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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2017	.	
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The Committee on Appropriations (Flores) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 25.052, Florida Statutes, is created to  
read:

25.052 Annual report.-

(1) Between October 1 and October 15 of each year, the  
Supreme Court shall provide a report with data as of September  
30 of that year, to the Governor, the Attorney General, the



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11 President of the Senate, and the Speaker of the House of  
12 Representatives consisting of two parts.

13 (a) In part I of the report, the court shall provide the  
14 following information regarding each case on the court's docket  
15 as of September 30 of the current year, for which a decision or  
16 disposition has not been rendered within 180 days after oral  
17 argument was heard or after the date on which the case was  
18 submitted to the court panel for a decision without oral  
19 argument:

20 1. The case name and number.

21 2. The case type.

22 3. A brief description of the case.

23 4. The date on which the case was added to the court's  
24 docket.

25 5. The date of oral argument or the date the case was  
26 submitted to the court panel for decision without oral argument.

27 6. The number of days that have elapsed since the date the  
28 oral argument was heard or the date the case was submitted to  
29 the court panel for a decision without oral argument.

30 7. A detailed explanation of the court's failure to render  
31 a decision or disposition within 180 days after oral argument  
32 was heard or after the date on which the case was submitted to  
33 the court panel for a decision without oral argument.

34 8. The date on which, or the time period within which, the  
35 court expects to render a decision or disposition.

36 (b) In part II of the report, the court shall provide the  
37 following information regarding each case decided or disposed of  
38 by the court between October 1 of the prior year and September  
39 30 of the current year, for which the decision or disposition



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40 was not rendered within 180 days after oral argument was heard  
41 or after the date on which the case was submitted to the court  
42 panel for a decision without oral argument:

43 1. The information required in subparagraphs (a)1.-5. and  
44 7.

45 2. The date that a decision or disposition was issued.

46 3. The number of days that had elapsed between the date  
47 oral argument was heard or the date the case was submitted to  
48 the court panel for a decision without oral argument and the  
49 date on which a decision or disposition was issued.

50 (2) The report shall be submitted in an electronic  
51 spreadsheet format capable of being sorted and filtered by the  
52 following elements:

53 (a) The case number.

54 (b) The case type.

55 (c) The date on which the case was added to the court's  
56 docket.

57 (d) The date of oral argument or the date the case was  
58 submitted to the court panel for decision without oral argument.

59 (e) The number of days that elapsed since the date oral  
60 argument was heard or the date the case was submitted to the  
61 court panel for a decision without oral argument.

62 (f) The date of decision or disposition.

63 (3) The case type of each case reported shall include  
64 civil, criminal not seeking the death penalty, criminal seeking  
65 the death penalty, court rules, bar discipline, or judicial  
66 discipline.

67 (4) This section is repealed July 1, 2022, unless reviewed  
68 and reenacted by the Legislature before that date.



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69 Section 2. Effective October 1, 2017, section 985.12,  
70 Florida Statutes, is amended to read:

71 985.12 Civil citation and similar diversion programs.—

72 (1) As used in this section, the term:

73 (a) "Law enforcement officer" has the same meaning as  
74 provided in s. 943.10.

75 (b) "Misdemeanor offense" means one misdemeanor violation  
76 of law.

77 (2) (a) ~~(1)~~ There is established a process for the use of  
78 juvenile civil citation and similar diversion programs to  
79 provide process for the purpose of providing an efficient and  
80 innovative alternative to custody by the department of Juvenile  
81 Justice for juveniles children who commit nonserious delinquent  
82 acts and to ensure swift and appropriate consequences. The  
83 department shall encourage and assist in the implementation and  
84 improvement of civil citation and programs or other similar  
85 diversion programs in around the state.

86 (b) One or more The civil citation or similar diversion  
87 programs program shall be established in each county to serve  
88 juveniles who commit misdemeanor offenses as provided in this  
89 section. Such programs must meet the requirements of this  
90 section and be established at the local level with the  
91 concurrence of the chief judge of the circuit, state attorney,  
92 public defender, and the head of each local law enforcement  
93 agency involved. At least one program must be applicable  
94 countywide. The countywide program may be established by a  
95 county or by interlocal agreement pursuant to s. 163.01 by a  
96 county working jointly with any municipalities or other entities  
97 within the county's boundaries or contiguous counties and any



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98 municipalities or other entities within the counties'  
99 boundaries. The program may be operated by an entity such as a  
100 law enforcement agency, the department, a juvenile assessment  
101 center, the county or municipality, or another entity selected  
102 by the county or municipality. Any additional programs shall  
103 complement the countywide program. Any program may work with any  
104 other program in the state to best serve the juveniles in the  
105 jurisdiction. An entity operating such a ~~the civil citation or~~  
106 ~~similar diversion~~ program must do so in consultation and  
107 agreement with the state attorney and local law enforcement  
108 agencies.

109 (3) Under ~~such~~ a juvenile civil citation or similar  
110 diversion program, a law enforcement officer who makes, ~~upon~~  
111 ~~making~~ contact with a juvenile who admits having committed a  
112 misdemeanor offense for the first time ~~misdemeanor,~~ may:

113 (a) Choose to issue a simple warning or inform the child's  
114 guardian or parent of the child's infraction; ~~or may~~

115 (b) Issue a civil citation to the juvenile or require the  
116 juvenile's participation in a similar diversion program, as  
117 follows:

118 1. A law enforcement officer shall issue the citation if  
119 the violation of law is a misdemeanor offense and is one of the  
120 following:

121 a. Section 562.111, relating to possession of alcoholic  
122 beverages by persons under age 21;

123 b. Section 784.03(1), relating to battery. This sub-  
124 subparagraph excludes battery relating to domestic violence as  
125 defined in s. 741.28;

126 c. Section 806.13, relating to criminal mischief;



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- 127        d. Section 810.08 or s. 810.09, relating to trespass;  
128        e. Section 812.014(2)(e) or s. 812.014(3)(a), relating to  
129 theft;  
130        f. Section 812.015(2), relating to retail and farm theft;  
131        g. Section 856.021, relating to loitering or prowling;  
132        h. Section 870.01(1), relating to affrays and riots;  
133        i. Section 877.03, relating to disorderly conduct;  
134        j. Section 893.13(6)(b), relating to possession of certain  
135 amounts of cannabis;  
136        k. Section 893.147, relating to use, possession,  
137 manufacture, delivery, transportation, advertisement, or retail  
138 sale of drug paraphernalia; or  
139        1. Section 843.02, relating to resisting an officer without  
140 violence.  
141        2. A law enforcement officer may issue a civil citation to  
142 a juvenile or require the juvenile's participation in a similar  
143 diversion program if the violation of law is a misdemeanor  
144 offense not enumerated in subparagraph 1.  
145        3. Notwithstanding subparagraph 1., a law enforcement  
146 officer may issue a civil citation to a juvenile or require the  
147 juvenile's participation in a similar diversion program if the  
148 violations of law are more than one misdemeanor offense arising  
149 out of the same criminal episode.  
150        (4) Under a juvenile civil citation or similar diversion  
151 program, a law enforcement officer who makes contact with a  
152 juvenile who admits to having committed a misdemeanor offense  
153 and has one or two prior misdemeanors from a separate criminal  
154 episode may issue a civil citation to the juvenile or require  
155 the juvenile's participation in a similar diversion program,



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156 regardless of whether the violations of law are enumerated in  
157 subparagraph (3) (b)1.

158 (5) Under a juvenile civil citation or similar diversion  
159 program, a law enforcement officer who makes contact with a  
160 juvenile who admits to having committed a misdemeanor offense  
161 and is currently alleged to have committed, or is currently  
162 charged with and awaiting final disposition, of an offense that  
163 would be a felony, may issue a civil citation to the juvenile or  
164 require the juvenile's participation in a similar diversion  
165 program, regardless of whether the violations of law are  
166 enumerated in subparagraph (3) (b)1.

167 (6) If an arrest is made for a misdemeanor offense subject  
168 to paragraph (3) (b)2., paragraph (3) (b)3., subsection (4), or  
169 subsection (5) a law enforcement officer must provide written  
170 documentation as to why the arrest was warranted.

171 (7) A law enforcement officer shall advise a juvenile  
172 eligible to receive a civil citation under subsection (3), (4),  
173 or (5) that he or she has the option to refuse the civil  
174 citation or other similar diversion program and be referred to  
175 the department. This option may be exercised at any time before  
176 completion of the community service assignment required under  
177 subsection (9). Participation in a civil citation or similar  
178 diversion program is not considered a referral to the  
179 department.

180 (8) Upon issuance of the civil citation or documentation  
181 requiring a similar diversion program, the law enforcement  
182 officer shall send a copy to the county sheriff, the state  
183 attorney, the department or the entity operating the program as  
184 designated by the department, the parent or guardian of the



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185 juvenile, and the victim. The entity operating the program shall  
186 enter such information into the juvenile justice information  
187 system.

188 (9) A juvenile who elects to participate in a civil  
189 citation or similar diversion program shall complete, and assess  
190 up to 50 community service hours, and participate require  
191 participation in intervention services as indicated by an  
192 assessment of the needs of the juvenile, including family  
193 counseling, urinalysis monitoring, and substance abuse and  
194 mental health treatment services.

195 (a) The juvenile shall report to the entity operating the  
196 program within 10 business days after the date of issuance of  
197 the civil citation or documentation for a similar diversion  
198 program. The juvenile shall spend a minimum of 5 hours per week  
199 completing the community service assignment. The entity  
200 operating the program shall immediately notify the department  
201 through the juvenile justice information system that a juvenile  
202 has reported to the entity operating the program and the  
203 expected date on which the juvenile will complete the community  
204 service assignment ~~A copy of each citation issued under this~~  
205 ~~section shall be provided to the department, and the department~~  
206 ~~shall enter appropriate information into the juvenile offender~~  
207 ~~information system. Use of the civil citation or similar~~  
208 ~~diversion program is not limited to first-time misdemeanors and~~  
209 ~~may be used in up to two subsequent misdemeanors. If an arrest~~  
210 ~~is made, a law enforcement officer must provide written~~  
211 ~~documentation as to why an arrest was warranted.~~

212 (b) At the conclusion of a juvenile's civil citation  
213 program or similar diversion program, the entity agency





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214 operating the program shall report the outcome of the program to  
215 the department.

216 (c) If the juvenile fails to timely report for a community  
217 service assignment, complete such assignment, or comply with  
218 assigned intervention services within the prescribed time, the  
219 entity operating the program shall notify the law enforcement  
220 officer. The law enforcement officer shall determine if there is  
221 good cause to arrest the juvenile for the original misdemeanor  
222 offense and refer the case to the state attorney or allow the  
223 juvenile to continue in the program.

224 (d) If the juvenile commits a subsequent delinquent act  
225 then the entity operating the program shall notify the law  
226 enforcement officer and the law enforcement officer shall arrest  
227 the juvenile for the original misdemeanor offense and refer the  
228 case to the state attorney. ~~The issuance of a civil citation is~~  
229 ~~not considered a referral to the department.~~

230 (10)-(2) The department shall develop guidelines for the  
231 civil citation and similar diversion programs ~~program~~ which  
232 include intervention services that are based on ~~upon~~ proven  
233 civil citation or similar diversion programs ~~in within~~ the  
234 state. The department shall generate a report annually on the  
235 best practices of the programs. The department must provide the  
236 report annually to the Governor, the President of the Senate,  
237 and the Speaker of the House of Representatives no later than  
238 January 31 each year. The department must also provide an  
239 electronic copy of the annual report to the civil citation and  
240 similar diversion programs no later than January 31 each year.

241 (11) The department shall generate a report annually on  
242 participation and outcomes for civil citation and similar



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243 diversion programs, reported as statewide aggregate data and  
244 data for each civil citation and similar diversion program from  
245 the previous calendar year. The annual report shall be available  
246 on the department's website no later than January 31, of each  
247 year. The department must also provide an electronic copy of the  
248 annual report to each civil citation and similar diversion  
249 program. At a minimum, the data shall include:

250 (a) Race, ethnicity, gender and age of the juvenile;

251 (b) The juvenile's county of residence;

252 (c) The misdemeanor offenses committed;

253 (d) The county where the misdemeanor offenses were  
254 committed;

255 (e) Whether the juvenile has previously participated in a  
256 civil citation or similar diversion program;

257 (f) Whether the juvenile successfully completed or failed  
258 to complete a civil citation or similar diversion program; and

259 (g) Recidivism data for juveniles in paragraph (f).

260 (12) This section does not apply to:

261 (a) A juvenile who has entered a plea of nolo contendere or  
262 guilty to, or has been found to have committed, an offense that  
263 would be a felony if committed by an adult.

264 (b) A misdemeanor offense arising out of a criminal episode  
265 in which the juvenile is also alleged to have committed an  
266 offense that would be a felony if committed by an adult.

267 ~~(3) Upon issuing such citation, the law enforcement officer~~  
268 ~~shall send a copy to the county sheriff, state attorney, the~~  
269 ~~appropriate intake office of the department, or the community~~  
270 ~~service performance monitor designated by the department, the~~  
271 ~~parent or guardian of the child, and the victim.~~



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272           ~~(4) The child shall report to the community service~~  
273 ~~performance monitor within 7 working days after the date of~~  
274 ~~issuance of the citation. The work assignment shall be~~  
275 ~~accomplished at a rate of not less than 5 hours per week. The~~  
276 ~~monitor shall advise the intake office immediately upon~~  
277 ~~reporting by the child to the monitor, that the child has in~~  
278 ~~fact reported and the expected date upon which completion of the~~  
279 ~~work assignment will be accomplished.~~

280           ~~(5) If the child fails to report timely for a work~~  
281 ~~assignment, complete a work assignment, or comply with assigned~~  
282 ~~intervention services within the prescribed time, or if the~~  
283 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~  
284 ~~officer shall issue a report alleging the child has committed a~~  
285 ~~delinquent act, at which point a juvenile probation officer~~  
286 ~~shall process the original delinquent act as a referral to the~~  
287 ~~department and refer the report to the state attorney for~~  
288 ~~review.~~

289           ~~(6) At the time of issuance of the citation by the law~~  
290 ~~enforcement officer, such officer shall advise the child that~~  
291 ~~the child has the option to refuse the citation and to be~~  
292 ~~referred to the intake office of the department. That option may~~  
293 ~~be exercised at any time before completion of the work~~  
294 ~~assignment.~~

295           Section 3. Effective October 1, 2017, paragraph (b) of  
296 subsection (3) of section 943.051, Florida Statutes, is amended  
297 to read:

298           943.051 Criminal justice information; collection and  
299 storage; fingerprinting.—

300           (3)



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301 (b) A minor who is charged with or found to have committed  
302 the following offenses shall be fingerprinted and the  
303 fingerprints shall be submitted electronically to the  
304 department, unless the minor participates in ~~is issued~~ a civil  
305 citation or similar diversion program pursuant to s. 985.12:

- 306 1. Assault, as defined in s. 784.011.
- 307 2. Battery, as defined in s. 784.03.
- 308 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 309 4. Unlawful use of destructive devices or bombs, as defined  
310 in s. 790.1615(1).
- 311 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 312 6. Assault or battery on a law enforcement officer, a  
313 firefighter, or other specified officers, as defined in s.  
314 784.07(2)(a) and (b).
- 315 7. Open carrying of a weapon, as defined in s. 790.053.
- 316 8. Exposure of sexual organs, as defined in s. 800.03.
- 317 9. Unlawful possession of a firearm, as defined in s.  
318 790.22(5).
- 319 10. Petit theft, as defined in s. 812.014(3).
- 320 11. Cruelty to animals, as defined in s. 828.12(1).
- 321 12. Arson, as defined in s. 806.031(1).
- 322 13. Unlawful possession or discharge of a weapon or firearm at a  
323 school-sponsored event or on school property, as provided in s.  
324 790.115.

325 Section 4. Effective October 1, 2017, paragraph (b) of  
326 subsection (1) of section 985.11, Florida Statutes, is amended  
327 to read:

328 985.11 Fingerprinting and photographing.—

329 (1)



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330 (b) Unless the child is participating in ~~is issued~~ a civil  
331 citation or ~~is participating in a~~ similar diversion program  
332 pursuant to s. 985.12, a child who is charged with or found to  
333 have committed one of the following offenses shall be  
334 fingerprinted, and the fingerprints shall be submitted to the  
335 Department of Law Enforcement as provided in s. 943.051(3)(b):  
336 1. Assault, as defined in s. 784.011.  
337 2. Battery, as defined in s. 784.03.  
338 3. Carrying a concealed weapon, as defined in s. 790.01(1).  
339 4. Unlawful use of destructive devices or bombs, as defined  
340 in s. 790.1615(1).  
341 5. Neglect of a child, as defined in s. 827.03(1)(e).  
342 6. Assault on a law enforcement officer, a firefighter, or  
343 other specified officers, as defined in s. 784.07(2)(a).  
344 7. Open carrying of a weapon, as defined in s. 790.053.  
345 8. Exposure of sexual organs, as defined in s. 800.03.  
346 9. Unlawful possession of a firearm, as defined in s.  
347 790.22(5).  
348 10. Petit theft, as defined in s. 812.014.  
349 11. Cruelty to animals, as defined in s. 828.12(1).  
350 12. Arson, resulting in bodily harm to a firefighter, as  
351 defined in s. 806.031(1).  
352 13. Unlawful possession or discharge of a weapon or firearm  
353 at a school-sponsored event or on school property as defined in  
354 s. 790.115.  
355  
356 A law enforcement agency may fingerprint and photograph a child  
357 taken into custody upon probable cause that such child has  
358 committed any other violation of law, as the agency deems



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359 appropriate. Such fingerprint records and photographs shall be  
360 retained by the law enforcement agency in a separate file, and  
361 these records and all copies thereof must be marked "Juvenile  
362 Confidential." These records are not available for public  
363 disclosure and inspection under s. 119.07(1) except as provided  
364 in ss. 943.053 and 985.04(2), but shall be available to other  
365 law enforcement agencies, criminal justice agencies, state  
366 attorneys, the courts, the child, the parents or legal  
367 custodians of the child, their attorneys, and any other person  
368 authorized by the court to have access to such records. In  
369 addition, such records may be submitted to the Department of Law  
370 Enforcement for inclusion in the state criminal history records  
371 and used by criminal justice agencies for criminal justice  
372 purposes. These records may, in the discretion of the court, be  
373 open to inspection by anyone upon a showing of cause. The  
374 fingerprint and photograph records shall be produced in the  
375 court whenever directed by the court. Any photograph taken  
376 pursuant to this section may be shown by a law enforcement  
377 officer to any victim or witness of a crime for the purpose of  
378 identifying the person who committed such crime.

379 Section 5. Subsection (5) is added to section 985.557,  
380 Florida Statutes, to read:

381 985.557 Direct filing of an information; discretionary and  
382 mandatory criteria.—

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

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



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- 388        1. Age.
- 389        2. Race and ethnicity.
- 390        3. Gender.
- 391        4. Circuit and county of residence.
- 392        5. Circuit and county of offense.
- 393        6. Prior adjudications or adjudications withheld.
- 394        7. Prior periods of probation including any violations of  
395 probation.
- 396        8. Previous contacts with law enforcement agencies or the  
397 court which resulted in a civil citation, arrest, or charges  
398 being filed with the state.
- 399        9. Initial charges.
- 400        10. Charges at disposition.
- 401        11. Whether child codefendants were involved who were  
402 transferred to adult court.
- 403        12. Whether the child was represented by counsel or whether  
404 the child waived counsel.
- 405        13. Risk assessment instrument score.
- 406        14. The child's medical, mental health, substance abuse, or  
407 trauma history.
- 408        15. The child's history of mental impairment or disability-  
409 related accommodations.
- 410        16. The child's history of abuse or neglect.
- 411        17. The child's history of foster care placements,  
412 including the number of prior placements.
- 413        18. Whether the child has below-average intellectual  
414 functioning.
- 415        19. Whether the child has received mental health services  
416 or treatment.



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417       20. Whether the child has been the subject of a child-in-  
418 need-of-services or families-in-need-of-services petition or a  
419 dependency petition.

420       21. Whether the child was transferred for criminal  
421 prosecution as an adult.

422       22. The case resolution in juvenile court.

423       23. The case resolution in adult court.

424       (b) Beginning March 1, 2018, for a child transferred for  
425 criminal prosecution as an adult, the department shall also  
426 collect:

427       1. Disposition data, including, but not limited to, whether  
428 the child received adult sanctions, juvenile sanctions, or  
429 diversion and, if sentenced to prison, the length of the prison  
430 sentence or the enhanced sentence; and

431       2. Whether the child was previously found incompetent to  
432 proceed in juvenile court.

433       (c) For every juvenile case transferred between July 1,  
434 2016, and June 30, 2017, the department shall work with the  
435 Office of Program Policy Analysis and Government Accountability  
436 to generate a report analyzing the aggregated data. The  
437 department must provide this report to the Governor, the  
438 President of the Senate, and the Speaker of the House of  
439 Representatives by January 31, 2018.

440       (d) The department must work with the Office of Program  
441 Policy Analysis and Government Accountability to generate a  
442 report analyzing the aggregated data under paragraphs (a) and  
443 (b) on an annual basis. The department must provide this report  
444 annually to the Governor, the President of the Senate, and the  
445 Speaker of the House of Representatives no later than January 31





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446 of the following calendar year.

447       Section 6. If any provision of this act or its application  
448 to any person or circumstance is held invalid, the invalidity  
449 does not affect other provisions or applications of the act  
450 which can be given effect without the invalid provision or  
451 application, and to this end the provisions of this act are  
452 severable.

453       Section 7. Except as otherwise provided, this act shall  
454 take effect July 1, 2017.

455  
456 ===== T I T L E   A M E N D M E N T =====

457 And the title is amended as follows:

458       Delete everything before the enacting clause  
459 and insert:

460                               A bill to be entitled  
461       An act relating to Judicial Resources; creating s.  
462       25.052, F.S.; requiring the Supreme Court to issue an  
463       annual report regarding certain cases; specifying data  
464       to be included in such report; providing for future  
465       legislative review and repeal; amending s. 985.12,  
466       F.S.; requiring the establishment of civil citation or  
467       similar diversion programs for juveniles; providing  
468       definitions; specifying program eligibility,  
469       participation, and implementation requirements;  
470       providing exceptions; providing applicability;  
471       requiring the Department of Juvenile Justice generate  
472       annual reports; requiring reports by specified dates;  
473       amending ss. 943.051 and 985.11, F.S.; conforming  
474       provisions to changes made by the act; amending s.



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475 985.557, F.S.; requiring the department, beginning on  
476 a certain date, to collect specified information  
477 relating to children who qualify for prosecution as  
478 adults and for children who are transferred for  
479 criminal prosecution as adults; requiring the  
480 department to work with the Office of Program Policy  
481 Analysis and Government Accountability to generate a  
482 report analyzing the data of juveniles transferred for  
483 prosecution as adults during a certain period;  
484 requiring the department to provide the report to the  
485 Governor and the Legislature by a certain date;  
486 requiring the department to work with the Office of  
487 Program Policy Analysis and Government Accountability  
488 to generate an annual report to include certain  
489 information and provide it to the Governor and the  
490 Legislature by a specified date; providing  
491 severability; providing effective dates.