

By the Committee on Criminal Justice; and Senators Powell and Rouson

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1 A bill to be entitled
2 An act relating to juvenile justice; amending s.
3 944.292, F.S.; creating an exception to the suspension
4 of civil rights upon the conviction of a felony for
5 children convicted as adults; amending s. 985.556,
6 F.S.; deleting provisions requiring that a state
7 attorney request the court to transfer and certify a
8 child for prosecution as an adult under certain
9 circumstances; revising the factors that a court must
10 consider when determining whether a child should be
11 transferred to adult court; amending s. 985.557, F.S.;
12 revising the list of crimes for which children of
13 specified ages who are charged with committing,
14 attempting to commit, or conspiring to commit may have
15 an information filed against them by a state attorney;
16 requiring a state attorney to document in writing the
17 reasons for prosecuting or not prosecuting a child as
18 an adult; requiring the state attorney to file the
19 document with the court and include specified
20 information for his or her written decision; deleting
21 provisions requiring that a child be prosecuted as an
22 adult if the child committed or attempted to commit
23 specified crimes; deleting provisions relating to
24 sentencing of a child who commits or attempts to
25 commit such crimes; authorizing a child who is
26 transferred to adult court to request, in writing, a
27 hearing before the court to determine whether the
28 child remains in adult court; requiring the court to
29 make specified considerations in determining whether
30 the public safety would be served by retaining
31 jurisdiction; authorizing the court to transfer a

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32 child back to a juvenile court; prohibiting the
33 transfer of an eligible child to adult court if the
34 child has previously been found incompetent but has
35 not had competency restored until child's competency
36 is restored; requiring the Department of Juvenile
37 Justice, beginning on a certain date, to collect
38 specified information relating to children who qualify
39 for prosecution as adults and for children who are
40 transferred for criminal prosecution as adults;
41 requiring the department to work with the Office of
42 Program Policy Analysis and Government Accountability
43 to generate a report analyzing the data of juveniles
44 transferred for prosecution as adults during a certain
45 period; requiring the department to provide the report
46 to the Governor and the Legislature by a certain date;
47 requiring the department to work with the Office of
48 Program Policy Analysis and Government Accountability
49 to generate an annual report to include certain
50 information and provide it to the Governor and the
51 Legislature by a specified date; providing a child 14
52 years of age but who has not yet reached the age of 18
53 and is convicted and sentenced to the Department of
54 Corrections must be kept completely separated from
55 adult offenders in the facility; amending s. 985.56,
56 F.S.; limiting the age to children 14 years of age or
57 older, rather than children of any age, who are
58 subject to the jurisdiction of a court if charged with
59 a violation of law punishable by death or life
60 imprisonment; prohibiting the transfer of a child to

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61 adult court for prosecution if the child has a pending
62 competency hearing in juvenile court or has previously
63 been found incompetent and has not had his or her
64 competence restored by a court until the child's
65 competency is restored; providing the tolling of time
66 limits for specified purposes; making technical
67 changes; amending s. 985.565, F.S.; revising the
68 criteria to be used in determining whether to impose
69 juvenile or adult sanctions; deleting provisions
70 requiring the sentencing of children who commit
71 offenses punishable by death or life imprisonment or
72 who are found to have committed lesser included
73 offenses; conforming provisions to changes made by the
74 act; amending s. 985.03, F.S.; conforming a cross-
75 reference; amending s. 985.15, F.S.; conforming
76 provisions to changes made by the act; reenacting s.
77 985.514(3), F.S., relating to responsibility for cost
78 of care and fees, to incorporate the amendment made to
79 s. 985.565, F.S., in a reference thereto; providing an
80 effective date.

81

82 Be It Enacted by the Legislature of the State of Florida:

83

84 Section 1. Subsection (1) of section 944.292, Florida
85 Statutes, is amended to read:

86 944.292 Suspension of civil rights.—

87 (1) Upon conviction of a felony as defined in s. 10, Art. X
88 of the State Constitution, the civil rights of the person
89 convicted, except for children convicted as adults pursuant to

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90 s. 985.557, shall be suspended in Florida until such rights are
91 restored by a full pardon, conditional pardon, or restoration of
92 civil rights granted pursuant to s. 8, Art. IV of the State
93 Constitution.

94 Section 2. Subsections (2) through (5) of section 985.556,
95 Florida Statutes, are amended, and subsection (1) of that
96 section is republished, to read:

97 985.556 Waiver of juvenile court jurisdiction; hearing.—

98 (1) VOLUNTARY WAIVER.—The court shall transfer and certify
99 a child's criminal case for trial as an adult if the child is
100 alleged to have committed a violation of law and, prior to the
101 commencement of an adjudicatory hearing, the child, joined by a
102 parent or, in the absence of a parent, by the guardian or
103 guardian ad litem, demands in writing to be tried as an adult.
104 Once a child has been transferred for criminal prosecution
105 pursuant to a voluntary waiver hearing and has been found to
106 have committed the presenting offense or a lesser included
107 offense, the child shall be handled thereafter in every respect
108 as an adult for any subsequent violation of state law, unless
109 the court imposes juvenile sanctions under s. 985.565(4)(b).

110 (2) INVOLUNTARY DISCRETIONARY WAIVER.—~~Except as provided in~~
111 ~~subsection (3),~~ The state attorney may file a motion requesting
112 the court to transfer the child for criminal prosecution if the
113 child was 14 years of age or older at the time the alleged
114 delinquent act or violation of law was committed.

115 ~~(3) INVOLUNTARY MANDATORY WAIVER.—~~

116 ~~(a) If the child was 14 years of age or older, and if the~~
117 ~~child has been previously adjudicated delinquent for an act~~
118 ~~classified as a felony, which adjudication was for the~~

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119 ~~commission of, attempt to commit, or conspiracy to commit~~
120 ~~murder, sexual battery, armed or strong-armed robbery,~~
121 ~~earjacking, home-invasion robbery, aggravated battery,~~
122 ~~aggravated assault, or burglary with an assault or battery, and~~
123 ~~the child is currently charged with a second or subsequent~~
124 ~~violent crime against a person; or~~

125 ~~(b) If the child was 14 years of age or older at the time~~
126 ~~of commission of a fourth or subsequent alleged felony offense~~
127 ~~and the child was previously adjudicated delinquent or had~~
128 ~~adjudication withheld for or was found to have committed, or to~~
129 ~~have attempted or conspired to commit, three offenses that are~~
130 ~~felony offenses if committed by an adult, and one or more of~~
131 ~~such felony offenses involved the use or possession of a firearm~~
132 ~~or violence against a person;~~

133

134 ~~the state attorney shall request the court to transfer and~~
135 ~~certify the child for prosecution as an adult or shall provide~~
136 ~~written reasons to the court for not making such request, or~~
137 ~~proceed under s. 985.557(1). Upon the state attorney's request,~~
138 ~~the court shall either enter an order transferring the case and~~
139 ~~certifying the case for trial as if the child were an adult or~~
140 ~~provide written reasons for not issuing such an order.~~

141 ~~(3)~~ (4) WAIVER HEARING BEFORE A JUDGE.-

142 (a) Within 7 days, excluding Saturdays, Sundays, and legal
143 holidays, after the date a petition alleging that a child has
144 committed a delinquent act or violation of law has been filed,
145 or later with the approval of the court, but before an
146 adjudicatory hearing and after considering the recommendation of
147 the juvenile probation officer, the state attorney may file a

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148 motion requesting the court to transfer the child for criminal
149 prosecution.

150 (b) After the filing of the motion of the state attorney,
151 summonses must be issued and served in conformity with s.
152 985.319. A copy of the motion and a copy of the delinquency
153 petition, if not already served, must be attached to each
154 summons.

155 (c) The court shall conduct a hearing on all transfer
156 request motions for the purpose of determining whether a child
157 should be transferred. In making its determination, the court
158 shall consider:

159 1. The seriousness of the alleged offense to the community
160 and whether the protection of the community is best served by
161 transferring the child for adult sanctions.

162 2. Whether the alleged offense was committed in an
163 aggressive, violent, premeditated, or willful manner.

164 3. Whether the alleged offense was against persons or
165 against property, greater weight being given to offenses against
166 persons, especially if personal injury resulted.

167 4. The probable cause as found in the report, affidavit, or
168 complaint.

169 ~~5. The desirability of trial and disposition of the entire
170 offense in one court when the child's associates in the alleged
171 crime are adults or children who are to be tried as adults.~~

172 ~~5.6.~~ The sophistication, and maturity, and mental
173 development of the child.

174 ~~6.7.~~ The record and previous history of the child,
175 including:

176 a. Previous contacts with the department, the Department of

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177 Corrections, the former Department of Health and Rehabilitative
178 Services, the Department of Children and Families, other law
179 enforcement agencies, and courts;

180 b. Prior periods of probation;

181 c. Prior adjudications that the child committed a
182 delinquent act or violation of law, greater weight being given
183 if the child has previously been found by a court to have
184 committed a delinquent act or violation of law involving an
185 offense classified as a felony or has twice previously been
186 found to have committed a delinquent act or violation of law
187 involving an offense classified as a misdemeanor; and

188 d. Prior commitments to institutions.

189 ~~7.8.~~ The prospects for adequate protection of the public
190 and the likelihood of reasonable rehabilitation of the child, if
191 the child is found to have committed the alleged offense, by the
192 use of procedures, services, and facilities currently available
193 to the court.

194 (d) Prior to a hearing on the transfer request motion by
195 the state attorney, a study and report to the court relevant to
196 the factors in paragraph (c) must be made in writing by an
197 authorized agent of the department. The child and the child's
198 parents or legal guardians and counsel and the state attorney
199 shall have the right to examine these reports and to question
200 the parties responsible for them at the hearing.

201 (e) Any decision to transfer a child for criminal
202 prosecution must be in writing and include consideration of, and
203 findings of fact with respect to, all criteria in paragraph (c).
204 The court shall render an order including a specific finding of
205 fact and the reasons for a decision to impose adult sanctions.

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206 The order shall be reviewable on appeal under s. 985.534 and the
207 Florida Rules of Appellate Procedure.

208 (4)~~(5)~~ EFFECT OF ORDER WAIVING JURISDICTION.—

209 (a) Once a child has been transferred for criminal
210 prosecution pursuant to an involuntary waiver hearing and has
211 been found to have committed the presenting offense or a lesser
212 included offense, the child shall thereafter be handled in every
213 respect as an adult for any subsequent violation of state law,
214 unless the court imposes juvenile sanctions under s. 985.565.

215 (b) When a child is transferred for criminal prosecution as
216 an adult, the court shall immediately transfer and certify to
217 the adult circuit court all felony cases pertaining to the
218 child, for prosecution of the child as an adult, which have not
219 yet resulted in a plea of guilty or nolo contendere or in which
220 a finding of guilt has not been made. If the child is acquitted
221 of all charged offenses or lesser included offenses contained in
222 the original case transferred to adult court, all felony cases
223 that were transferred to adult court under this paragraph shall
224 be subject to the same penalties such cases were subject to
225 before being transferred to adult court.

226 Section 3. Section 985.557, Florida Statutes, is amended to
227 read:

228 985.557 Prosecuting children as adults ~~Direct filing of an~~
229 ~~information;~~ discretionary ~~and mandatory~~ criteria.—

230 (1) DISCRETIONARY PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~
231 ~~FILE~~.—

232 (a) With respect to any child who was 14 or 15 years of age
233 at the time the alleged offense was committed, the state
234 attorney may file an information when in the state attorney's

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235 judgment and discretion the public interest requires that adult
 236 sanctions be considered or imposed and when the offense charged
 237 is for the commission of, attempt to commit, or conspiracy to
 238 commit:

- 239 1. Arson;
- 240 2. Sexual battery;
- 241 3. Robbery while carrying a firearm in violation of s.
 242 812.13(3)(a);
- 243 4. Kidnapping;
- 244 5. Aggravated child abuse;
- 245 6. Aggravated assault;
- 246 7. Aggravated stalking;
- 247 8. Murder;
- 248 9. Manslaughter;
- 249 10. Unlawful throwing, placing, or discharging of a
 250 destructive device or bomb;
- 251 11. Armed burglary in violation of s. 810.02(2)(b) only if
 252 there is another person in the dwelling, structure, or
 253 conveyance at the time the offender enters or remains ~~or~~
 254 ~~specified burglary of a dwelling or structure in violation of s.~~
 255 ~~810.02(2)(e), or burglary with an assault or battery in~~
 256 ~~violation of s. 810.02(2)(a);~~
- 257 12. Aggravated battery resulting in great bodily harm,
 258 permanent disability, or permanent disfigurement to a person;
- 259 13. Any lewd or lascivious offense committed upon or in the
 260 presence of a person less than 16 years of age;
- 261 14. Carrying, displaying, using, threatening, or attempting
 262 to use a weapon or firearm during the commission of a felony;
- 263 ~~15. Grand theft in violation of s. 812.014(2)(a);~~

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264 ~~15.16.~~ Possessing or discharging any weapon or firearm on
265 school property in violation of s. 790.115;

266 ~~16.17.~~ Home invasion robbery; or

267 ~~17.18.~~ Carjacking; ~~or~~

268 ~~19. Grand theft of a motor vehicle in violation of s.~~
269 ~~812.014(2)(c)6. or grand theft of a motor vehicle valued at~~
270 ~~\$20,000 or more in violation of s. 812.014(2)(b) if the child~~
271 ~~has a previous adjudication for grand theft of a motor vehicle~~
272 ~~in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).~~

273 (b) With respect to any child who was 16 or 17 years of age
274 at the time the alleged offense was committed, the state
275 attorney may file an information when in the state attorney's
276 judgment and discretion the public interest requires that adult
277 sanctions be considered or imposed, except when the offense
278 charged is for the commission of, attempt to commit, or
279 conspiracy to commit grand theft, burglary in violation of s.
280 810.02 (3)(b) or (4), or possession of a controlled substance.
281 However, the state attorney may not file an information on a
282 child charged with a misdemeanor, unless the child has had at
283 least two previous adjudications or adjudications withheld for
284 delinquent acts, one of which involved an offense classified as
285 a felony under state law.

286 (c)1. A decision under this subsection to prosecute a child
287 as an adult, or a decision not to prosecute a child eligible for
288 prosecution as an adult, shall be documented in writing by the
289 state attorney in charge of the case. The state attorney shall
290 file the document with the court at the disposition of the case
291 and include all of the following information in the written
292 decision:

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

294 b. The length of time the child spent in a detention
295 facility or jail awaiting disposition.

296 c. Whether any discovery was conducted on the case at the
297 time of the child's transfer to adult court.

298 d. Whether the child waived the right to a trial.

299 e. If the decision to transfer or not to transfer to adult
300 court resulted in a plea agreement, the details of the plea
301 agreement, including previous plea offers made by the state but
302 not accepted by the child, and any conditions placed on the plea
303 offer.

304 f. Whether the judge sentenced the child to a disposition
305 other than what the prosecutor was offering in exchange for the
306 child not being prosecuted as an adult.

307 g. Whether the child had to waive statutory limits on
308 secure detention in order to avoid being prosecuted as an adult,
309 and, if available, the amount of time the child who waived
310 secure detention limits actually spent in secure detention.

311 2. On or before the 15th of each month, the state attorney
312 in each judicial circuit shall collect the information specified
313 in subparagraph 1. for all cases disposed of the previous month
314 and submit that documentation to the department for data
315 collection.

316 ~~(2) MANDATORY DIRECT FILE.~~

317 ~~(a) With respect to any child who was 16 or 17 years of age~~
318 ~~at the time the alleged offense was committed, the state~~
319 ~~attorney shall file an information if the child has been~~
320 ~~previously adjudicated delinquent for an act classified as a~~
321 ~~felony, which adjudication was for the commission of, attempt to~~

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322 ~~commit, or conspiracy to commit murder, sexual battery, armed or~~
323 ~~strong-armed robbery, carjacking, home invasion robbery,~~
324 ~~aggravated battery, or aggravated assault, and the child is~~
325 ~~currently charged with a second or subsequent violent crime~~
326 ~~against a person.~~

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

337 ~~(c) The state attorney must file an information if a child,~~
338 ~~regardless of the child's age at the time the alleged offense~~
339 ~~was committed, is alleged to have committed an act that would be~~
340 ~~a violation of law if the child were an adult, that involves~~
341 ~~stealing a motor vehicle, including, but not limited to, a~~
342 ~~violation of s. 812.133, relating to carjacking, or s.~~
343 ~~812.014(2)(c)6., relating to grand theft of a motor vehicle, and~~
344 ~~while the child was in possession of the stolen motor vehicle~~
345 ~~the child caused serious bodily injury to or the death of a~~
346 ~~person who was not involved in the underlying offense. For~~
347 ~~purposes of this section, the driver and all willing passengers~~
348 ~~in the stolen motor vehicle at the time such serious bodily~~
349 ~~injury or death is inflicted shall also be subject to mandatory~~
350 ~~transfer to adult court. "Stolen motor vehicle," for the~~

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351 ~~purposes of this section, means a motor vehicle that has been~~
352 ~~the subject of any criminal wrongful taking. For purposes of~~
353 ~~this section, "willing passengers" means all willing passengers~~
354 ~~who have participated in the underlying offense.~~

355 ~~(d)1. With respect to any child who was 16 or 17 years of~~
356 ~~age at the time the alleged offense was committed, the state~~
357 ~~attorney shall file an information if the child has been charged~~
358 ~~with committing or attempting to commit an offense listed in s.~~
359 ~~775.087(2) (a)1.a. p., and, during the commission of or attempt~~
360 ~~to commit the offense, the child:~~

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

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

365 ~~e. Discharged a firearm or destructive device, as described~~
366 ~~in s. 775.087(2) (a)3., and, as a result of the discharge, death~~
367 ~~or great bodily harm was inflicted upon any person.~~

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

369 ~~a. Charged under sub-subparagraph 1.a. and who has been~~
370 ~~previously adjudicated or had adjudication withheld for a~~
371 ~~forcible felony offense or any offense involving a firearm, or~~
372 ~~who has been previously placed in a residential commitment~~
373 ~~program, shall be subject to sentencing under s. 775.087(2) (a),~~
374 ~~notwithstanding s. 985.565.~~

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

378 ~~3. Upon transfer, any child who is charged under this~~
379 ~~paragraph, but who does not meet the requirements specified in~~

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380 ~~subparagraph 2., shall be sentenced under s. 985.565; however,~~
381 ~~if the court imposes a juvenile sanction, the court must commit~~
382 ~~the child to a high-risk or maximum-risk juvenile facility.~~

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

386 ~~(d)5.~~ The Department of Corrections shall make every
387 reasonable effort to ensure that any child who is 14 years of
388 age but has not yet reached the age of 18 and 16 or 17 years of
389 age who is convicted and sentenced under this section is
390 ~~paragraph~~ be completely separated such that there is no physical
391 contact with adult offenders in the facility, to the extent that
392 it is consistent with chapter 958.

393 ~~(2)(3)~~ EFFECT OF PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~
394 ~~FILE.~~—

395 (a) Once a child has been transferred for criminal
396 prosecution pursuant to an information and has been found to
397 have committed the presenting offense or a lesser included
398 offense, the child shall be handled thereafter in every respect
399 as if an adult for any subsequent violation of state law, unless
400 the court imposes juvenile sanctions under s. 985.565.

401 (b) When a child is transferred for criminal prosecution as
402 an adult, the court shall immediately transfer and certify to
403 the adult circuit court all felony cases pertaining to the
404 child, for prosecution of the child as an adult, which have not
405 yet resulted in a plea of guilty or nolo contendere or in which
406 a finding of guilt has not been made. If a child is acquitted of
407 all charged offenses or lesser included offenses contained in
408 the original case transferred to adult court, all felony cases

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409 that were transferred to adult court as a result of this
410 paragraph shall be subject to the same penalties to which such
411 cases would have been subject before being transferred to adult
412 court.

413 (c) When a child has been transferred for criminal
414 prosecution as an adult and has been found to have committed a
415 violation of state law, the disposition of the case may be made
416 under s. 985.565 and may include the enforcement of any
417 restitution ordered in any juvenile proceeding.

418 (3) FITNESS HEARING BEFORE A JUDGE.—A child who is
419 transferred to adult court under this section may request, in
420 writing, a hearing before the court to determine whether he or
421 she shall remain in adult court. The adult court, in determining
422 whether public safety would be best served by retaining
423 jurisdiction, shall consider the seriousness of the offense; the
424 extent of the child's alleged participation or role in the
425 offense; the sophistication, maturity, and mental development of
426 the child; any prior adjudications or adjudications withheld of
427 the child; and any other consideration set forth in s.
428 985.556(3)(c). The adult court may, based on these
429 considerations, transfer the case back to juvenile court.

430 (4) TRANSFER PROHIBITION.—Notwithstanding any other law, a
431 child who is eligible for prosecution as an adult and who has
432 previously been found to be incompetent but has not been
433 restored to competency by a court may not be transferred to
434 adult court for criminal prosecution until the child's
435 competency has been restored.

436 (5) DATA COLLECTION RELATING TO PROSECUTING CHILDREN AS
437 ADULTS.—

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438 (a) Beginning March 1, 2018, the department shall collect
439 data relating to children who qualify to be prosecuted as adults
440 under this section and s. 985.556 regardless of the outcome of
441 the case, including, but not limited to:

442 1. Age.

443 2. Race and ethnicity.

444 3. Gender.

445 4. Circuit and county of residence.

446 5. Circuit and county of offense.

447 6. Prior adjudications or adjudications withheld.

448 7. Prior periods of probation including any violations of
449 probation.

450 8. Previous contacts with law enforcement agencies or the
451 court which resulted in a civil citation, arrest, or charges
452 being filed with the state.

453 9. Initial charges.

454 10. Charges at disposition.

455 11. Whether child codefendants were involved who were
456 transferred to adult court.

457 12. Whether the child was represented by counsel or whether
458 the child waived counsel.

459 13. Risk assessment instrument score.

460 14. The child's medical, mental health, substance abuse, or
461 trauma history.

462 15. The child's history of mental impairment or disability-
463 related accommodations.

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

465 17. The child's history of foster care placements,
466 including the number of prior placements.

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467 18. Whether the child has below-average intellectual
468 functioning.

469 19. Whether the child has received mental health services
470 or treatment.

471 20. Whether the child has been the subject of a child-in-
472 need-of-services or families-in-need-of-services petition or a
473 dependency petition.

474 21. Whether the child was transferred for criminal
475 prosecution as an adult.

476 22. The case resolution in juvenile court.

477 23. The case resolution in adult court.

478 24. Information generated by the office of the state
479 attorney in each judicial circuit under subparagraph (1)(c)1.

480 (b) Beginning March 1, 2018, for a child transferred for
481 criminal prosecution as an adult, the department shall also
482 collect:

483 1. Disposition data, including, but not limited to, whether
484 the child received adult sanctions, juvenile sanctions, or
485 diversion and, if sentenced to prison, the length of the prison
486 sentence or the enhanced sentence; and

487 2. Whether the child was previously found incompetent to
488 proceed in juvenile court.

489 (c) For every juvenile case transferred between July 1,
490 2016, and June 30, 2017, the department shall work with the
491 Office of Program Policy Analysis and Government Accountability
492 to generate a report analyzing the aggregated data. The
493 department must provide this report to the Governor, the
494 President of the Senate, and the Speaker of the House of
495 Representatives by January 31, 2018.

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496 (d) The department must work with the Office of Program
497 Policy Analysis and Government Accountability to generate a
498 report analyzing the aggregated data under paragraphs (a) and
499 (b) on an annual basis. The department must provide this report
500 annually to the Governor, the President of the Senate, and the
501 Speaker of the House of Representatives no later than January 31
502 of the following calendar year.

503 (6)~~(4)~~ An information filed pursuant to this section may
504 include all charges that are based on the same act, criminal
505 episode, or transaction as the primary offenses.

506 Section 4. Section 985.56, Florida Statutes, is amended to
507 read:

508 985.56 Indictment of a juvenile.—

509 (1) A child 14 years of age or older ~~of any age~~ who is
510 charged with a violation of state law punishable by death or by
511 life imprisonment is subject to the jurisdiction of the court as
512 set forth in s. 985.0301(2) unless and until an indictment on
513 the charge is returned by the grand jury. When such indictment
514 is returned, the petition for delinquency, if any, must be
515 dismissed and the child must be tried and handled in every
516 respect as an adult:

517 (a) On the indicting offense punishable by death or by life
518 imprisonment; and

519 (b) On all other felonies or misdemeanors charged in the
520 indictment which are based on the same act or transaction as the
521 indicting offense punishable by death or by life imprisonment or
522 on one or more acts or transactions connected with the offense
523 punishable by death or by life imprisonment.

524 (2) An adjudicatory hearing may not be held until 21 days

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525 after the child is taken into custody and charged with having
526 committed an indictable offense punishable by death or by life
527 imprisonment, unless the state attorney advises the court in
528 writing that he or she does not intend to present the case to
529 the grand jury, or has presented the case to the grand jury and
530 the grand jury has not returned an indictment. If the court
531 receives such a notice from the state attorney, or if the grand
532 jury fails to act within the 21-day period, the court may
533 proceed as otherwise authorized under this part.

534 (3) Notwithstanding any other law, a child who is eligible
535 for indictment and who has a pending competency hearing in
536 juvenile court or who has been previously found to be
537 incompetent and has not been restored to competency by a court
538 may not be transferred to adult court for criminal prosecution
539 until the child's competency restored. A pending competency
540 hearing or a finding of incompetency tolls the time limits in
541 subsection (2). If the child is found to have committed the
542 offense punishable by death or by life imprisonment, the child
543 shall be sentenced as an adult. If the juvenile is not found to
544 have committed the indictable offense but is found to have
545 committed a lesser included offense or any other offense for
546 which he or she was indicted as a part of the criminal episode,
547 the court may sentence under s. 985.565.

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

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554 (b) ~~If~~ ~~When~~ a child has been indicted pursuant to this
555 section, the court shall immediately transfer and certify to the
556 adult circuit court all felony cases pertaining to the child,
557 for prosecution of the child as an adult, which have not yet
558 resulted in a plea of guilty or nolo contendere or in which a
559 finding of guilt has not been made. If the child is acquitted of
560 all charged offenses or lesser included offenses contained in
561 the indictment case, all felony cases that were transferred to
562 adult court pursuant to this paragraph shall be subject to the
563 same penalties such cases were subject to before being
564 transferred to adult court.

565 Section 5. Subsection (1) and paragraphs (a) and (b) of
566 subsection (4) of section 985.565, Florida Statutes, are amended
567 to read:

568 985.565 Sentencing powers; procedures; alternatives for
569 juveniles prosecuted as adults.—

570 (1) POWERS OF DISPOSITION.—

571 (a) A child who is found to have committed a violation of
572 law may, as an alternative to adult dispositions, be committed
573 to the department for treatment in an appropriate program for
574 children outside the adult correctional system or be placed on
575 juvenile probation.

576 (b) In determining whether to impose juvenile sanctions
577 instead of adult sanctions, the court shall consider the
578 following criteria:

579 1. The seriousness of the offense to the community and
580 whether the protection of the community would be best served ~~be~~
581 ~~protected~~ by juvenile or adult sanctions.

582 2. The extent of the child's participation in the offense.

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583 3. The effect, if any, of familial or peer pressure on the
584 child's actions.

585 ~~4.2.~~ Whether the offense was committed in an aggressive,
586 violent, premeditated, or willful manner.

587 ~~5.3.~~ Whether the offense was against persons or against
588 property, with greater weight being given to offenses against
589 persons, especially if personal injury resulted.

590 ~~6.4.~~ The sophistication and maturity of the child,
591 including: offender.

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

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

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

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

601 ~~7.5.~~ The record and previous history of the child offender,
602 including:

603 a. Previous contacts with the Department of Corrections,
604 the Department of Juvenile Justice, the former Department of
605 Health and Rehabilitative Services, or the Department of
606 Children and Families, and the adequacy and appropriateness of
607 the services provided to address the child's needs ~~law~~
608 ~~enforcement agencies, and the courts.~~

609 b. Prior periods of probation.

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

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612 d. Prior commitments to the Department of Juvenile Justice,
613 the former Department of Health and Rehabilitative Services, the
614 Department of Children and Families, or other facilities or
615 institutions, and the adequacy and appropriateness of the
616 services provided to address the child's needs.

617 e. Previous contacts with law enforcement agencies and the
618 courts.

619 f. History of abuse, abandonment or neglect, or foster care
620 placements.

621 g. Identification of the child as having a disability or
622 having previously received mental health services or treatment.

623 ~~8.6.~~ The prospects for adequate protection of the public
624 and the likelihood of deterrence and reasonable rehabilitation
625 of the offender if assigned to services and facilities of the
626 Department of Juvenile Justice.

627 ~~9.7.~~ Whether the Department of Juvenile Justice has
628 appropriate programs, facilities, and services immediately
629 available.

630 ~~10.8.~~ Whether adult sanctions would provide more
631 appropriate punishment and deterrence to further violations of
632 law than the imposition of juvenile sanctions.

633 11. Whether the Department of Corrections has appropriate
634 programs, facilities, and services immediately available.

635 (4) SENTENCING ALTERNATIVES.—

636 (a) *Adult sanctions.*—

637 ~~1. Cases prosecuted on indictment. If the child is found to~~
638 ~~have committed the offense punishable by death or life~~
639 ~~imprisonment, the child shall be sentenced as an adult. If the~~
640 ~~juvenile is not found to have committed the indictable offense~~

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641 ~~but is found to have committed a lesser included offense or any~~
642 ~~other offense for which he or she was indicted as a part of the~~
643 ~~criminal episode, the court may sentence as follows:~~

644 ~~a. As an adult;~~

645 ~~b. Under chapter 958; or~~

646 ~~c. As a juvenile under this section.~~

647 ~~1.2. Other cases.—~~If a child who has been transferred for
648 criminal prosecution pursuant to indictment, information, or
649 waiver of juvenile court jurisdiction is found to have committed
650 a violation of state law or a lesser included offense for which
651 he or she was charged as a part of the criminal episode, the
652 court may sentence as follows:

653 a. As an adult;

654 b. Under chapter 958; or

655 c. As a juvenile under this section.

656 ~~3. Notwithstanding any other provision to the contrary, if~~
657 ~~the state attorney is required to file a motion to transfer and~~
658 ~~certify the juvenile for prosecution as an adult under s.~~
659 ~~985.556(3) and that motion is granted, or if the state attorney~~
660 ~~is required to file an information under s. 985.557(2)(a) or~~
661 ~~(b), the court must impose adult sanctions.~~

662 ~~4. Any sentence imposing adult sanctions is presumed~~
663 ~~appropriate, and the court is not required to set forth specific~~
664 ~~findings or enumerate the criteria in this subsection as any~~
665 ~~basis for its decision to impose adult sanctions.~~

666 ~~2.5.~~ When a child has been transferred for criminal
667 prosecution as an adult and has been found to have committed a
668 violation of state law, the disposition of the case may include
669 the enforcement of any restitution ordered in any juvenile

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670 proceeding.

671 (b) *Juvenile sanctions.* ~~For juveniles transferred to adult~~
672 ~~court but who do not qualify for such transfer under s.~~
673 ~~985.556(3) or s. 985.557(2)(a) or (b),~~ The court may impose
674 juvenile sanctions under this paragraph for juveniles
675 transferred to adult court. If juvenile sentences are imposed,
676 the court shall, under this paragraph, adjudge the child to have
677 committed a delinquent act. Adjudication of delinquency shall
678 not be deemed a conviction, nor shall it operate to impose any
679 of the civil disabilities ordinarily resulting from a
680 conviction. The court shall impose an adult sanction or a
681 juvenile sanction and may not sentence the child to a
682 combination of adult and juvenile punishments. An adult sanction
683 or a juvenile sanction may include enforcement of an order of
684 restitution or probation previously ordered in any juvenile
685 proceeding. However, if the court imposes a juvenile sanction
686 and the department determines that the sanction is unsuitable
687 for the child, the department shall return custody of the child
688 to the sentencing court for further proceedings, including the
689 imposition of adult sanctions. Upon adjudicating a child
690 delinquent under subsection (1), the court may:

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

695 2. Commit the child to the department for treatment in an
696 appropriate program for children for an indeterminate period of
697 time until the child is 21 or sooner if discharged by the
698 department. The department shall notify the court of its intent

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699 to discharge no later than 14 days prior to discharge. Failure
700 of the court to timely respond to the department's notice shall
701 be considered approval for discharge.

702 3. Order disposition under ss. 985.435, 985.437, 985.439,
703 985.441, 985.45, and 985.455 as an alternative to youthful
704 offender or adult sentencing if the court determines not to
705 impose youthful offender or adult sanctions.

706

707 It is the intent of the Legislature that the criteria and
708 guidelines in this subsection are mandatory and that a
709 determination of disposition under this subsection is subject to
710 the right of the child to appellate review under s. 985.534.

711 Section 6. Subsection (54) of section 985.03, Florida
712 Statutes, is amended to read:

713 985.03 Definitions.—As used in this chapter, the term:

714 (54) "Waiver hearing" means a hearing provided for under s.
715 985.556(3) ~~s. 985.556(4)~~.

716 Section 7. Subsection (1) of section 985.15, Florida
717 Statutes, is amended to read:

718 985.15 Filing decisions.—

719 (1) The state attorney may in all cases take action
720 independent of the action or lack of action of the juvenile
721 probation officer and shall determine the action that is in the
722 best interest of the public and the child. ~~If the child meets
723 the criteria requiring prosecution as an adult under s. 985.556,
724 the state attorney shall request the court to transfer and
725 certify the child for prosecution as an adult or shall provide
726 written reasons to the court for not making such a request. In
727 all other cases,~~ The state attorney may:

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- 728 (a) File a petition for dependency;
- 729 (b) File a petition under chapter 984;
- 730 (c) File a petition for delinquency;
- 731 (d) File a petition for delinquency with a motion to
- 732 transfer and certify the child for prosecution as an adult;
- 733 (e) File an information under s. 985.557;
- 734 (f) Refer the case to a grand jury;
- 735 (g) Refer the child to a diversionary, pretrial
- 736 intervention, arbitration, or mediation program, or to some
- 737 other treatment or care program if such program commitment is
- 738 voluntarily accepted by the child or the child's parents or
- 739 legal guardian; or
- 740 (h) Decline to file.
- 741 Section 8. For the purpose of incorporating the amendment
- 742 made by this act to section 985.565, Florida Statutes, in a
- 743 reference thereto, subsection (3) of section 985.514, Florida
- 744 Statutes, is reenacted to read:
- 745 985.514 Responsibility for cost of care; fees.—
- 746 (3) When the court under s. 985.565 orders any child
- 747 prosecuted as an adult to be supervised by or committed to the
- 748 department for treatment in any of the department's programs for
- 749 children, the court shall order the child's parents to pay fees
- 750 as provided in s. 985.039.
- 751 Section 9. This act shall take effect October 1, 2017.