



153282

LEGISLATIVE ACTION

Senate

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House

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Floor: AD/CR

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05/06/2011 05:34 PM

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The Conference Committee on SB 2114 recommended the following:

1           **Senate Conference Committee Amendment (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Section 985.441, Florida Statutes, is amended to  
7 read:

8           985.441 Commitment.—

9           (1) The court that has jurisdiction of an adjudicated  
10 delinquent child may, by an order stating the facts upon which a  
11 determination of a sanction and rehabilitative program was made  
12 at the disposition hearing:

13           (a) Commit the child to a licensed child-caring agency



153282

14 willing to receive the child; however, the court may not commit  
15 the child to a jail or to a facility used primarily as a  
16 detention center or facility or shelter.

17 (b) Commit the child to the department at a restrictiveness  
18 level defined in s. 985.03. Such commitment must be for the  
19 purpose of exercising active control over the child, including,  
20 but not limited to, custody, care, training, ~~urine~~ monitoring  
21 for substance abuse, electronic monitoring, and treatment of the  
22 child and release of the child from residential commitment into  
23 the community in a postcommitment nonresidential conditional  
24 release program. If the child is not successful in the  
25 conditional release program, the department may use the transfer  
26 procedure under subsection (4) ~~(3)~~.

27 (c) Commit the child to the department for placement in a  
28 program or facility for serious or habitual juvenile offenders  
29 in accordance with s. 985.47.

30 1. Following a delinquency adjudicatory hearing under s.  
31 985.35 and a delinquency disposition hearing under s. 985.433  
32 that results in a commitment determination, the court shall, on  
33 its own or upon request by the state or the department,  
34 determine whether the protection of the public requires that the  
35 child be placed in a program for serious or habitual juvenile  
36 offenders and whether the particular needs of the child would be  
37 best served by a program for serious or habitual juvenile  
38 offenders as provided in s. 985.47. The determination shall be  
39 made under ss. 985.47(1) and 985.433(7).

40 2. Any commitment of a child to a program or facility for  
41 serious or habitual juvenile offenders must be for an  
42 indeterminate period of time, but the time may not exceed the



153282

43 maximum term of imprisonment that an adult may serve for the  
44 same offense.

45 (d) Commit the child to the department for placement in a  
46 program or facility for juvenile sexual offenders in accordance  
47 with s. 985.48, subject to specific appropriation for such a  
48 program or facility.

49 1. The child may only be committed for such placement  
50 pursuant to determination that the child is a juvenile sexual  
51 offender under the criteria specified in s. 985.475.

52 2. Any commitment of a juvenile sexual offender to a  
53 program or facility for juvenile sexual offenders must be for an  
54 indeterminate period of time, but the time may not exceed the  
55 maximum term of imprisonment that an adult may serve for the  
56 same offense.

57 (2) Notwithstanding subsection (1), the court having  
58 jurisdiction over an adjudicated delinquent child whose  
59 underlying offense was a misdemeanor may not commit the child  
60 for any misdemeanor offense or any probation violation at a  
61 restrictiveness level other than minimum-risk nonresidential  
62 unless the probation violation is a new violation of law  
63 constituting a felony. However, the court may commit such child  
64 to a low-risk or moderate-risk residential placement if:

65 1. The child has previously been adjudicated for a felony  
66 offense;

67 2. The child has been adjudicated or had adjudication  
68 withheld for three or more misdemeanor offenses;

69 3. The child is before the court for disposition for a  
70 violation of s. 800.03, s. 806.031, or s. 828.12; or

71 4. The court finds by a preponderance of the evidence that



153282

72 the protection of the public requires such placement or that the  
73 particular needs of the child would be best served by such  
74 placement. Such finding must be in writing.

75 (3)(2) The nonconsent of the child to commitment or  
76 treatment in a substance abuse treatment program in no way  
77 precludes the court from ordering such commitment or treatment.

78 (4)(3) The department may transfer a child, when necessary  
79 to appropriately administer the child's commitment, from one  
80 facility or program to another facility or program operated,  
81 contracted, subcontracted, or designated by the department,  
82 including a postcommitment nonresidential conditional release  
83 program, except that the department may not transfer any child  
84 adjudicated solely for a misdemeanor to a residential program  
85 except as provided in subsection (2). The department shall  
86 notify the court that committed the child to the department and  
87 any attorney of record for the child, in writing, of its intent  
88 to transfer the child from a commitment facility or program to  
89 another facility or program of a higher or lower restrictiveness  
90 level. The court that committed the child may agree to the  
91 transfer or may set a hearing to review the transfer. If the  
92 court does not respond within 10 days after receipt of the  
93 notice, the transfer of the child shall be deemed granted.

94 Section 2. Paragraph (d) of subsection (5) of section  
95 985.0301, Florida Statutes, is amended to read:

96 985.0301 Jurisdiction.—

97 (5)

98 (d) The court may retain jurisdiction over a child  
99 committed to the department for placement in a juvenile prison  
100 or in a high-risk or maximum-risk residential commitment program



153282

101 to allow the child to participate in a juvenile conditional  
102 release program pursuant to s. 985.46. ~~In no case shall~~ The  
103 jurisdiction of the court may not be retained after beyond the  
104 child's 22nd birthday. However, if the child is not successful  
105 in the conditional release program, the department may use the  
106 transfer procedure under s. 985.441(4) ~~s. 985.441(3)~~.

107 Section 3. Subsection (2) of section 985.033, Florida  
108 Statutes, is amended to read:

109 985.033 Right to counsel.—

110 (2) This section does not apply to transfer proceedings  
111 under s. 985.441(4) ~~s. 985.441(3)~~, unless the court sets a  
112 hearing to review the transfer.

113 Section 4. Subsection (4) of section 985.46, Florida  
114 Statutes, is amended to read:

115 985.46 Conditional release.—

116 (4) A juvenile under nonresidential commitment placement  
117 continues ~~will continue to be~~ on commitment status and is  
118 subject to ~~the transfer provision~~ under s. 985.441(4) ~~s.~~  
119 ~~985.441(3)~~.

120 Section 5. This act shall take effect July 1, 2011.

121  
122 ===== T I T L E A M E N D M E N T =====

123 And the title is amended as follows:

124  
125 Delete everything before the enacting clause  
126 and insert:

127 A bill to be entitled  
128 An act relating to juvenile justice; amending s.  
129 985.441, F.S.; revising provisions concerning active



153282

130 control over a child committed to the Department of  
131 Juvenile Justice; prohibiting a court from committing  
132 certain youth at a restrictiveness level other than  
133 minimum-risk nonresidential; authorizing a court to  
134 commit certain youth to a low-risk or moderate-risk  
135 residential placement; limiting transfers of certain  
136 youth; amending ss. 985.0301, 985.033, and 985.46,  
137 F.S.; conforming cross-references; providing an  
138 effective date.

139  
140 WHEREAS, 94 percent of Florida youth grow up to be  
141 productive citizens, but the 6 percent of Florida youth who  
142 become delinquent cost the state of Florida an average of \$5,200  
143 per child annually according to 2008 statistics, and

144 WHEREAS, according to national studies, 27 percent of  
145 abused or neglected children become delinquent, and

146 WHEREAS, one of the most effective ways to reduce  
147 delinquency is to prevent child abuse, abandonment, and neglect,  
148 and

149 WHEREAS, Florida's juvenile commitment programs have a 39  
150 percent recidivism rate within 1 year, and

151 WHEREAS, the Department of Juvenile Justice shows that 59  
152 percent of the juveniles being rearrested offend within 120 days  
153 after being released, revealing a critical transition period  
154 currently not being addressed, and

155 WHEREAS, the State of Washington undertook a study that  
156 demonstrated that a significant level of future prison  
157 construction can be avoided, taxpayer dollars can be saved, and  
158 crime rates can be reduced by a portfolio of evidence-based



153282

159 youth service options, and

160 WHEREAS, it has been proven that at-risk youth benefit from  
161 a comprehensive approach through coordination of intensive  
162 prevention, diversion, and family services, and

163 WHEREAS, local management fosters all these approaches,  
164 ensures stronger relationships between providers and the family,  
165 and allows providers to assist in strengthening relationships  
166 between the child and the family, and

167 WHEREAS, instead of competing for funding, prevention,  
168 diversion, and juvenile justice services should cooperate with  
169 the goal of keeping youth out of juvenile detention, NOW,  
170 THEREFORE,