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1  
2 An act relating to juvenile justice; amending s.  
3 985.441, F.S.; revising provisions concerning active  
4 control over a child committed to the Department of  
5 Juvenile Justice; prohibiting a court from committing  
6 certain youth at a restrictiveness level other than  
7 minimum-risk nonresidential; authorizing a court to  
8 commit certain youth to a low-risk or moderate-risk  
9 residential placement; limiting transfers of certain  
10 youth; amending ss. 985.0301, 985.033, and 985.46,  
11 F.S.; conforming cross-references; providing an  
12 effective date.

13  
14 WHEREAS, 94 percent of Florida youth grow up to be  
15 productive citizens, but the 6 percent of Florida youth who  
16 become delinquent cost the state of Florida an average of \$5,200  
17 per child annually according to 2008 statistics, and

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

20 WHEREAS, one of the most effective ways to reduce  
21 delinquency is to prevent child abuse, abandonment, and neglect,  
22 and

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

25 WHEREAS, the Department of Juvenile Justice shows that 59  
26 percent of the juveniles being rearrested offend within 120 days  
27 after being released, revealing a critical transition period  
28 currently not being addressed, and

29 WHEREAS, the State of Washington undertook a study that

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30 demonstrated that a significant level of future prison  
31 construction can be avoided, taxpayer dollars can be saved, and  
32 crime rates can be reduced by a portfolio of evidence-based  
33 youth service options, and

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

37 WHEREAS, local management fosters all these approaches,  
38 ensures stronger relationships between providers and the family,  
39 and allows providers to assist in strengthening relationships  
40 between the child and the family, and

41 WHEREAS, instead of competing for funding, prevention,  
42 diversion, and juvenile justice services should cooperate with  
43 the goal of keeping youth out of juvenile detention, NOW,  
44 THEREFORE,

45

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

47

48 Section 1. Section 985.441, Florida Statutes, is amended to  
49 read:

50 985.441 Commitment.—

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

55 (a) Commit the child to a licensed child-caring agency  
56 willing to receive the child; however, the court may not commit  
57 the child to a jail or to a facility used primarily as a  
58 detention center or facility or shelter.

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59 (b) Commit the child to the department at a restrictiveness  
60 level defined in s. 985.03. Such commitment must be for the  
61 purpose of exercising active control over the child, including,  
62 but not limited to, custody, care, training, ~~urine~~ monitoring  
63 for substance abuse, electronic monitoring, and treatment of the  
64 child and release of the child from residential commitment into  
65 the community in a postcommitment nonresidential conditional  
66 release program. If the child is not successful in the  
67 conditional release program, the department may use the transfer  
68 procedure under subsection (4) ~~(3)~~.

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

72 1. Following a delinquency adjudicatory hearing under s.  
73 985.35 and a delinquency disposition hearing under s. 985.433  
74 that results in a commitment determination, the court shall, on  
75 its own or upon request by the state or the department,  
76 determine whether the protection of the public requires that the  
77 child be placed in a program for serious or habitual juvenile  
78 offenders and whether the particular needs of the child would be  
79 best served by a program for serious or habitual juvenile  
80 offenders as provided in s. 985.47. The determination shall be  
81 made under ss. 985.47(1) and 985.433(7).

82 2. Any commitment of a child to a program or facility for  
83 serious or habitual juvenile offenders must be for an  
84 indeterminate period of time, but the time may not exceed the  
85 maximum term of imprisonment that an adult may serve for the  
86 same offense.

87 (d) Commit the child to the department for placement in a

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88 program or facility for juvenile sexual offenders in accordance  
89 with s. 985.48, subject to specific appropriation for such a  
90 program or facility.

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

94 2. Any commitment of a juvenile sexual offender to a  
95 program or facility for juvenile sexual offenders must be for an  
96 indeterminate period of time, but the time may not exceed the  
97 maximum term of imprisonment that an adult may serve for the  
98 same offense.

99 (2) Notwithstanding subsection (1), the court having  
100 jurisdiction over an adjudicated delinquent child whose  
101 underlying offense was a misdemeanor may not commit the child  
102 for any misdemeanor offense or any probation violation at a  
103 restrictiveness level other than minimum-risk nonresidential  
104 unless the probation violation is a new violation of law  
105 constituting a felony. However, the court may commit such child  
106 to a low-risk or moderate-risk residential placement if:

107 1. The child has previously been adjudicated for a felony  
108 offense;

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

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

113 4. The court finds by a preponderance of the evidence that  
114 the protection of the public requires such placement or that the  
115 particular needs of the child would be best served by such  
116 placement. Such finding must be in writing.

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117        (3)~~(2)~~ The nonconsent of the child to commitment or  
118 treatment in a substance abuse treatment program in no way  
119 precludes the court from ordering such commitment or treatment.

120        (4)~~(3)~~ The department may transfer a child, when necessary  
121 to appropriately administer the child's commitment, from one  
122 facility or program to another facility or program operated,  
123 contracted, subcontracted, or designated by the department,  
124 including a postcommitment nonresidential conditional release  
125 program, except that the department may not transfer any child  
126 adjudicated solely for a misdemeanor to a residential program  
127 except as provided in subsection (2). The department shall  
128 notify the court that committed the child to the department and  
129 any attorney of record for the child, in writing, of its intent  
130 to transfer the child from a commitment facility or program to  
131 another facility or program of a higher or lower restrictiveness  
132 level. The court that committed the child may agree to the  
133 transfer or may set a hearing to review the transfer. If the  
134 court does not respond within 10 days after receipt of the  
135 notice, the transfer of the child shall be deemed granted.

136        Section 2. Paragraph (d) of subsection (5) of section  
137 985.0301, Florida Statutes, is amended to read:

138        985.0301 Jurisdiction.—

139        (5)

140        (d) The court may retain jurisdiction over a child  
141 committed to the department for placement in a juvenile prison  
142 or in a high-risk or maximum-risk residential commitment program  
143 to allow the child to participate in a juvenile conditional  
144 release program pursuant to s. 985.46. ~~In no case shall~~ The  
145 jurisdiction of the court may not be retained after beyond the

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146 child's 22nd birthday. However, if the child is not successful  
147 in the conditional release program, the department may use the  
148 transfer procedure under s. 985.441(4) ~~s. 985.441(3)~~.

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

151 985.033 Right to counsel.—

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

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

157 985.46 Conditional release.—

158 (4) A juvenile under nonresidential commitment placement  
159 continues ~~will continue to be~~ on commitment status and is  
160 subject to ~~the transfer provision~~ under s. 985.441(4) ~~s.~~  
161 ~~985.441(3)~~.

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