

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

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Section 985.441, Florida Statutes, is amended
 16 to read:

17 985.441 Commitment.—

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

22 (a) Commit the child to a licensed child-caring agency
 23 willing to receive the child; however, the court may not commit
 24 the child to a jail or to a facility used primarily as a
 25 detention center or facility or shelter.

26 (b) Commit the child to the department at a
 27 restrictiveness level defined in s. 985.03. Such commitment must
 28 be for the purpose of exercising active control over the child,

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29 including, but not limited to, custody, care, training, ~~urine~~
30 monitoring for substance abuse, electronic monitoring, and
31 treatment of the child and release of the child from residential
32 commitment into the community in a postcommitment nonresidential
33 conditional release program. If the child is not successful in
34 the conditional release program, the department may use the
35 transfer procedure under subsection (4) ~~(3)~~.

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

39 1. Following a delinquency adjudicatory hearing under s.
40 985.35 and a delinquency disposition hearing under s. 985.433
41 that results in a commitment determination, the court shall, on
42 its own or upon request by the state or the department,
43 determine whether the protection of the public requires that the
44 child be placed in a program for serious or habitual juvenile
45 offenders and whether the particular needs of the child would be
46 best served by a program for serious or habitual juvenile
47 offenders as provided in s. 985.47. The determination shall be
48 made under ss. 985.47(1) and 985.433(7).

49 2. Any commitment of a child to a program or facility for
50 serious or habitual juvenile offenders must be for an
51 indeterminate period of time, but the time may not exceed the
52 maximum term of imprisonment that an adult may serve for the
53 same offense.

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

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57 program or facility.

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

61 2. Any commitment of a juvenile sexual offender to a
62 program or facility for juvenile sexual offenders must be for an
63 indeterminate period of time, but the time may not exceed the
64 maximum term of imprisonment that an adult may serve for the
65 same offense.

66 (2) Notwithstanding subsection (1), the court with
67 jurisdiction over an adjudicated delinquent child whose
68 underlying offense was a misdemeanor may not commit the child
69 for any misdemeanor offense or any probation violation at a
70 restrictiveness level other than minimum-risk nonresidential
71 unless the probation violation is a new violation of law
72 constituting a felony. However, the court may commit such child
73 to a low-risk or moderate-risk residential placement if the
74 child:

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

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

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

81 (3)-(2) The nonconsent of the child to commitment or
82 treatment in a substance abuse treatment program in no way
83 precludes the court from ordering such commitment or treatment.

84 (4)-(3) The department may transfer a child, when necessary

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

100 Section 2. Paragraph (d) of subsection (5) of section
101 985.0301, Florida Statutes, is amended to read:

102 985.0301 Jurisdiction.—

103 (5)

104 (d) The court may retain jurisdiction over a child
105 committed to the department for placement in a juvenile prison
106 or in a high-risk or maximum-risk residential commitment program
107 to allow the child to participate in a juvenile conditional
108 release program pursuant to s. 985.46. ~~In no case shall~~ The
109 jurisdiction of the court may not be retained after ~~beyond~~ the
110 child's 22nd birthday. However, if the child is not successful
111 in the conditional release program, the department may use the
112 transfer procedure under s. 985.441 (4) ~~(3)~~.

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

115 985.033 Right to counsel.—

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

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

121 985.46 Conditional release.—

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

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