

1                                   A bill to be entitled  
 2       An act relating to criminal prosecution of juveniles;  
 3       amending s. 985.557, F.S.; providing additional  
 4       circumstances for the discretionary direct filing of  
 5       charges against certain juveniles; providing criteria  
 6       for determining when a case against a juvenile should  
 7       be recommended to the court to be transferred for  
 8       criminal prosecution; providing criteria for  
 9       consideration of a child's request to an adult court  
 10      to return a criminal case to the juvenile justice  
 11      system; reenacting s. 985.556(3), F.S., relating to  
 12      involuntary mandatory waiver of juvenile court  
 13      jurisdiction, to incorporate the amendments made to s.  
 14      985.557, F.S., in a reference thereto; providing an  
 15      effective date.

16  
 17   Be It Enacted by the Legislature of the State of Florida:

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 19           Section 1. Paragraph (c) is added to subsection (1) of  
 20   section 985.557, Florida Statutes, subsection (4) of that  
 21   section is amended, and subsection (5) is added to that section,  
 22   to read:

23           985.557 Direct filing of an information; discretionary and  
 24   mandatory criteria.—

25           (1) DISCRETIONARY DIRECT FILE.—

26           (c) Except as provided in paragraph (b), the state  
 27   attorney may file an information against a child otherwise  
 28   eligible under this section if the child has a prior felony or

29 misdemeanor adjudication or an adjudication withheld.  
 30 (4) DIRECT-FILE CRITERIA.—  
 31 (a) When a child is eligible to have an information filed  
 32 by the state attorney under subsection (1), the state attorney  
 33 shall use the following criteria to determine whether to file an  
 34 information:  
 35 1. The seriousness of the alleged offense and whether  
 36 transferring the child is necessary for protection of the  
 37 community, including:  
 38 a. The recommendation of the department, through review  
 39 and consideration of the recommendations of the department's  
 40 caseworker.  
 41 b. The probable cause as found in the report, affidavit,  
 42 or complaint, including:  
 43 (I) Whether the alleged offense was committed in an  
 44 aggressive, violent, premeditated, or willful manner.  
 45 (II) Whether the alleged offense was against persons or  
 46 against property, with greater weight being given to offenses  
 47 against persons, especially if personal injury resulted.  
 48 (III) The strength of the state's evidence.  
 49 c. The sophistication and maturity of the child.  
 50 2. The record and previous history of the child,  
 51 including:  
 52 a. Previous contacts with the department, the Department  
 53 of Corrections, the former Department of Health and  
 54 Rehabilitative Services, the Department of Children and Family  
 55 Services, other law enforcement agencies, and courts.  
 56 b. Prior periods of probation.

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57 c. Prior adjudications that the child committed a  
58 delinquent act or violation of law, with greater weight being  
59 given if the child has previously been found by a court to have  
60 committed a delinquent act or violation of law involving  
61 violence to persons.

62 d. Prior commitments to institutions of the department,  
63 the Department of Corrections, or agencies under contract with  
64 either department.

65 e. Patterns of criminality or patterns of escalation.

66 3. The prospects for adequate protection of the public and  
67 the likelihood of reasonable rehabilitation of the child, if the  
68 child is found to have committed the alleged offense, by the use  
69 of procedures, services, and facilities currently available to  
70 the juvenile court.

71 4. Cost-effective alternatives available to divert the  
72 child from the criminal and juvenile justice systems and offer  
73 rehabilitative services for the child.

74 (b) If the state attorney files an information against a  
75 child under this section, the state attorney shall file with the  
76 court his or her written explanation, addressing the factors  
77 listed in paragraph (a), as to why the child should be  
78 transferred for criminal prosecution. ~~An information filed~~  
79 ~~pursuant to this section may include all charges that are based~~  
80 ~~on the same act, criminal episode, or transaction as the primary~~  
81 ~~offenses.~~

82 (5) REVERSE WAIVER.—Any child over whom the adult court  
83 has obtained original jurisdiction may request, in writing, a  
84 hearing to determine whether the child shall remain in adult

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85 court. The adult court shall retain jurisdiction unless the  
86 child proves by a preponderance of evidence all of the  
87 following:

88 (a) The child could obtain services available in the  
89 juvenile justice system which could lessen the possibility of  
90 the child reoffending in the future.

91 (b) The child's best interests would be served by  
92 prosecuting the case in juvenile court.

93 (c) The child could receive juvenile sanctions that would  
94 provide adequate safety and protection for the community.

95 (d) The child is not charged with a felony that is  
96 punishable by death or life imprisonment.

97 (e) The child has not previously been convicted and  
98 sentenced as an adult.

99 Section 2. For the purpose of incorporating the amendment  
100 made by this act to section 985.557, Florida Statutes, in a  
101 reference thereto, subsection (3) of section 985.556, Florida  
102 Statutes, is reenacted to read:

103 985.556 Waiver of juvenile court jurisdiction; hearing.—

104 (3) INVOLUNTARY MANDATORY WAIVER.—

105 (a) If the child was 14 years of age or older, and if the  
106 child has been previously adjudicated delinquent for an act  
107 classified as a felony, which adjudication was for the  
108 commission of, attempt to commit, or conspiracy to commit  
109 murder, sexual battery, armed or strong-armed robbery,  
110 carjacking, home-invasion robbery, aggravated battery,  
111 aggravated assault, or burglary with an assault or battery, and  
112 the child is currently charged with a second or subsequent

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113 violent crime against a person; or

114 (b) If the child was 14 years of age or older at the time  
115 of commission of a fourth or subsequent alleged felony offense  
116 and the child was previously adjudicated delinquent or had  
117 adjudication withheld for or was found to have committed, or to  
118 have attempted or conspired to commit, three offenses that are  
119 felony offenses if committed by an adult, and one or more of  
120 such felony offenses involved the use or possession of a firearm  
121 or violence against a person;

122

123 the state attorney shall request the court to transfer and  
124 certify the child for prosecution as an adult or shall provide  
125 written reasons to the court for not making such request, or  
126 proceed under s. 985.557(1). Upon the state attorney's request,  
127 the court shall either enter an order transferring the case and  
128 certifying the case for trial as if the child were an adult or  
129 provide written reasons for not issuing such an order.

130 Section 3. This act shall take effect July 1, 2012.