

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Glorioso offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5
6 Section 1. Section 985.441, Florida Statutes, is amended
7 to 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
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.

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

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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 with
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 the
65 child:

66 1. Has previously been adjudicated for a felony offense;

67 2. Has been adjudicated for four or more misdemeanor
68 offenses within 1 year after the date on which the offense
69 before the court for disposition was committed; or

70 3. Is before the court for disposition for a violation of
71 s. 800.03, s. 806.031, or s. 828.12.

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72 (3)~~(2)~~ The nonconsent of the child to commitment or
73 treatment in a substance abuse treatment program in no way
74 precludes the court from ordering such commitment or treatment.

75 (4)~~(3)~~ The department may transfer a child, when necessary
76 to appropriately administer the child's commitment, from one
77 facility or program to another facility or program operated,
78 contracted, subcontracted, or designated by the department,
79 including a postcommitment nonresidential conditional release
80 program, except that the department may not transfer any child
81 adjudicated solely for a misdemeanor to a residential program
82 except as provided in subsection (2). The department shall
83 notify the court that committed the child to the department and
84 any attorney of record for the child, in writing, of its intent
85 to transfer the child from a commitment facility or program to
86 another facility or program of a higher or lower restrictiveness
87 level. The court that committed the child may agree to the
88 transfer or may set a hearing to review the transfer. If the
89 court does not respond within 10 days after receipt of the
90 notice, the transfer of the child shall be deemed granted.

91 Section 2. Paragraph (d) of subsection (5) of section
92 985.0301, Florida Statutes, is amended to read:

93 985.0301 Jurisdiction.—

94 (5)

95 (d) The court may retain jurisdiction over a child
96 committed to the department for placement in a juvenile prison
97 or in a high-risk or maximum-risk residential commitment program
98 to allow the child to participate in a juvenile conditional
99 release program pursuant to s. 985.46. ~~In no case shall~~ The
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100 jurisdiction of the court may not be retained after ~~beyond~~ the
101 child's 22nd birthday. However, if the child is not successful
102 in the conditional release program, the department may use the
103 transfer procedure under s. 985.441(4)~~(3)~~.

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

106 985.033 Right to counsel.-

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

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

112 985.46 Conditional release.-

113 (4) A juvenile under nonresidential commitment placement
114 continues ~~will continue to be~~ on commitment status and is
115 subject to ~~the transfer provision~~ under s. 985.441(4)~~(3)~~.

116 Section 5. This act shall take effect July 1, 2011.
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T I T L E A M E N D M E N T

120 Remove the entire title and insert:

121 A bill to be entitled

122 An act relating to juvenile commitment; amending s.

123 985.441, F.S.; revising language concerning active control
124 over a child committed to the Department of Juvenile
125 Justice; prohibiting a court from committing certain youth
126 at a restrictiveness level other than minimum-risk
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128 nonresidential; authorizing a court to commit certain
129 youth to a low-risk or moderate-risk residential
130 placement; limiting transfers of certain youth; amending
131 ss. 985.0301, 985.033, and 985.46, F.S.; conforming cross-
132 references; providing an effective date.