

By Senator Evers

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1 A bill to be entitled
 2 An act relating to juvenile justice; amending s.
 3 985.494, F.S.; requiring a child who is adjudicated
 4 delinquent, or for whom adjudication is withheld, to
 5 be committed to a maximum-risk residential program for
 6 an act that would be a felony if committed by an adult
 7 if the child has completed two different high-risk
 8 residential commitment programs; repealing s. 985.445,
 9 F.S., relating to cases involving grand theft of a
 10 motor vehicle committed by a child; amending ss.
 11 985.0301, 985.47, 985.483, and 985.565, F.S.;
 12 conforming references to changes made by the act;
 13 providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Section 985.494, Florida Statutes, is amended to
 18 read:

19 985.494 Commitment programs for juvenile felony offenders.—

20 (1) Notwithstanding any other law and regardless of the
 21 child's age, a child who is adjudicated delinquent, or for whom
 22 adjudication is withheld, for an act that would be a felony if
 23 committed by an adult, shall be committed to:

24 ~~(a) A program for serious or habitual juvenile offenders~~
 25 ~~under s. 985.47 or an intensive residential treatment program~~
 26 ~~for offenders less than 13 years of age under s. 985.483, if the~~
 27 ~~child has participated in an early delinquency intervention~~
 28 ~~program and has completed a sheriff's training and respect~~
 29 ~~program.~~

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30 ~~(b)~~ a maximum-risk residential program, if the child has
31 completed two different high-risk residential commitment
32 programs participated in an early delinquency intervention
33 program, has completed a sheriff's training and respect program,
34 and has completed a program for serious or habitual juvenile
35 offenders or an intensive residential treatment program for
36 offenders less than 13 years of age. The commitment of a child
37 to a maximum-risk residential program must be for an
38 indeterminate period, but may not exceed the maximum term of
39 imprisonment that an adult may serve for the same offense.

40 (2) In committing a child to the appropriate program, the
41 court may consider an equivalent program of similar intensity as
42 being comparable to a program required under subsection (1).

43 Section 2. Section 985.445, Florida Statutes, is repealed.

44 Section 3. Paragraph (c) of subsection (5) of section
45 985.0301, Florida Statutes, is amended to read:

46 985.0301 Jurisdiction.—

47 (5)

48 (c) Notwithstanding ss. 743.07 and 985.455(3), and except
49 as provided in s. 985.47, the term of the commitment must be
50 until the child is discharged by the department or until he or
51 she reaches the age of 21 years. Notwithstanding ss. 743.07,
52 985.435, 985.437, 985.439, 985.441, ~~985.445~~, 985.455, and
53 985.513, and except as provided in this section and s. 985.47, a
54 child may not be held under a commitment from a court under s.
55 985.439, s. 985.441(1)(a) or (b), ~~s. 985.445~~, or s. 985.455
56 after becoming 21 years of age.

57 Section 4. Subsection (2) of section 985.47, Florida
58 Statutes, is amended to read:

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59 985.47 Serious or habitual juvenile offender.—

60 (2) DETERMINATION.—After a child has been adjudicated
61 delinquent under s. 985.35, the court shall determine whether
62 the child meets the criteria for a serious or habitual juvenile
63 offender under subsection (1). If the court determines that the
64 child does not meet such criteria, ss. 985.435, 985.437,
65 985.439, 985.441, ~~985.445~~, 985.45, and 985.455 shall apply.

66 Section 5. Subsection (2) of section 985.483, Florida
67 Statutes, is amended to read:

68 985.483 Intensive residential treatment program for
69 offenders less than 13 years of age.—

70 (2) DETERMINATION.—After a child has been adjudicated
71 delinquent under s. 985.35(5), the court shall determine whether
72 the child is eligible for an intensive residential treatment
73 program for offenders less than 13 years of age under subsection
74 (1). If the court determines that the child does not meet the
75 criteria, ss. 985.435, 985.437, 985.439, 985.441, ~~985.445~~,
76 985.45, and 985.455 shall apply.

77 Section 6. Paragraph (b) of subsection (4) of section
78 985.565, Florida Statutes, is amended to read:

79 985.565 Sentencing powers; procedures; alternatives for
80 juveniles prosecuted as adults.—

81 (4) SENTENCING ALTERNATIVES.—

82 (b) *Juvenile sanctions*.—For juveniles transferred to adult
83 court but who do not qualify for such transfer under s.
84 985.556(3) or s. 985.557(2)(a) or (b), the court may impose
85 juvenile sanctions under this paragraph. If juvenile sentences
86 are imposed, the court shall, under this paragraph, adjudge the
87 child to have committed a delinquent act. Adjudication of

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88 delinquency shall not be deemed a conviction, nor shall it
89 operate to impose any of the civil disabilities ordinarily
90 resulting from a conviction. The court shall impose an adult
91 sanction or a juvenile sanction and may not sentence the child
92 to a combination of adult and juvenile punishments. An adult
93 sanction or a juvenile sanction may include enforcement of an
94 order of restitution or probation previously ordered in any
95 juvenile proceeding. However, if the court imposes a juvenile
96 sanction and the department determines that the sanction is
97 unsuitable for the child, the department shall return custody of
98 the child to the sentencing court for further proceedings,
99 including the imposition of adult sanctions. Upon adjudicating a
100 child delinquent under subsection (1), the court may:

101 1. Place the child in a probation program under the
102 supervision of the department for an indeterminate period of
103 time until the child reaches the age of 19 years or sooner if
104 discharged by order of the court.

105 2. Commit the child to the department for treatment in an
106 appropriate program for children for an indeterminate period of
107 time until the child is 21 or sooner if discharged by the
108 department. The department shall notify the court of its intent
109 to discharge no later than 14 days prior to discharge. Failure
110 of the court to timely respond to the department's notice shall
111 be considered approval for discharge.

112 3. Order disposition under ss. 985.435, 985.437, 985.439,
113 985.441, ~~985.445~~, 985.45, and 985.455 as an alternative to
114 youthful offender or adult sentencing if the court determines
115 not to impose youthful offender or adult sanctions.

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117 It is the intent of the Legislature that the criteria and
118 guidelines in this subsection are mandatory and that a
119 determination of disposition under this subsection is subject to
120 the right of the child to appellate review under s. 985.534.
121 Section 7. This act shall take effect upon becoming a law.