

By Senator Altman

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1 A bill to be entitled

2 An act relating to juvenile justice; amending s.
3 985.265, F.S.; deleting provisions requiring the court
4 to order the delivery of a child to a jail or other
5 facility intended or used to detain adults; amending
6 s. 985.556, F.S.; deleting a requirement that a court
7 transfer and certify a child's criminal case for trial
8 as an adult if a parent or guardian demands that his
9 or her child be tried as an adult; authorizing a state
10 attorney to request, and the court to grant, the
11 transfer of a child 16 years of age or older who
12 commits specified crimes and his or her certification
13 as an adult, rather than providing an involuntary
14 discretionary waiver or an involuntary mandatory
15 waiver for a child 14 years of age or older; revising
16 the requirements and procedures for a waiver hearing;
17 prohibiting the transfer of a child to adult court
18 under certain circumstances; authorizing, rather than
19 requiring, the court to transfer and certify to the
20 adult circuit court all felony cases pertaining to a
21 child under certain circumstances; deleting a
22 provision requiring that, under certain circumstances,
23 a child be handled in every respect as an adult for
24 any subsequent violation of law; requiring the
25 Department of Juvenile Justice to collect specified
26 information; requiring the department to annually
27 provide a report to the Legislature analyzing the
28 collected data; repealing s. 985.557, F.S., relating
29 to direct filing of an information; amending s.

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30 985.56, F.S.; providing that only a child who is 16
31 years of age or older, rather than a child of any age,
32 may be indicted, tried, and handled in every respect
33 as an adult, under certain circumstances; deleting
34 certain crimes for which a child is required to be
35 sentenced and handled as an adult; deleting a
36 provision requiring that a child who has been indicted
37 as an adult be treated as an adult for subsequent
38 violations of law; authorizing, rather than requiring,
39 a court to transfer and certify to the adult circuit
40 court all of a child's related felony cases; amending
41 s. 985.565, F.S.; providing that a court may impose
42 juvenile sanctions or adult sanctions; revising the
43 criteria a court must consider in making that
44 determination; requiring an adult court to include
45 specific findings and reasons for its decision in its
46 order; providing that the order is reviewable on
47 appeal; adding evidence that a court must consider at
48 a sentencing hearing; providing for parties to examine
49 the reports; revising provisions governing how a court
50 sentences children who have been transferred for
51 criminal prosecution and found to have committed a
52 violation of state law; requiring a court to specify
53 the reasons for issuing a sentence to a child;
54 deleting provisions authorizing a court, under certain
55 circumstances, to issue juvenile sanctions; providing
56 for the enforcement of any restitution ordered in a
57 juvenile proceeding; deleting provisions authorizing
58 the imposition of adult sanctions when juvenile

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59 sanctions fail; authorizing a court to issue certain
60 juvenile sanctions; amending s. 985.57, F.S.;
61 requiring, rather than authorizing, a child to be
62 transferred from the Department of Corrections to the
63 Department of Juvenile Justice under certain
64 circumstances; amending s. 985.03, F.S.; conforming a
65 cross-reference; amending ss. 985.04 and 985.15, F.S.;
66 conforming provisions to changes made by the act;
67 reenacting s. 985.514(3), F.S., relating to
68 responsibility for cost of care and fees, to
69 incorporate the amendment made to s. 985.565, F.S., in
70 a reference thereto; providing an effective date.

71
72 Be It Enacted by the Legislature of the State of Florida:

73
74 Section 1. Section 985.265, Florida Statutes, is amended to
75 read:

76 985.265 Detention transfer and release; education; ~~adult~~
77 jails.—

78 (1) If a child is detained under this part, the department
79 may transfer the child from nonsecure detention care to secure
80 detention care only if significantly changed circumstances
81 warrant such transfer.

82 (2) If a child is on release status and not detained under
83 this part, the child may be placed into secure or nonsecure
84 detention care only pursuant to a court hearing in which the
85 original risk assessment instrument and the newly discovered
86 evidence or changed circumstances are introduced into evidence
87 with a rescored risk assessment instrument.

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88 (3) (a) When a juvenile sexual offender is placed in
89 detention, detention staff shall provide appropriate monitoring
90 and supervision to ensure the safety of other children in the
91 facility.

92 (b) When a juvenile is released from secure detention or
93 transferred to nonsecure detention, detention staff shall
94 immediately notify the appropriate law enforcement agency,
95 school personnel, and victim if the juvenile is charged with
96 committing any of the following offenses or attempting to commit
97 any of the following offenses:

- 98 1. Murder, under s. 782.04;
- 99 2. Sexual battery, under chapter 794;
- 100 3. Stalking, under s. 784.048; or
- 101 4. Domestic violence, as defined in s. 741.28.

102 (4) (a) While a child who is currently enrolled in school is
103 in nonsecure detention care, the child shall continue to attend
104 school unless otherwise ordered by the court.

105 (b) While a child is in secure detention care, the child
106 shall receive education commensurate with his or her grade level
107 and educational ability.

108 ~~(5) The court shall order the delivery of a child to a jail
109 or other facility intended or used for the detention of adults.~~

110 ~~(a) When the child has been transferred or indicted for
111 criminal prosecution as an adult under part X, except that the
112 court may not order or allow a child alleged to have committed a
113 misdemeanor who is being transferred for criminal prosecution
114 pursuant to either s. 985.556 or s. 985.557 to be detained or
115 held in a jail or other facility intended or used for the
116 detention of adults; however, such child may be held temporarily~~

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117 ~~in a detention facility; or~~

118 ~~(b) When a child taken into custody in this state is wanted~~
119 ~~by another jurisdiction for prosecution as an adult.~~

120
121 ~~The child shall be housed separately from adult inmates to~~
122 ~~prohibit a child from having regular contact with incarcerated~~
123 ~~adults, including trustees. "Regular contact" means sight and~~
124 ~~sound contact. Separation of children from adults shall permit~~
125 ~~no more than haphazard or accidental contact. The receiving jail~~
126 ~~or other facility shall contain a separate section for children~~
127 ~~and shall have an adequate staff to supervise and monitor the~~
128 ~~child's activities at all times. Supervision and monitoring of~~
129 ~~children includes physical observation and documented checks by~~
130 ~~jail or receiving facility supervisory personnel at intervals~~
131 ~~not to exceed 10 minutes. This subsection does not prohibit~~
132 ~~placing two or more children in the same cell. Under no~~
133 ~~circumstances shall a child be placed in the same cell with an~~
134 ~~adult.~~

135 Section 2. Section 985.556, Florida Statutes, is amended to
136 read:

137 (Substantial rewording of section. See
138 s. 985.556, F.S., for present text.)

139 985.556 Waiver of juvenile court jurisdiction; hearing.—

140 (1) JUDICIAL WAIVER.—A state attorney may request, and the
141 court may grant, a waiver of juvenile court jurisdiction and
142 transfer and certify a child's case for prosecution as an adult
143 for any of the following reasons:

144 (a) If a child was 16 years of age or older at the time of
145 the charged offense; has been previously adjudicated delinquent

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146 for an act classified as a felony, which adjudication was for
147 the commission of, or attempt to commit, murder; sexual battery;
148 armed robbery; carjacking; home-invasion robbery; aggravated
149 battery resulting in great bodily harm, permanent disability, or
150 permanent disfigurement; aggravated assault with a firearm; or
151 burglary with an assault or battery, and is currently charged
152 with a second or subsequent violent felony against a person.

153 (b) If a child was 16 years of age or older at the time of
154 commission of a fourth or subsequent alleged felony offense and
155 the child was previously adjudicated delinquent or had
156 adjudication withheld for, or was found to have committed or to
157 have attempted to commit, three separate, nonrelated offenses
158 that are felony offenses when committed by an adult, one or more
159 of which involved the use or possession of a firearm or violence
160 against a person.

161 (c) If a child is charged with, and was 16 years of age or
162 older at the time of the alleged commission of, or attempt to
163 commit:

- 164 1. Arson;
- 165 2. Sexual battery;
- 166 3. Armed robbery;
- 167 4. Kidnapping;
- 168 5. Aggravated child abuse;
- 169 6. Aggravated assault with a firearm;
- 170 7. Aggravated stalking;
- 171 8. Murder;
- 172 9. Manslaughter;
- 173 10. Unlawful throwing, placing, or discharging of a
174 destructive device or bomb;

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175 11. Armed burglary in violation of s. 810.02(2)(b),
176 specified burglary of a dwelling or structure in violation of s.
177 810.02(2)(c), or burglary with an assault or battery in
178 violation of s. 810.02(2)(a);

179 12. Aggravated battery resulting in great bodily harm,
180 permanent disability, or permanent disfigurement;

181 13. Carrying, displaying, or using, or threatening or
182 attempting to use a weapon or firearm during the commission of a
183 felony;

184 14. Possessing or discharging any weapon or firearm at a
185 school-sponsored event or on school property in violation of s.
186 790.115;

187 15. Home-invasion robbery; or

188 16. Carjacking.

189 (2) TRANSFER PROCEDURE.—

190 (a) After considering the recommendation of the juvenile
191 probation officer, but before an adjudicatory hearing, the state
192 attorney may file a motion requesting the court to transfer a
193 child to adult court for criminal prosecution within 7 business
194 days after the date a petition alleging that the child has
195 committed a delinquent act or violation of law is filed, or
196 later with the approval of the court.

197 (b) After the filing of the motion of the state attorney, a
198 summons must be issued and served pursuant to s. 985.319. A copy
199 of the motion and a copy of the delinquency petition, if not
200 already served, must be attached to the summons.

201 (c) The court shall conduct a hearing on all transfer
202 request motions for the purpose of determining whether a child
203 should be transferred. In making its determination, the court

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204 shall consider:

205 1. The seriousness of the alleged offense and whether the
206 safety of the community would be best served by juvenile or
207 adult sanctions.208 2. Whether the alleged offense was committed in an
209 aggressive, violent, premeditated, or willful manner.210 3. The extent of the child's alleged participation or role
211 in the offense.212 4. The effect, if any, of familial or peer pressure on the
213 child's alleged actions.214 5. Whether the alleged offense was against persons or
215 against property, with greater weight given to offenses against
216 persons, especially if personal injury resulted from the alleged
217 offense.218 6. The probable cause as found in the report, affidavit, or
219 complaint.220 7. The sophistication and maturity of the child, including:221 a. His or her age, intellectual capacity, and mental and
222 emotional health at the time of the alleged offense.223 b. His or her background, including his or her family,
224 home, and community environment.225 c. The effect, if any, of immaturity, impetuosity, or
226 failure to appreciate the risks and consequences on his or her
227 participation in the alleged offense.228 d. The effect, if any, of characteristics attributable to
229 the child's age on his or her judgment.230 e. Any history of abuse, abandonment, or neglect suffered
231 by the child; foster care placements; failed adoption; fetal
232 alcohol syndrome; exposure to controlled substances at or before

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233 birth; and below-average intellectual functioning.

234 f. Whether the child has been identified as having a
235 disability.

236 g. Whether the child has previously received mental health
237 services or treatment.

238 8. The court record and criminal history of the child,
239 including:

240 a. Previous contacts with the department, the Department of
241 Corrections, law enforcement agencies, the courts, the former
242 Department of Health and Rehabilitative Services, and the
243 Department of Children and Families and the adequacy and
244 appropriateness of the services provided to address the child's
245 needs.

246 b. Previous periods of probation.

247 c. Previous adjudications that the child committed a
248 delinquent act or violation of law, with greater weight given if
249 the child has previously been found by a court to have committed
250 a delinquent act or violation of law involving an offense
251 classified as a felony or if the child has twice previously been
252 found to have committed a delinquent act or violation of law
253 involving an offense classified as a misdemeanor.

254 d. Previous commitments to institutions and the adequacy
255 and appropriateness of the services provided by those
256 institutions to address the child's needs.

257 9. The prospects for adequate protection of the public and
258 the likelihood of reasonable habilitation or rehabilitation of
259 the child, if the child is found to have committed the alleged
260 offense, through the use of procedures, services, and facilities
261 currently available to the court.

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262 (d) Before the hearing on the transfer request motion by
263 the state attorney, an authorized agent of the department must
264 submit to the court a written study and report that are relevant
265 to the factors identified in paragraph (c). At the hearing, the
266 child; the child's parent, guardian, or legal custodian; the
267 child's counsel; and the state attorney have the right to
268 examine and to question the parties responsible for the study
269 and report. There is a rebuttable presumption that the case will
270 remain in juvenile court unless the state proves by clear and
271 convincing evidence that a transfer to adult court is necessary.

272 (e) The court shall also consider any other reports that
273 may assist it, including, but not limited to, a predisposition
274 report, psychosocial assessment, individualized education plan,
275 developmental assessment, school record, abuse or neglect
276 report, home study, protective investigation, and psychological
277 or psychiatric evaluation. At the hearing, the child; the
278 child's parent, guardian, or legal custodian; the child's
279 counsel; and the state attorney have the right to examine and to
280 question the parties responsible for these records.

281 (f) Any order to transfer a child for criminal prosecution
282 must be in writing and must consider, and find facts with
283 respect to, the factors identified in paragraph (c). The order
284 must also include a specific finding of fact concerning the
285 reasons that led the court to transfer the case for adult
286 prosecution. The order is reviewable on appeal pursuant to s.
287 985.534 and the Florida Rules of Appellate Procedure.

288 (3) WAIVER LIMITATION.—Notwithstanding any provision to the
289 contrary, a child who may be subject to a waiver of juvenile
290 court jurisdiction under subsection (1) and who has a competency

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291 hearing pending in juvenile court, or has been previously found
292 to be incompetent and has not been restored to competency by a
293 court, may not be transferred to adult court for criminal
294 prosecution.

295 (4) EFFECT OF ORDER WAIVING JURISDICTION.—When a child's
296 case is transferred for criminal prosecution as an adult, the
297 court may transfer and certify to the adult circuit court all
298 related felony cases pertaining to the child which have not yet
299 resulted in a plea of guilty or nolo contendere or in which a
300 finding of guilt has not been made. If the child is acquitted of
301 all charged offenses or lesser included offenses contained in
302 the original case transferred to adult court, any felony case
303 that was transferred to adult court under this subsection
304 carries the same penalties that it carried before being
305 transferred to adult court.

306 (5) DATA COLLECTION RELATING TO JUDICIAL WAIVER.—

307 (a) The department shall collect data regarding children
308 who meet the requirements for a waiver of juvenile court
309 jurisdiction under subsection (1), including, but not limited
310 to, the following:

- 311 1. Age.
- 312 2. Race and ethnicity.
- 313 3. Gender.
- 314 4. Circuit and county of residence.
- 315 5. Circuit and county of offense.
- 316 6. Previous adjudicated offenses.
- 317 7. Previous periods of probation.
- 318 8. Previous contacts with law enforcement agencies or the
319 courts.

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- 320 9. Initial charges.
- 321 10. Charges at disposition.
- 322 11. Whether adult codefendants were involved.
- 323 12. Whether child codefendants who were transferred to
324 adult court were involved.
- 325 13. Whether the child was represented by counsel.
- 326 14. Whether the child waived counsel.
- 327 15. Risk assessment and Positive Achievement Change Tool
328 score.
- 329 16. The child's medical, mental health, substance abuse, or
330 trauma history.
- 331 17. The child's history of physical or mental impairment or
332 disability-related accommodations.
- 333 18. The child's history of abuse or neglect.
- 334 19. The child's history of foster care placements,
335 including the number of previous placements.
- 336 20. Whether the child has experienced a failed adoption.
- 337 21. Whether the child has fetal alcohol syndrome or was
338 exposed to controlled substances at or before birth.
- 339 22. Whether the child has below-average intellectual
340 functioning or is eligible for exceptional student education
341 services.
- 342 23. Whether the child has received mental health services
343 or treatment.
- 344 24. Whether the child has been the subject of a children-
345 in-need-of-services or families-in-need-of-services case in the
346 program administered under chapter 984 or has been the subject
347 of a dependency petition.
- 348 25. Plea offers made by the state and the outcome of any

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349 plea offers.350 26. Whether the child was transferred for criminal
351 prosecution as an adult.352 27. The case resolution in juvenile court.353 28. The case resolution in adult court.354 (b) When a child is transferred for criminal prosecution as
355 an adult, the department shall also collect disposition data,
356 including, but not limited to, whether the child received adult
357 sanctions, juvenile sanctions, or diversion and if the child is
358 sentenced to prison, the length of the prison sentence or
359 enhanced sentence.360 (c) The department shall annually provide a report
361 analyzing these aggregated data to the President of the Senate
362 and the Speaker of the House of Representatives.363 Section 3. Section 985.557, Florida Statutes, is repealed.364 Section 4. Section 985.56, Florida Statutes, is amended to
365 read:

366 985.56 Indictment of a juvenile.—

367 (1) A child who is 16 years of age or older of any age who
368 is charged with a violation of state law punishable by death or
369 by life imprisonment is subject to the jurisdiction of the court
370 as set forth in s. 985.0301(2) unless and until an indictment on
371 the charge is returned by the grand jury. When the such
372 indictment is returned, the petition for delinquency, if any,
373 must be dismissed and the child must be tried and handled in
374 every respect as an adult:375 (a) On the offense punishable by death or by life
376 imprisonment; and

377 (b) On all other felonies or misdemeanors charged in the

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378 indictment which are based on the same act or transaction as the
379 offense punishable by death or by life imprisonment or on one or
380 more acts or transactions connected with the offense punishable
381 by death or by life imprisonment.

382 (2) An adjudicatory hearing may not be held until 21 days
383 after the child is taken into custody and charged with having
384 committed an offense punishable by death or by life
385 imprisonment, unless the state attorney advises the court in
386 writing that he or she does not intend to present the case to
387 the grand jury, or has presented the case to the grand jury and
388 the grand jury has not returned an indictment. If the court
389 receives such a notice from the state attorney, or if the grand
390 jury fails to act within the 21-day period, the court may
391 proceed as otherwise authorized under this part.

392 ~~(3) If the child is found to have committed the offense
393 punishable by death or by life imprisonment, the child shall be
394 sentenced as an adult. If the juvenile is not found to have
395 committed the indictable offense but is found to have committed
396 a lesser included offense or any other offense for which he or
397 she was indicted as a part of the criminal episode, the court
398 may sentence under s. 985.565.~~

399 ~~(4) (a) Once a child has been indicted pursuant to this
400 section and has been found to have committed any offense for
401 which he or she was indicted as a part of the criminal episode,
402 the child shall be handled thereafter in every respect as if an
403 adult for any subsequent violation of state law, unless the
404 court imposes juvenile sanctions under s. 985.565.~~

405 ~~(3)(b)~~ When a child has been indicted pursuant to this
406 section, the court may immediately transfer and certify to

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407 the adult circuit court all related felony cases pertaining to
408 the child, for prosecution of the child as an adult, which have
409 not yet resulted in a plea of guilty or nolo contendere or in
410 which a finding of guilt has not been made. If the child is
411 acquitted of all charged offenses or lesser included offenses
412 contained in the indictment case, any ~~all~~ felony cases that were
413 transferred to adult court pursuant to this subsection carry
~~paragraph shall be subject to~~ the same penalties ~~the such~~ cases
414 ~~were subject to~~ before being transferred to adult court.
415

416 Section 5. Section 985.565, Florida Statutes, is amended to
417 read:

418 985.565 Sentencing powers; procedures; alternatives for
419 juveniles prosecuted as adults.—

420 (1) POWERS OF DISPOSITION.—

421 (a) A child who is found to have committed a violation of
422 law may, as an alternative to adult dispositions, be committed
423 to the department for treatment in an appropriate program for
424 children outside the adult correctional system or be placed on
425 juvenile probation.

426 (b) In determining whether to impose juvenile or sanctions
427 ~~instead of~~ adult sanctions, the court shall consider the
428 following criteria:

429 1. The seriousness of the offense to the community and
430 whether the community would best be protected by juvenile or
431 adult sanctions.

432 2. The extent of the child's participation in the offense
433 ~~Whether the offense was committed in an aggressive, violent,~~
434 ~~premeditated, or willful manner.~~

435 3. The effect, if any, of familial or peer pressure on the

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436 ~~child's actions whether the offense was against persons or~~
437 ~~against property, with greater weight being given to offenses~~
438 ~~against persons, especially if personal injury resulted.~~

439 4. The sophistication and maturity of the child, including:
440 ~~offender.~~

441 a. The child's age, maturity, intellectual capacity, and
442 mental and emotional health at the time of the offense.

443 b. The child's background, including his or her family,
444 home, and community environment.

445 c. The effect, if any, of immaturity, impetuosity, or
446 failure to appreciate the risks and consequences on the child's
447 participation in the offense.

448 d. The effect, if any, of characteristics attributable to
449 the child's age on the child's judgment.

450 5. The record and previous history of the child offender,
451 including:

452 a. Previous contacts with the Department of Corrections,
453 the Department of Juvenile Justice, the former Department of
454 Health and Rehabilitative Services, and the Department of
455 Children and Families, and the adequacy and appropriateness of
456 the services provided to address the child's needs law
457 enforcement agencies, and the courts.

458 b. Prior periods of probation.

459 c. Prior adjudications that the offender committed a
460 delinquent act or violation of law as a child.

461 d. Prior commitments to the Department of Juvenile Justice,
462 law enforcement agencies, the courts, the former Department of
463 Health and Rehabilitative Services, the Department of Children
464 and Families, or other facilities or institutions and the

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465 adequacy and appropriateness of the services provided to address
466 the child's needs.

467 e. Any history of abuse, abandonment, or neglect suffered
468 by the child; foster care placements; failed adoption; fetal
469 alcohol syndrome; exposure to controlled substances at or before
470 birth; and below-average intellectual functioning.

471 f. Whether the child has been identified as having a
472 disability or as having previously received mental health
473 services or treatment.

474 6. The prospects for adequate protection of the public and
475 the likelihood of deterrence and reasonable rehabilitation of
476 the offender if assigned to services and facilities of the
477 Department of Juvenile Justice.

478 7. ~~Whether the Department of Juvenile Justice has~~
479 ~~appropriate programs, facilities, and services immediately~~
480 ~~available.~~

481 7.8. Whether adult sanctions would provide more appropriate
482 punishment and deterrence to further violations of law than the
483 imposition of juvenile sanctions.

484 8. Whether the Department of Corrections has appropriate
485 programs, facilities, and services immediately available.

486 (c) The adult court shall render an order including
487 specific findings of fact and the reasons for its decision. On
488 appeal, the order shall be reviewed under s. 985.534 and the
489 Florida Rules of Appellate Procedure.

490 (2) PRESENTENCE INVESTIGATION REPORT.—

491 (a) Upon a plea of guilty, the court may refer the case to
492 the department for investigation and recommendation as to the
493 suitability of its programs for the child.

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494 (b) Upon completion of the completed presentence
495 investigation report, it must be made available to the child's
496 counsel and the state attorney by the department prior to the
497 sentencing hearing.

498 (3) SENTENCING HEARING.—

499 (a) At the sentencing hearing the court shall receive and
500 consider a presentence investigation report by the Department of
501 Corrections regarding the suitability of the offender for
502 disposition as an adult or as a juvenile. The presentence
503 investigation report must include a comments section prepared by
504 the Department of Juvenile Justice, with its recommendations as
505 to disposition. This report requirement may be waived by the
506 offender.

507 (b) After considering the presentence investigation report,
508 the court shall give all parties present at the hearing an
509 opportunity to comment on the issue of sentence and any proposed
510 rehabilitative plan. Parties to the case include the parent,
511 guardian, or legal custodian of the offender; the offender's
512 counsel; the state attorney; representatives of the Department
513 of Corrections and the Department of Juvenile Justice; the
514 victim or victim's representative; representatives of the school
515 system; and the law enforcement officers involved in the case.

516 (c) The court may receive and consider any other relevant
517 and material evidence, including other reports, written or oral,
518 in its effort to determine the action to be taken with regard to
519 the child, and may rely upon such evidence to the extent of its
520 probative value even if the evidence would not be competent in
521 an adjudicatory hearing. The court may receive, and shall
522 consider if it receives, a prior predisposition report,

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523 psychosocial assessment, individual education plan,
524 developmental assessment, school record, abuse or neglect
525 report, home study, protective investigation, and psychological
526 or psychiatric evaluation. The child; the child's parent,
527 guardian, or legal custodian; the child's counsel; and the state
528 attorney have the right to examine these records and to question
529 the parties responsible for them at the hearing.

530 (d) The court shall notify any victim of the offense of the
531 hearing and shall notify, or subpoena if appropriate, the
532 parents, guardians, or legal custodians of the child to attend
533 the disposition hearing.

534 (4) SENTENCING ALTERNATIVES.—

535 (a) Sanctions.—If a child has been transferred for criminal
536 prosecution as an adult and is found to have committed a
537 violation of state law, the court may sentence the child as
538 follows:

539 1. As an adult, except that mandatory minimum sentences do
540 not apply;

541 2. As a youthful offender under chapter 958; or

542 3. As a juvenile under this section. Adult sanctions.—

543 1. Cases prosecuted on indictment. If the child is found to
544 have committed the offense punishable by death or life
545 imprisonment, the child shall be sentenced as an adult. If the
546 juvenile is not found to have committed the indictable offense
547 but is found to have committed a lesser included offense or any
548 other offense for which he or she was indicted as a part of the
549 criminal episode, the court may sentence as follows:

550 a. As an adult;

551 b. Under chapter 958; or

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552 c. As a juvenile under this section.

553 2. Other cases. If a child who has been transferred for
554 criminal prosecution pursuant to information or waiver of
555 juvenile court jurisdiction is found to have committed a
556 violation of state law or a lesser included offense for which he
557 or she was charged as a part of the criminal episode, the court
558 may sentence as follows:

559 a. As an adult;

560 b. Under chapter 958; or

561 c. As a juvenile under this section.

562 3. Notwithstanding any other provision to the contrary, if
563 the state attorney is required to file a motion to transfer and
564 certify the juvenile for prosecution as an adult under s.
565 985.556(3) and that motion is granted, or if the state attorney
566 is required to file an information under s. 985.557(2)(a) or
567 (b), the court must impose adult sanctions.

568 4. Any sentence imposing adult sanctions is presumed
569 appropriate, and the court is not required to set forth specific
570 findings or enumerate the criteria in this subsection as any
571 basis for its decision to impose adult sanctions.

572 5. When a child has been transferred for criminal
573 prosecution as an adult and has been found to have committed a
574 violation of state law, the disposition of the case may include
575 the enforcement of any restitution ordered in any juvenile
576 proceeding.

577 (b) Court findings.—The court must set forth specific
578 findings or discuss the criteria in this section as the basis
579 for its decision to impose adult, youthful offender, or juvenile
580 sanctions. Juvenile sanctions. For juveniles transferred to

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581 adult court but who do not qualify for such transfer under s.
582 ~~985.556(3) or s. 985.557(2)(a) or (b), the court may impose~~
583 juvenile sanctions under this paragraph. If juvenile sentences
584 are imposed, the court shall, under this paragraph, adjudge the
585 child to have committed a delinquent act. Adjudication of
586 delinquency shall not be deemed a conviction, nor shall it
587 operate to impose any of the civil disabilities ordinarily
588 resulting from a conviction. The court shall impose an adult
589 sanction or a juvenile sanction and may not sentence the child
590 to a combination of adult and juvenile punishments. An adult
591 sanction or a juvenile sanction may include enforcement of an
592 order of restitution or probation previously ordered in any
593 juvenile proceeding. However, if the court imposes a juvenile
594 sanction and the department determines that the sanction is
595 unsuitable for the child, the department shall return custody of
596 the child to the sentencing court for further proceedings,
597 including the imposition of adult sanctions. Upon adjudicating a
598 child delinquent under subsection (1), the court may:

599 1. Place the child in a probation program under the
600 supervision of the department for an indeterminate period of
601 time until the child reaches the age of 19 years or sooner if
602 discharged by order of the court.

603 2. Commit the child to the department for treatment in an
604 appropriate program for children for an indeterminate period of
605 time until the child is 21 or sooner if discharged by the
606 department. The department shall notify the court of its intent
607 to discharge no later than 14 days prior to discharge. Failure
608 of the court to timely respond to the department's notice shall
609 be considered approval for discharge.

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610 3. Order disposition under ss. 985.435, 985.437, 985.439,
611 985.441, 985.45, and 985.455 as an alternative to youthful
612 offender or adult sentencing if the court determines not to
613 impose youthful offender or adult sanctions.

614 (c) Restitution.—When a child has been transferred for
615 criminal prosecution as an adult and has been found to have
616 committed a violation of state law, the disposition of the case
617 may include the enforcement of any restitution ordered in any
618 juvenile proceeding. Adult sanctions upon failure of juvenile
619 sanctions. If a child proves not to be suitable to a commitment
620 program, juvenile probation program, or treatment program under
621 paragraph (b), the department shall provide the sentencing court
622 with a written report outlining the basis for its objections to
623 the juvenile sanction and shall simultaneously provide a copy of
624 the report to the state attorney and the defense counsel. The
625 department shall schedule a hearing within 30 days. Upon
626 hearing, the court may revoke the previous adjudication, impose
627 an adjudication of guilt, and impose any sentence which it may
628 lawfully impose, giving credit for all time spent by the child
629 in the department. The court may also classify the child as a
630 youthful offender under s. 958.04, if appropriate. For purposes
631 of this paragraph, a child may be found not suitable to a
632 commitment program, community control program, or treatment
633 program under paragraph (b) if the child commits a new violation
634 of law while under juvenile sanctions, if the child commits any
635 other violation of the conditions of juvenile sanctions, or if
636 the child's actions are otherwise determined by the court to
637 demonstrate a failure of juvenile sanctions.

638 (d) Juvenile sanctions.—If a juvenile sentence is imposed,

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the court shall adjudge the child to have committed a delinquent act. Adjudication of delinquency is not a conviction and does not impose any civil disability that ordinarily results from a conviction. A juvenile sanction may include enforcement of an order of restitution or probation previously ordered in any juvenile proceeding. Upon adjudicating a child delinquent, the court may do any of the following:

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

2. Commit the child to the department for treatment in an appropriate program for children for an indeterminate period until the child is 21 years of age, or sooner if discharged by the department. The department shall notify the court of its intent to discharge no later than 14 days before the discharge. Failure of the court to timely respond to the department's notice is deemed approval for discharge.

3. Order disposition under ss. 985.435, 985.437, 985.439, 985.441, 985.45, and 985.455 as an alternative to youthful offender or adult sentencing if the court does not impose youthful offender or adult sanctions.

(e) ~~(d)~~ *Further proceedings heard in adult court.*—When a child is sentenced to juvenile sanctions, further proceedings involving those sanctions shall continue to be heard in the adult court.

(f) ~~(e)~~ *School attendance.*—If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or

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668 may attend the same school as the child, the court placement
669 order shall include a finding pursuant to the proceeding
670 described in s. 985.455(2), regardless of whether adjudication
671 is withheld.

672 (g) Legislative intent.—It is the intent of the Legislature
673 that the criteria and guidelines in this subsection are
674 mandatory and that a determination of disposition under this
675 subsection is subject to the right of the child to appellate
676 review under s. 985.534.

677 Section 6. Subsection (1) of section 985.57, Florida
678 Statutes, is amended to read:

679 985.57 Transfer of children from the Department of
680 Corrections to the Department of Juvenile Justice.—

681 (1) When any child under the age of 18 years is sentenced
682 by any court of competent jurisdiction to the Department of
683 Corrections, the Secretary of Juvenile Justice shall may
684 transfer the such child to the department to serve the for the
685 remainder of the sentence, or until his or her 21st birthday,
686 whichever results in the shorter term. If, upon such person's
687 attaining his or her 21st birthday, the sentence has not
688 terminated, he or she shall be transferred to the Department of
689 Corrections for placement in a youthful offender program,
690 transferred to the supervision of the department, or be given
691 any other transfer that may lawfully be made.

692 Section 7. Subsection (54) of section 985.03, Florida
693 Statutes, is amended to read:

694 985.03 Definitions.—As used in this chapter, the term:

695 (54) "Waiver hearing" means a hearing provided for under s.
696 985.556 ~~s. 985.556(4).~~

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697 Section 8. Subsection (2) of section 985.04, Florida
698 Statutes, is amended to read:

699 985.04 Oaths; records; confidential information.—

700 (2) Notwithstanding any other provisions of this chapter,
701 the name, photograph, address, and crime or arrest report of a
702 child:

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

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

709 (c) ~~Transferred to the adult system under s. 985.557,~~
710 Indicted under s. 985.56~~r~~ or waived under s. 985.556~~r~~
711 ~~(d) Taken into custody by a law enforcement officer for a~~
712 ~~violation of law subject to s. 985.557(2)(b) or (d); or~~
713 ~~(e) Transferred to the adult system but sentenced to the~~
714 ~~juvenile system under s. 985.565~~

715
716 may shall not be considered confidential and exempt from s.
717 119.07(1) solely because of the child's age.

718 Section 9. Subsection (1) of section 985.15, Florida
719 Statutes, is amended to read:

720 985.15 Filing decisions.—

721 (1) The state attorney may in all cases take action
722 independent of the action or lack of action of the juvenile
723 probation officer and shall determine the action that is in the
724 best interest of the public and the child. If the child meets
725 the criteria authorizing requiring prosecution as an adult under

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726 s. 985.556, the state attorney may shall request the court to
727 transfer and certify the child for prosecution as an adult ~~or~~
728 ~~shall provide written reasons to the court for not making such a~~
729 ~~request.~~ In all other cases, the state attorney may:

- 730 (a) File a petition for dependency;
731 (b) File a petition under chapter 984;
732 (c) File a petition for delinquency;
733 (d) File a petition for delinquency with a motion to
734 transfer and certify the child for prosecution as an adult;
735 ~~(e) File an information under s. 985.557;~~
736 ~~(e)~~ Refer the case to a grand jury;

737 ~~(f)~~ Refer the child to a diversionary, pretrial
738 intervention, arbitration, or mediation program, or to some
739 other treatment or care program if such program commitment is
740 voluntarily accepted by the child or the child's parents or
741 legal guardian; or

- 742 ~~(g)~~ Decline to file.

743 Section 10. For the purpose of incorporating the amendment
744 made by this act to section 985.565, Florida Statutes, in a
745 reference thereto, subsection (3) of section 985.514, Florida
746 Statutes, is reenacted to read:

747 985.514 Responsibility for cost of care; fees.—

748 (3) When the court under s. 985.565 orders any child
749 prosecuted as an adult to be supervised by or committed to the
750 department for treatment in any of the department's programs for
751 children, the court shall order the child's parents to pay fees
752 as provided in s. 985.039.

753 Section 11. This act shall take effect July 1, 2016.