

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Edwards offered the following:

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

4 Remove lines 78-347 and insert:

5 in writing by the state attorney in charge of the case. The
6 document shall be filed with the court at the disposition of the
7 case. The state attorney shall include the following information
8 in the written decision:

9 a. Whether adult codefendants were involved in the case.

10 b. The length of time the child spent in jail awaiting
11 disposition.

12 c. Whether discovery had been conducted on the case at the
13 time of transfer.

14 d. Whether the child waived the right to go to trial.

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15 e. If the decision to transfer or not to transfer resulted
16 in a plea agreement, the details of the plea agreement,
17 including previous plea offers made by the state but not
18 accepted by the child, and any conditions placed on the plea
19 offer.

20 f. Whether the judge sentenced the child to a disposition
21 other than what the prosecutor offered or recommended which
22 resulted in the child not being transferred to adult court.

23 g. Whether the child had to waive statutory limits on
24 secure detention in order to avoid a direct file transfer, and,
25 if available, the amount of time the child who waived secure
26 detention limits actually spent in secure detention.

27 2. On or before the 15th of each month, the state attorney
28 in each judicial circuit shall collect the information specified
29 in subparagraph 1. for all cases disposed of the previous month
30 and submit that documentation to the department for data
31 collection.

32 ~~(2) MANDATORY DIRECT FILE.--~~

33 ~~(a) With respect to any child who was 16 or 17 years of~~
34 ~~age at the time the alleged offense was committed, the state~~
35 ~~attorney shall file an information if the child has been~~
36 ~~previously adjudicated delinquent for an act classified as a~~
37 ~~felony, which adjudication was for the commission of, attempt to~~
38 ~~commit, or conspiracy to commit murder, sexual battery, armed or~~
39 ~~strong-armed robbery, carjacking, home invasion robbery,~~
40 ~~aggravated battery, or aggravated assault, and the child is~~

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41 ~~currently charged with a second or subsequent violent crime~~
42 ~~against a person.~~

43 ~~(b) With respect to any child 16 or 17 years of age at the~~
44 ~~time an offense classified as a forcible felony, as defined in~~
45 ~~s. 776.08, was committed, the state attorney shall file an~~
46 ~~information if the child has previously been adjudicated~~
47 ~~delinquent or had adjudication withheld for three acts~~
48 ~~classified as felonies each of which occurred at least 45 days~~
49 ~~apart from each other. This paragraph does not apply when the~~
50 ~~state attorney has good cause to believe that exceptional~~
51 ~~circumstances exist which preclude the just prosecution of the~~
52 ~~juvenile in adult court.~~

53 ~~(c) The state attorney must file an information if a~~
54 ~~child, regardless of the child's age at the time the alleged~~
55 ~~offense was committed, is alleged to have committed an act that~~
56 ~~would be a violation of law if the child were an adult, that~~
57 ~~involves stealing a motor vehicle, including, but not limited~~
58 ~~to, a violation of s. 812.133, relating to carjacking, or s.~~
59 ~~812.014(2)(c)6., relating to grand theft of a motor vehicle, and~~
60 ~~while the child was in possession of the stolen motor vehicle~~
61 ~~the child caused serious bodily injury to or the death of a~~
62 ~~person who was not involved in the underlying offense. For~~
63 ~~purposes of this section, the driver and all willing passengers~~
64 ~~in the stolen motor vehicle at the time such serious bodily~~
65 ~~injury or death is inflicted shall also be subject to mandatory~~
66 ~~transfer to adult court. "Stolen motor vehicle," for the~~

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67 ~~purposes of this section, means a motor vehicle that has been~~
68 ~~the subject of any criminal wrongful taking. For purposes of~~
69 ~~this section, "willing passengers" means all willing passengers~~
70 ~~who have participated in the underlying offense.~~

71 ~~(d)1. With respect to any child who was 16 or 17 years of~~
72 ~~age at the time the alleged offense was committed, the state~~
73 ~~attorney shall file an information if the child has been charged~~
74 ~~with committing or attempting to commit an offense listed in s.~~
75 ~~775.087(2) (a)1.a.-g., and, during the commission of or attempt~~
76 ~~to commit the offense, the child:~~

77 ~~a. Actually possessed a firearm or destructive device, as~~
78 ~~those terms are defined in s. 790.001.~~

79 ~~b. Discharged a firearm or destructive device, as~~
80 ~~described in s. 775.087(2) (a)2.~~

81 ~~c. Discharged a firearm or destructive device, as~~
82 ~~described in s. 775.087(2) (a)3., and, as a result of the~~
83 ~~discharge, death or great bodily harm was inflicted upon any~~
84 ~~person.~~

85 ~~2. Upon transfer, any child who is:~~

86 ~~a. Charged under sub-subparagraph 1.a. and who has been~~
87 ~~previously adjudicated or had adjudication withheld for a~~
88 ~~forcible felony offense or any offense involving a firearm, or~~
89 ~~who has been previously placed in a residential commitment~~
90 ~~program, shall be subject to sentencing under s. 775.087(2) (a),~~
91 ~~notwithstanding s. 985.565.~~

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92 ~~b. Charged under sub-subparagraph 1.b. or sub-subparagraph~~
93 ~~1.c., shall be subject to sentencing under s. 775.087(2)(a),~~
94 ~~notwithstanding s. 985.565.~~

95 ~~3. Upon transfer, any child who is charged under this~~
96 ~~paragraph, but who does not meet the requirements specified in~~
97 ~~subparagraph 2., shall be sentenced under s. 985.565; however,~~
98 ~~if the court imposes a juvenile sanction, the court must commit~~
99 ~~the child to a high-risk or maximum-risk juvenile facility.~~

100 ~~4. This paragraph shall not apply if the state attorney~~
101 ~~has good cause to believe that exceptional circumstances exist~~
102 ~~that preclude the just prosecution of the child in adult court.~~

103 ~~5. The Department of Corrections shall make every~~
104 ~~reasonable effort to ensure that any child 16 or 17 years of age~~
105 ~~who is convicted and sentenced under this paragraph be~~
106 ~~completely separated such that there is no physical contact with~~
107 ~~adult offenders in the facility, to the extent that it is~~
108 ~~consistent with chapter 958.~~

109 (4) TRANSFER PROHIBITION.—Notwithstanding any other law, a
110 child who is eligible for direct file and who has previously
111 been found to be incompetent but has not been restored to
112 competency by a court may not be transferred to adult court for
113 criminal prosecution. A transferred child who is found to be
114 incompetent must be returned to the jurisdiction of the juvenile
115 court.

116 (5) DATA COLLECTION RELATING TO DIRECT FILE.—

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117 (a) Beginning July 1, 2016, the department shall collect
118 data relating to children who qualify for direct file under this
119 section and s. 985.556 regardless of the outcome of the case,
120 including, but not limited to:

121 1. Age.

122 2. Race and ethnicity.

123 3. Gender.

124 4. Circuit and county of residence.

125 5. Circuit and county of offense.

126 6. Prior adjudicated offenses.

127 7. Prior periods of probation.

128 8. Previous contacts with law enforcement agencies or the
129 court which result in a civil citation, arrest, or charges being
130 filed with the state.

131 9. Initial charges.

132 10. Charges at disposition.

133 11. Whether child codefendants were involved who were
134 transferred to adult court.

135 12. Whether the child was represented by counsel.

136 13. Risk assessment instrument score.

137 14. The child's medical, mental health, substance abuse,
138 or trauma history.

139 15. The child's history of mental impairment or
140 disability-related accommodations.

141 16. The child's history of abuse or neglect.

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- 142 17. The child's history of foster care placements,
143 including the number of prior placements.
- 144 18. Whether the child has below-average intellectual
145 functioning.
- 146 19. Whether the child has received mental health services
147 or treatment.
- 148 20. Whether the child has been the subject of a child-in-
149 need-of-services or families-in-need-of-services petition or a
150 dependency petition.
- 151 21. Whether the child was transferred for criminal
152 prosecution as an adult.
- 153 22. The case resolution in juvenile court.
- 154 23. The case resolution in adult court.
- 155 24. Whether the child was represented by counsel or
156 whether the child waived counsel.
- 157 25. Information generated by the office of the state
158 attorney in each judicial circuit under subparagraph (1)(c)1.
- 159 (b) Beginning July 1, 2016, for a child transferred for
160 criminal prosecution as an adult, the department shall also
161 collect:
- 162 1. Disposition data, including, but not limited to,
163 whether the child received adult sanctions, juvenile sanctions,
164 or diversion and, if sentenced to prison, the length of the
165 prison sentence or the enhanced sentence; and
- 166 2. Whether the child was previously found incompetent to
167 proceed in juvenile court.

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168 (c) For every juvenile case transferred between July 1,
169 2015, and June 30, 2016, the department shall work with the
170 Office of Program Policy Analysis and Government Accountability
171 to generate a report analyzing the existing data. The department
172 must provide this report to the Governor, the President of the
173 Senate, and the Speaker of the House of Representatives by
174 January 31, 2017.

175 (d) The department must work with the Office of Program
176 Policy Analysis and Government Accountability to generate a
177 report analyzing the aggregated data under paragraphs (a) and
178 (b) for each fiscal year. The department must provide this
179 report to the Governor, the President of the Senate, and the
180 Speaker of the House of Representatives no later than January 31
181 of the following calendar year. This paragraph expires February
182 1, 2023.

183 Section 3. Subsection (54) of section 985.03, Florida
184 Statutes, is amended to read:

185 985.03 Definitions.—As used in this chapter, the term:

186 (54) "Waiver hearing" means a hearing provided for under
187 s. 985.556 s. ~~985.556(4)~~.

188 Section 4. Subsection (2) of section 985.04, Florida
189 Statutes, is amended to read:

190 985.04 Oaths; records; confidential information.—

191 (2) Notwithstanding any other provisions of this chapter,
192 the name, photograph, address, and crime or arrest report of a
193 child:

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194 (a) Taken into custody if the child has been taken into
195 custody by a law enforcement officer for a violation of law
196 which, if committed by an adult, would be a felony;

197 (b) Found by a court to have committed three or more
198 violations of law which, if committed by an adult, would be
199 misdemeanors;

200 (c) Transferred to the adult system under s. 985.557,
201 indicted under s. 985.56, or waived under s. 985.556;

202 ~~(d) Taken into custody by a law enforcement officer for a~~
203 ~~violation of law subject to s. 985.557(2)(b) or (d); or~~

204 (d) ~~(e)~~ Transferred to the adult system but sentenced to
205 the juvenile system under s. 985.565

206
207 shall not be considered confidential and exempt from s.
208 119.07(1) solely because of the child's age.

209 Section 5. Subsection (1) of section 985.15, Florida
210 Statutes, is amended to read:

211 985.15 Filing decisions.—

212 (1) The state attorney may in all cases take action
213 independent of the action or lack of action of the juvenile
214 probation officer and shall determine the action that is in the
215 best interest of the public and the child. ~~If the child meets~~
216 ~~the criteria requiring prosecution as an adult under s. 985.556,~~
217 ~~the state attorney shall request the court to transfer and~~
218 ~~certify the child for prosecution as an adult or shall provide~~

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219 ~~written reasons to the court for not making such a request. In~~

220 ~~all other cases,~~ The state attorney may:

221 (a) File a petition for dependency;

222 (b) File a petition under chapter 984;

223 (c) File a petition for delinquency;

224 (d) File a petition for delinquency with a motion to
225 transfer and certify the child for prosecution as an adult;

226 (e) File an information under s. 985.557;

227 (f) Refer the case to a grand jury;

228 (g) Refer the child to a diversionary, pretrial
229 intervention, arbitration, or mediation program, or to some
230 other treatment or care program if such program commitment is
231 voluntarily accepted by the child or the child's parents or
232 legal guardian; or

233 (h) Decline to file.

234 Section 6. Paragraphs (a) and (b) of subsection (4) of
235 section 985.565, Florida Statutes, are amended to read:

236 985.565 Sentencing powers; procedures; alternatives for
237 juveniles prosecuted as adults.—

238 (4) SENTENCING ALTERNATIVES.—

239 (a) *Adult sanctions*.—

240 1. Cases prosecuted on indictment.—If the child is found
241 to have committed the offense punishable by death or life
242 imprisonment, the child shall be sentenced as an adult. If the
243 juvenile is not found to have committed the indictable offense
244 but is found to have committed a lesser included offense or any

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245 other offense for which he or she was indicted as a part of the
246 criminal episode, the court may sentence as follows:

- 247 a. As an adult;
248 b. Under chapter 958; or
249 c. As a juvenile under this section.

250 2. Other cases.—If a child who has been transferred for
251 criminal prosecution pursuant to information or waiver of
252 juvenile court jurisdiction is found to have committed a
253 violation of state law or a lesser included offense for which he
254 or she was charged as a part of the criminal episode, the court
255 may sentence as follows:

- 256 a. As an adult;
257 b. Under chapter 958; or
258 c. As a juvenile under this section.

259 ~~3. Notwithstanding any other provision to the contrary, if~~
260 ~~the state attorney is required to file a motion to transfer and~~
261 ~~certify the juvenile for prosecution as an adult under s.~~
262 ~~985.556(3) and that motion is granted, or if the state attorney~~
263 ~~is required to file an information under s. 985.557(2)(a) or~~
264 ~~(b), the court must impose adult sanctions.~~

265 3.4. Any sentence imposing adult sanctions is presumed
266 appropriate, and the court is not required to set forth specific
267 findings or enumerate the criteria in this subsection as any
268 basis for its decision to impose adult sanctions.

269 4.5. When a child has been transferred for criminal
270 prosecution as an adult and has been found to have committed a

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271 violation of state law, the disposition of the case may include
272 the enforcement of any restitution ordered in any juvenile
273 proceeding.

274 5. The Department of Corrections shall make every
275 reasonable effort to ensure that a child who is sentenced under
276 this paragraph to a term in a jail or a correctional facility is
277 completely separated from adult offenders in the jail or
278 correctional facility so that the child has no physical contact
279 with such adult offenders, to the extent that it is consistent
280 with chapter 958.

281 -----
282
283 **T I T L E A M E N D M E N T**

284 Remove lines 20-22 and insert:
285 specified dates; amending ss. 985.03, 985.04, and 985.15,
286 F.S.; conforming provisions to changes made by the act;
287 amending s. 985.565, F.S.; conforming provisions to changes
288 made by the act; requiring the Department of Corrections to
289 make every reasonable effort to ensure that certain
290 children are completely separated from adult offenders in
291 correctional facilities; reenacting s. 985.265(5), F.S.,

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