department under s.
 170 985.245. However, a child shall be placed in secure detention
 171 care if:

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

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

178 3. There is probable cause to believe the child has
 179 committed a new violation of law while on home or nonsecure
 180 detention care after adjudication and commitment but before
 181 placement in a residential facility ~~shall be placed in secure~~
 182 ~~detention care.~~

183
 184 Under no circumstances shall the juvenile probation officer or
 185 the state attorney or law enforcement officer authorize the
 186 detention of any child in a jail or other facility intended or
 187 used for the detention of adults, without an order of the court.

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

190 985.255 Detention criteria; detention hearing.--

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

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

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

203 (c)~~(a)~~ The child is alleged to be an escapee from a
 204 residential commitment program; or an absconder from a
 205 nonresidential commitment program, a probation program, or
 206 conditional release supervision; or is alleged to have escaped
 207 while being lawfully transported to or from a residential
 208 commitment program.

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

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

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

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

220 (h)~~(f)~~ The child is charged with a capital felony, a life
 221 felony, a felony of the first degree, a felony of the second
 222 degree that does not involve a violation of chapter 893, or a

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223 felony of the third degree that is also a crime of violence,
 224 including any such offense involving the use or possession of a
 225 firearm.

226 (i)~~(g)~~ The child is charged with any second degree or
 227 third degree felony involving a violation of chapter 893 or any
 228 third degree felony that is not also a crime of violence, and
 229 the child:

- 230 1. Has a record of failure to appear at court hearings
- 231 after being properly notified in accordance with the Rules of
- 232 Juvenile Procedure;
- 233 2. Has a record of law violations prior to court hearings;
- 234 3. Has already been detained or has been released and is
- 235 awaiting final disposition of the case;
- 236 4. Has a record of violent conduct resulting in physical
- 237 injury to others; or
- 238 5. Is found to have been in possession of a firearm.

239 (j)~~(h)~~ The child is alleged to have violated the
 240 conditions of the child's probation or conditional release
 241 supervision. However, a child detained under this paragraph may
 242 be held only in a consequence unit as provided in s. 985.439. If
 243 a consequence unit is not available, the child may be placed in
 244 secure detention care, home detention care, or home detention
 245 care with electronic monitoring ~~shall be placed on home~~
 246 ~~detention with electronic monitoring.~~

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

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

258 (1)~~(j)~~ The child is detained on a judicial order for
 259 failure to appear and has previously willfully failed to appear,
 260 after proper notice, at two or more court hearings of any nature
 261 on the same case regardless of the results of the risk
 262 assessment instrument. A child may be held in secure detention
 263 for up to 72 hours in advance of the next scheduled court
 264 hearing pursuant to this paragraph. The child's failure to keep
 265 the clerk of court and defense counsel informed of a current and
 266 valid mailing address where the child will receive notice to
 267 appear at court proceedings does not provide an adequate ground
 268 for excusal of the child's nonappearance at the hearings.

269 (3) (a) A child who meets any of the criteria in subsection
 270 (1) and who is ordered to be detained under that subsection
 271 shall be given a hearing within 24 hours after being taken into
 272 custody. The purpose of the detention hearing is to determine
 273 the existence of probable cause that the child has committed the
 274 delinquent act or violation of law that he or she is charged
 275 with and the need for continued detention. Unless a child is
 276 detained under paragraph (1) (a), paragraph (1) (b), paragraph
 277 (1) (f)~~(d)~~, or paragraph (1) (g)~~(e)~~, the court shall use the
 278 results of the risk assessment performed by the juvenile

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279 | probation officer and, based on the criteria in subsection (1),
 280 | shall determine the need for continued detention. A child placed
 281 | into secure, nonsecure, or home detention care may continue to
 282 | be so detained by the court. A child detained under paragraph
 283 | (1) (a) or paragraph (1) (b) may be placed into secure detention
 284 | care pending placement in a residential facility.

285 | (c) Except as provided in paragraph (1) (a), paragraph
 286 | (1) (b), s. 790.22 (8), or ~~in~~ s. 985.27, when a child is placed
 287 | into secure or nonsecure detention care, or into a respite home
 288 | or other placement pursuant to a court order following a
 289 | hearing, the court order must include specific instructions that
 290 | direct the release of the child from such placement no later
 291 | than 5 p.m. on the last day of the detention period specified in
 292 | s. 985.26 or s. 985.27, whichever is applicable, unless the
 293 | requirements of such applicable provision have been met or an
 294 | order of continuance has been granted under s. 985.26(4).

295 | Section 7. Section 985.26, Florida Statutes, is amended to
 296 | read:

297 | 985.26 Length of detention.--

298 | (1) A child may not be placed into or held in secure,
 299 | nonsecure, or home detention care for longer than 24 hours
 300 | unless the court orders such detention care, and the order
 301 | includes specific instructions that direct the release of the
 302 | child from such detention care, in accordance with s. 985.255.
 303 | The order shall be a final order, reviewable by appeal under s.
 304 | 985.534 and the Florida Rules of Appellate Procedure. Appeals of
 305 | such orders shall take precedence over other appeals and other
 306 | pending matters.

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307 (2) A child may not be held in secure, nonsecure, or home
308 detention care under a special detention order for more than 21
309 days unless an adjudicatory hearing for the case has been
310 commenced in good faith by the court. However, upon good cause
311 being shown that the nature of the charge requires additional
312 time for the prosecution or defense of the case, the court may
313 extend the length of detention for an additional 9 days if the
314 child is charged with an offense that would be, if committed by
315 an adult, a capital felony, a life felony, a felony of the first
316 degree, or a felony of the second degree involving violence
317 against any individual. For purposes of this subsection, if a
318 child is released, the child must comply with all conditions of
319 preadjudicatory release set by the circuit court.

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

323 (4) The time limits in subsections (2) and (3) do not
324 include periods of delay resulting from a continuance granted by
325 the court for cause on motion of the child or his or her counsel
326 or of the state. Upon the issuance of an order granting a
327 continuance for cause on a motion by either the child, the
328 child's counsel, or the state, the court shall conduct a hearing
329 at the end of each 72-hour period, excluding Saturdays, Sundays,
330 and legal holidays, to determine the need for continued
331 detention of the child and the need for further continuance of
332 proceedings for the child or the state.

333 (5) The time limits required under this section do not
 334 apply to children held in secure detention care pursuant to ss.
 335 985.255(1)(a) and (b) and (3), 985.27(1)(a) and (b), and 985.28.

336 (6)~~(5)~~ A child who was not in secure detention care at the
 337 time of the adjudicatory hearing, but for whom residential
 338 commitment is anticipated or recommended, may be placed under a
 339 special detention order for a period not to exceed 72 hours,
 340 excluding weekends and legal holidays, for the purpose of
 341 conducting a comprehensive evaluation as provided in s. 985.185.
 342 Motions for the issuance of such special detention order may be
 343 made subsequent to a finding of delinquency. Upon said motion,
 344 the court shall conduct a hearing to determine the
 345 appropriateness of such special detention order and shall order
 346 the least restrictive level of detention care necessary to
 347 complete the comprehensive evaluation process that is consistent
 348 with public safety. Such special detention order may be extended
 349 for an additional 72 hours upon further order of the court.

350 (7)~~(6)~~ If a child is detained and a petition for
 351 delinquency is filed, the child shall be arraigned in accordance
 352 with the Florida Rules of Juvenile Procedure within 48 hours
 353 after the filing of the petition for delinquency.

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

356 985.265 Detention transfer and release; education; adult
 357 jails.--

358 (1) If a child is detained under this part, the department
 359 may transfer the child from nonsecure or home detention care to
 360 secure detention care only if significantly changed

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361 | circumstances warrant such transfer. Such circumstances include,
 362 | but are not limited to:

363 | (a) Where a child is alleged to have absconded from home
 364 | or nonsecure detention care or otherwise violates the terms of
 365 | release after adjudication and commitment but while awaiting
 366 | placement in a residential facility; or

367 | (b) Where probable cause exists that a child has committed
 368 | a new violation of law while on home or nonsecure detention care
 369 | after adjudication and commitment but while awaiting placement
 370 | in a residential facility.

371 | Section 9. Subsection (1) of section 985.27, Florida
 372 | Statutes, is amended to read:

373 | 985.27 Postcommitment detention while awaiting
 374 | placement.--

375 | (1) The court must place all children who are adjudicated
 376 | and awaiting placement in a commitment program in secure
 377 | detention care, home detention care, or nonsecure detention
 378 | care. Children who are in home detention care or nonsecure
 379 | detention care may be placed on electronic monitoring.

380 | (a) A child who is awaiting placement in a low-risk
 381 | residential program must be removed from detention within 5
 382 | days, excluding Saturdays, Sundays, and legal holidays. Any
 383 | child held in secure detention during the 5 days must meet
 384 | detention admission criteria under this part. A child who is
 385 | placed in home detention care, nonsecure detention care, or home
 386 | or nonsecure detention care with electronic monitoring, while
 387 | awaiting placement in a minimum-risk or low-risk program, may be
 388 | held in secure detention care for 5 days, if the child violates

389 the conditions of the home detention care, the nonsecure
 390 detention care, or the electronic monitoring agreement. For any
 391 subsequent violation, the court may impose an additional 15 ~~5~~
 392 days, excluding Saturdays, Sundays, and legal holidays, in
 393 secure detention care.

394 (b)1. A child who is awaiting placement in a moderate-risk
 395 residential program must be placed in secure detention care,
 396 home detention care, or nonsecure detention care. Any child held
 397 in secure detention care must meet detention admission criteria
 398 under this part.

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

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

407 b. Probable cause exists that a child committed a new
 408 violation of law while on home detention care, nonsecure
 409 detention care, or electronic monitoring and the child is
 410 awaiting placement in a residential program ~~A child who is~~
 411 ~~awaiting placement in a moderate-risk residential program must~~
 412 ~~be removed from detention within 5 days, excluding Saturdays,~~
 413 ~~Sundays, and legal holidays. Any child held in secure detention~~
 414 ~~during the 5 days must meet detention admission criteria under~~
 415 ~~this part. The department may seek an order from the court~~
 416 ~~authorizing continued detention for a specific period of time~~

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417 ~~necessary for the appropriate residential placement of the~~
418 ~~child. However, such continued detention in secure detention~~
419 ~~care may not exceed 15 days after entry of the commitment order,~~
420 ~~excluding Saturdays, Sundays, and legal holidays, and except as~~
421 ~~otherwise provided in this section. A child who is placed in~~
422 ~~home detention care, nonsecure detention care, or home or~~
423 ~~nonsecure detention care with electronic monitoring, while~~
424 ~~awaiting placement in a moderate-risk program, may be held in~~
425 ~~secure detention care for 5 days, if the child violates the~~
426 ~~conditions of the home detention care, the nonsecure detention~~
427 ~~care, or the electronic monitoring agreement. For any subsequent~~
428 ~~violation, the court may impose an additional 5 days in secure~~
429 ~~detention care.~~

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

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

436 Section 10. Section 985.28, Florida Statutes, is created
437 to read:

438 985.28 Appearance in court; preadjudicatory detention;
439 contempt.--

440 (1) A child may be held in secure detention care if, after
441 proper notice, the child fails to appear in court because the
442 child refuses to appear, runs away, or otherwise intentionally
443 avoids his or her appearance. The court may hold the child in

444 secure detention care until the trial concludes, regardless of
 445 the results of the risk assessment instrument.

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

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

452 985.35 Adjudicatory hearings; withheld adjudications;
 453 orders of adjudication.--

454 (1) The adjudicatory hearing must be held as soon as
 455 practicable after the petition alleging that a child has
 456 committed a delinquent act or violation of law is filed and in
 457 accordance with the Florida Rules of Juvenile Procedure; but
 458 reasonable delay for the purpose of investigation, discovery, or
 459 procuring counsel or witnesses shall be granted. If the child is
 460 being detained, the time limitations in s. 985.26(2) ~~and (3)~~
 461 apply.

462 Section 12. Paragraph (c) of subsection (1) of section
 463 985.43, Florida Statutes, is amended, and subsection (4) is
 464 added to that section, to read:

465 985.43 Predisposition reports; other evaluations.--

466 (1) Upon a finding that the child has committed a
 467 delinquent act:

468 (c) A child who was not in secure detention at the time of
 469 the adjudicatory hearing, but for whom residential commitment is
 470 anticipated or recommended, may be placed under a special

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471 detention order, as provided in s. 985.26 (6) ~~(5)~~, for the purpose
 472 of conducting a comprehensive evaluation.

473 (4) The Legislature finds that the court is in the best
 474 position to weigh all facts and circumstances to determine
 475 whether or not to commit a juvenile to the department and to
 476 determine the most appropriate restrictiveness level for a
 477 juvenile committed to the department.

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

480 985.433 Disposition hearings in delinquency cases.--When a
 481 child has been found to have committed a delinquent act, the
 482 following procedures shall be applicable to the disposition of
 483 the case:

484 (7) If the court determines that the child should be
 485 adjudicated as having committed a delinquent act and should be
 486 committed to the department, such determination shall be in
 487 writing or on the record of the hearing. The determination shall
 488 include a specific finding of the reasons for the decision to
 489 adjudicate and to commit the child to the department, including
 490 any determination that the child was a member of a criminal
 491 gang.

492 (a) The juvenile probation officer shall make a
 493 recommendation to the court concerning placement and any
 494 proposed treatment plan ~~recommend to the court the most~~
 495 ~~appropriate placement and treatment plan, specifically~~
 496 ~~identifying the restrictiveness level most appropriate for the~~
 497 ~~child.~~ If the court has determined that the child was a member
 498 of a criminal gang, that determination shall be given great

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499 weight in identifying the most appropriate restrictiveness level
 500 for the child. The court shall consider the department's
 501 recommendation in making its commitment decision.

502 (b) The court may ~~shall~~ commit the child to the department
 503 at the restrictiveness level identified by the department, or
 504 the court may order placement at a different restrictiveness
 505 level. The court may determine the disposition on the same
 506 factors as the department considered in the department's
 507 predisposition report and placement recommendation even if the
 508 court reaches a different conclusion. The court may commit the
 509 child to a different restrictiveness level than recommended by
 510 the department. The court shall state for the record the reasons
 511 for the disposition imposed ~~that establish by a preponderance of~~
 512 ~~the evidence why the court is disregarding the assessment of the~~
 513 ~~child and the restrictiveness level recommended by the~~
 514 ~~department.~~ Any party may appeal the court's findings resulting
 515 in a modified level of restrictiveness under this paragraph. The
 516 department shall maintain data to identify the extent to which
 517 the courts agree with the department's recommendation.

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

520 985.439 Violation of probation or postcommitment
 521 probation.--

522 (2) A child taken into custody under s. 985.101 for
 523 violating the conditions of probation or postcommitment
 524 probation shall be held in a consequence unit if such a unit is
 525 available or may be detained under part V in a facility other
 526 than a consequence unit if one is not available. The child shall

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527 be afforded a hearing within 24 hours after being taken into
528 custody to determine the existence of probable cause that the
529 child violated the conditions of probation or postcommitment
530 probation. A consequence unit is a secure facility specifically
531 designated by the department for children who are taken into
532 custody under s. 985.101 for violating probation or
533 postcommitment probation, or who have been found by the court to
534 have violated the conditions of probation or postcommitment
535 probation. If the violation involves a new charge of
536 delinquency, the child may be detained under part V in a
537 facility other than a consequence unit. If the child is not
538 eligible for detention for the new charge of delinquency, the
539 child may be held in the consequence unit pending a hearing and
540 is subject to the time limitations specified in part V.

541 Section 15. Section 938.20, Florida Statutes, is created
542 to read:

543 938.20 County juvenile crime prevention fund.--

544 (1) Notwithstanding s. 318.121, and in addition to ss.
545 938.19 and 939.185, in each county the board of county
546 commissioners may adopt a mandatory court cost to be assessed in
547 specific cases by incorporating by reference the provisions of
548 this section in a county ordinance. Assessments collected by the
549 clerk of the circuit court under this section shall be deposited
550 into an account specifically for the administration of the
551 county's juvenile crime prevention fund. The proceeds of the
552 county's juvenile crime prevention fund shall only be used to
553 fund local programs whose principal focus is the prevention of
554 juvenile crime, the creation of consequence or suspension

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555 centers, and truancy programs and such other areas of local
556 concern relating to juvenile crime.

557 (2) A sum of up to \$50 shall be assessed as a court cost
558 in the circuit court in the county against each juvenile who
559 pleads guilty or nolo contendere to, or is found guilty of,
560 regardless of adjudication, a delinquent act. A juvenile may not
561 be assessed court costs under this section if the juvenile and
562 the juvenile's parents or other legal guardian are found to be
563 indigent.

564 (3) The assessment for court costs under this section
565 shall be assessed in addition to any other cost or fee and may
566 not be deducted from the proceeds of any other cost that is
567 received by the county.

568 (4) (a) The clerk of the circuit court shall collect the
569 assessments for court costs under this section and shall remit
570 the assessments to the county's juvenile crime prevention fund
571 monthly.

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

575 (5) A county's juvenile crime prevention fund must account
576 for all funds received and disbursed under this section in a
577 written report to the board of county commissioners of that
578 county. The report must be given to the commissioners by August
579 1 of each year unless a different date is required by the
580 commissioners.

581 (6) A county's juvenile crime prevention fund may be
582 administered by a nonprofit organization, a law enforcement

583 agency, the court administrator, the clerk of the circuit court,
 584 a county agency, or another similar agency authorized by the
 585 board of county commissioners of that county.

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

588 790.22 Use of BB guns, air or gas-operated guns, or
 589 electric weapons or devices by minor under 16; limitation;
 590 possession of firearms by minor under 18 prohibited;
 591 penalties.--

592 (8) Notwithstanding s. 985.24 or s. 985.25(1), if a minor
 593 under 18 years of age is charged with an offense that involves
 594 the use or possession of a firearm, as defined in s. 790.001,
 595 including a violation of subsection (3), or is charged for any
 596 offense during the commission of which the minor possessed a
 597 firearm, the minor shall be detained in secure detention, unless
 598 the state attorney authorizes the release of the minor, and
 599 shall be given a hearing within 24 hours after being taken into
 600 custody. At the hearing, the court may order that the minor
 601 continue to be held in secure detention in accordance with the
 602 applicable time periods specified in s. 985.26(1)-(6)~~(1)-(5)~~, if
 603 the court finds that the minor meets the criteria specified in
 604 s. 985.255, or if the court finds by clear and convincing
 605 evidence that the minor is a clear and present danger to himself
 606 or herself or the community. The Department of Juvenile Justice
 607 shall prepare a form for all minors charged under this
 608 subsection that states the period of detention and the relevant
 609 demographic information, including, but not limited to, the sex,
 610 age, and race of the minor; whether or not the minor was

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611 represented by private counsel or a public defender; the current
612 offense; and the minor's complete prior record, including any
613 pending cases. The form shall be provided to the judge to be
614 considered when determining whether the minor should be
615 continued in secure detention under this subsection. An order
616 placing a minor in secure detention because the minor is a clear
617 and present danger to himself or herself or the community must
618 be in writing, must specify the need for detention and the
619 benefits derived by the minor or the community by placing the
620 minor in secure detention, and must include a copy of the form
621 provided by the department. The Department of Juvenile Justice
622 must send the form, including a copy of any order, without
623 client-identifying information, to the Office of Economic and
624 Demographic Research.

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

627 Section 18. It is the intent of the Legislature with this
628 act to ensure public safety and to provide appropriate and
629 effective treatment to address physical, social, and emotional
630 needs of juveniles, including, but not limited to, substance
631 abuse services, mental health services, family counseling, anger
632 management, other behavioral services, and health care services.

633 Section 19. This act shall take effect July 1, 2010.