

By Senator Bracy

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1 A bill to be entitled
2 An act relating to juvenile justice; amending s.
3 985.26, F.S.; requiring that a prolific juvenile
4 offender be held in secure detention until a detention
5 hearing is held if the juvenile violated the
6 conditions of nonsecure detention; amending s.
7 985.433, F.S.; requiring a court to receive and
8 consider a predisposition report before committing a
9 child if the court determines that adjudication and
10 commitment to the Department of Juvenile Justice is
11 appropriate; conforming a cross-reference; amending s.
12 985.556, F.S.; increasing the age of a child at which
13 a state attorney may, or is required to, request a
14 court to transfer the child to adult court for
15 criminal prosecution; amending s. 985.557, F.S.;
16 increasing the age of a child at which a state
17 attorney may, or is required to, file an information
18 against the child for prosecution as an adult; making
19 a technical change; requiring the department to begin
20 collecting on a certain date specified information
21 relating to children who qualify for prosecution as
22 adults and for children who are transferred to adult
23 court for criminal prosecution; requiring the
24 department to work with the Office of Program Policy
25 Analysis and Government Accountability (OPPAGA) to
26 generate a report analyzing the data on juveniles
27 transferred for criminal prosecution as adults during
28 a certain period; requiring the department to provide
29 the report to the Governor and the Legislature by a

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30 certain date; requiring the department to work with
31 OPPAGA to generate an annual report that includes
32 certain information, and to provide the report to the
33 Governor and the Legislature by a specified date;
34 amending s. 985.672, F.S.; requiring that a board of
35 directors for the department's direct-support
36 organization be appointed according to the
37 organization's established bylaws; deleting a
38 provision relating to membership of the organization;
39 extending the date of a future repeal; reenacting ss.
40 790.22(8), 985.115(2), 985.13(2), 985.255(2) and
41 (3)(a) and (c), and 985.35(1)(a), F.S., relating to
42 detention of a minor for committing a crime and using
43 or possessing a firearm, releasing and delivery of a
44 child from custody, probable cause affidavits,
45 detention criteria and detention hearings, and
46 adjudicatory hearings, respectively, to incorporate
47 the amendment made to s. 985.26, F.S., in references
48 thereto; reenacting s. 985.15(1), F.S., relating to
49 filing decisions, to incorporate the amendment made to
50 s. 985.556, F.S., in a reference thereto; reenacting
51 ss. 985.265(5) and 985.565(4), F.S., relating to
52 children in adult jails and sentencing alternatives
53 for juveniles prosecuted as adults, respectively, to
54 incorporate the amendments made to ss. 985.556 and
55 985.557, F.S., in references thereto; reenacting s.
56 985.26(2)(c), F.S., relating to the length of
57 detention, to incorporate the amendment made to s.
58 985.557, F.S., in a reference thereto; providing an

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59 effective date.

60
61 Be It Enacted by the Legislature of the State of Florida:

62
63 Section 1. Subsection (2) of section 985.26, Florida
64 Statutes, is amended, and subsections (3) and (4) of that
65 section are republished, to read:

66 985.26 Length of detention.—

67 (2) (a) Except as provided in paragraph (b) or paragraph
68 (c), a child may not be held in detention care under a special
69 detention order for more than 21 days unless an adjudicatory
70 hearing for the case has been commenced in good faith by the
71 court.

72 (b) Upon good cause being shown that the nature of the
73 charge requires additional time for the prosecution or defense
74 of the case, the court may extend the length of detention for an
75 additional 9 days if the child is charged with an offense that
76 would be, if committed by an adult, a capital felony, a life
77 felony, a felony of the first degree, or a felony of the second
78 degree involving violence against any individual.

79 (c) 1. A prolific juvenile offender under s. 985.255(1)(j)
80 shall be placed on nonsecure detention care with electronic
81 monitoring or in secure detention care under a special detention
82 order until disposition. If secure detention care is ordered by
83 the court, it must be authorized under this part and may not
84 exceed:

85 a.1. ~~Twenty-one~~ days unless an adjudicatory hearing for the
86 case has been commenced in good faith by the court or the period
87 is extended by the court pursuant to paragraph (b); or

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88 ~~b.2.~~ Fifteen days after the entry of an order of
89 adjudication.

90 2. A prolific juvenile offender who is taken into custody
91 for a violation of the conditions of his or her nonsecure
92 detention must be held in secure detention until a detention
93 hearing is held.

94
95 As used in this paragraph, the term "disposition" means a
96 declination to file under s. 985.15(1)(h), the entry of nolle
97 prosequi for the charges, the filing of an indictment under s.
98 985.56 or an information under s. 985.557, a dismissal of the
99 case, or an order of final disposition by the court.

100 (3) Except as provided in subsection (2), a child may not
101 be held in detention care for more than 15 days following the
102 entry of an order of adjudication.

103 (4)(a) The time limits in subsections (2) and (3) do not
104 include periods of delay resulting from a continuance granted by
105 the court for cause on motion of the child or his or her counsel
106 or of the state. Upon the issuance of an order granting a
107 continuance for cause on a motion by either the child, the
108 child's counsel, or the state, the court shall conduct a hearing
109 at the end of each 72-hour period, excluding Saturdays, Sundays,
110 and legal holidays, to determine the need for continued
111 detention of the child and the need for further continuance of
112 proceedings for the child or the state.

113 (b) The period for nonsecure detention care under this
114 section is tolled on the date that the department or a law
115 enforcement officer alleges that the child has violated a
116 condition of the child's nonsecure detention care until the

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117 court enters a ruling on the violation. Notwithstanding the
118 tolling of nonsecure detention care, the court retains
119 jurisdiction over the child for a violation of a condition of
120 nonsecure detention care during the tolling period. If the court
121 finds that a child has violated his or her nonsecure detention
122 care, the number of days that the child served in any type of
123 detention care before commission of the violation shall be
124 excluded from the time limits under subsections (2) and (3).

125 Section 2. Present subsections (7) through (10) of section
126 985.433, Florida Statutes, are redesignated as subsections (8)
127 through (11), respectively, a new subsection (7) is added to
128 that section, and paragraph (c) of present subsection (7) is
129 amended, to read:

130 985.433 Disposition hearings in delinquency cases.—When a
131 child has been found to have committed a delinquent act, the
132 following procedures shall be applicable to the disposition of
133 the case:

134 (7) If the court determines that adjudication and
135 commitment to the department are suitable, the court must
136 receive and consider a predisposition report, including the
137 department's recommendation, before committing the child. The
138 predisposition report is an indispensable prerequisite to
139 commitment which cannot be waived by any party or by agreement
140 of the parties.

141 ~~(8)~~ ~~(7)~~ If the court determines that the child should be
142 adjudicated as having committed a delinquent act and should be
143 committed to the department, such determination shall be in
144 writing or on the record of the hearing. The determination shall
145 include a specific finding of the reasons for the decision to

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146 adjudicate and to commit the child to the department, including
147 any determination that the child was a member of a criminal
148 gang.

149 (c) The court may also require that the child be placed in
150 a probation program following the child's discharge from
151 commitment. Community-based sanctions under subsection (9) ~~(8)~~
152 may be imposed by the court at the disposition hearing or at any
153 time before ~~prior to~~ the child's release from commitment.

154 Section 3. Subsections (2) and (3) of section 985.556,
155 Florida Statutes, are amended to read:

156 985.556 Waiver of juvenile court jurisdiction; hearing.—

157 (2) INVOLUNTARY DISCRETIONARY WAIVER.—Except as provided in
158 subsection (3), the state attorney may file a motion requesting
159 the court to transfer the child for criminal prosecution if the
160 child was 15 ~~14~~ years of age or older at the time the alleged
161 delinquent act or violation of law was committed.

162 (3) INVOLUNTARY MANDATORY WAIVER.—

163 (a) If the child was 15 ~~14~~ years of age or older, and if
164 the child has been previously adjudicated delinquent for an act
165 classified as a felony, which adjudication was for the
166 commission of, attempt to commit, or conspiracy to commit
167 murder, sexual battery, armed or strong-armed robbery,
168 carjacking, home-invasion robbery, aggravated battery,
169 aggravated assault, or burglary with an assault or battery, and
170 the child is currently charged with a second or subsequent
171 violent crime against a person; or

172 (b) If the child was 15 ~~14~~ years of age or older at the
173 time of commission of a fourth or subsequent alleged felony
174 offense and the child was previously adjudicated delinquent or

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175 had adjudication withheld for or was found to have committed, or
176 to have attempted or conspired to commit, three offenses that
177 are felony offenses if committed by an adult, and one or more of
178 such felony offenses involved the use or possession of a firearm
179 or violence against a person;

180

181 the state attorney shall request the court to transfer and
182 certify the child for prosecution as an adult or shall provide
183 written reasons to the court for not making such request, or
184 proceed under s. 985.557(1). Upon the state attorney's request,
185 the court shall either enter an order transferring the case and
186 certifying the case for trial as if the child were an adult or
187 provide written reasons for not issuing such an order.

188 Section 4. Subsection (1) and paragraphs (a), (b), and (d)
189 of subsection (2) of section 985.557, Florida Statutes, are
190 amended, and subsection (5) is added to that section, to read:

191 985.557 Direct filing of an information; discretionary and
192 mandatory criteria.—

193 (1) DISCRETIONARY DIRECT FILE.—

194 (a) With respect to any child who was ~~14 or 15~~ or 16 years
195 of age at the time the alleged offense was committed, the state
196 attorney may file an information when in the state attorney's
197 judgment and discretion the public interest requires that adult
198 sanctions be considered or imposed and when the offense charged
199 is for the commission of, attempt to commit, or conspiracy to
200 commit:

201 1. Arson;

202 2. Sexual battery;

203 3. Robbery;

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- 204 4. Kidnapping;
- 205 5. Aggravated child abuse;
- 206 6. Aggravated assault;
- 207 7. Aggravated stalking;
- 208 8. Murder;
- 209 9. Manslaughter;
- 210 10. Unlawful throwing, placing, or discharging of a
- 211 destructive device or bomb;
- 212 11. Armed burglary in violation of s. 810.02(2)(b) or
- 213 specified burglary of a dwelling or structure in violation of s.
- 214 810.02(2)(c), or burglary with an assault or battery in
- 215 violation of s. 810.02(2)(a);
- 216 12. Aggravated battery;
- 217 13. Any lewd or lascivious offense committed upon or in the
- 218 presence of a person less than 16 years of age;
- 219 14. Carrying, displaying, using, threatening, or attempting
- 220 to use a weapon or firearm during the commission of a felony;
- 221 15. Grand theft in violation of s. 812.014(2)(a);
- 222 16. Possessing or discharging any weapon or firearm on
- 223 school property in violation of s. 790.115;
- 224 17. Home invasion robbery;
- 225 18. Carjacking; or
- 226 19. Grand theft of a motor vehicle in violation of s.
- 227 812.014(2)(c)6. or grand theft of a motor vehicle valued at
- 228 \$20,000 or more in violation of s. 812.014(2)(b) if the child
- 229 has a previous adjudication for grand theft of a motor vehicle
- 230 in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).
- 231 (b) With respect to any child who was ~~16 or~~ 17 years of age
- 232 at the time the alleged offense was committed, the state

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233 attorney may file an information when in the state attorney's
234 judgment and discretion the public interest requires that adult
235 sanctions be considered or imposed. However, the state attorney
236 may not file an information on a child charged with a
237 misdemeanor, unless the child has had at least two previous
238 adjudications or adjudications withheld for delinquent acts, one
239 of which involved an offense classified as a felony under state
240 law.

241 (2) MANDATORY DIRECT FILE.—

242 (a) With respect to any child who was ~~16 or~~ 17 years of age
243 at the time the alleged offense was committed, the state
244 attorney shall file an information if the child has been
245 previously adjudicated delinquent for an act classified as a
246 felony, which adjudication was for the commission of, attempt to
247 commit, or conspiracy to commit murder, sexual battery, armed or
248 strong-armed robbery, carjacking, home-invasion robbery,
249 aggravated battery, or aggravated assault, and the child is
250 currently charged with a second or subsequent violent crime
251 against a person.

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

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262 (d)1. With respect to any child who was ~~16 or~~ 17 years of
263 age at the time the alleged offense was committed, the state
264 attorney shall file an information if the child has been charged
265 with committing or attempting to commit an offense listed in s.
266 775.087(2)(a)1.a.-p., and, during the commission of or attempt
267 to commit the offense, the child:

268 a. Actually possessed a firearm or destructive device, as
269 those terms are defined in s. 790.001.

270 b. Discharged a firearm or destructive device, as described
271 in s. 775.087(2)(a)2.

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

275 2. Upon transfer, any child who is:

276 a. Charged under sub-subparagraph 1.a. and who has been
277 previously adjudicated or had adjudication withheld for a
278 forcible felony offense or any offense involving a firearm, or
279 who has been previously placed in a residential commitment
280 program, shall be subject to sentencing under s. 775.087(2)(a),
281 notwithstanding s. 985.565.

282 b. Charged under sub-subparagraph 1.b. or sub-subparagraph
283 1.c., shall be subject to sentencing under s. 775.087(2)(a),
284 notwithstanding s. 985.565.

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

290 4. This paragraph shall not apply if the state attorney has

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291 good cause to believe that exceptional circumstances exist that
292 preclude the just prosecution of the child in adult court.

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

299 (5) DATA COLLECTION RELATING TO DIRECT FILE.-

300 (a) Beginning March 1, 2019, the department shall collect
301 data relating to children who qualify to be prosecuted as adults
302 under s. 985.556 and this section, regardless of the outcome of
303 the case, including, but not limited to:

304 1. Age.

305 2. Race and ethnicity.

306 3. Gender.

307 4. Circuit and county of residence.

308 5. Circuit and county where the offense was committed.

309 6. Prior adjudications or adjudications withheld.

310 7. Prior periods of probation, including any violations of
311 probation.

312 8. Previous contacts with law enforcement agencies or the
313 court which resulted in a civil citation, arrest, or charges
314 being filed with the state.

315 9. Initial charges.

316 10. Charges at disposition.

317 11. Whether child codefendants were involved who were
318 transferred to adult court.

319 12. Whether the child was represented by counsel or whether

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320 the child waived counsel.

321 13. Risk assessment instrument score.

322 14. The child's medical, mental health, substance abuse,
323 and trauma history.

324 15. The child's history of mental impairment or disability-
325 related accommodations.

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

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

329 18. Whether the child has below-average intellectual
330 functioning.

331 19. Whether the child has received mental health services
332 or treatment.

333 20. Whether the child has been the subject of a child-in-
334 need-of-services or families-in-need-of-services petition or a
335 dependency petition.

336 21. Whether the child was transferred for criminal
337 prosecution as an adult and, if transferred, the provision of
338 this section under which the prosecution is proceeding or
339 proceeded.

340 22. The case resolution in juvenile court.

341 23. The case resolution in adult court.

342 (b) Beginning March 1, 2019, for a child transferred for
343 criminal prosecution as an adult, the department shall also
344 collect:

345 1. Disposition data, including, but not limited to, whether
346 the child received adult sanctions, juvenile sanctions, or
347 diversion and, if sentenced to prison, the length of the prison
348 sentence or the enhanced sentence; and

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349 2. Whether the child was previously found incompetent to
350 proceed in juvenile court.

351 (c) For every juvenile case transferred to adult court
352 between July 1, 2017, and June 30, 2018, the department shall
353 work with the Office of Program Policy Analysis and Government
354 Accountability to generate a report analyzing the data in
355 paragraphs (a) and (b). The department must provide this report
356 to the Governor, the President of the Senate, and the Speaker of
357 the House of Representatives by January 31, 2019.

358 (d) The department shall work with the Office of Program
359 Policy Analysis and Government Accountability to generate a
360 report analyzing the aggregated data collected under paragraphs
361 (a) and (b) on an annual basis. The department must provide this
362 report annually to the Governor, the President of the Senate,
363 and the Speaker of the House of Representatives no later than
364 January 31 of the following calendar year.

365 Section 5. Subsections (3) and (7) of section 985.672,
366 Florida Statutes, are amended to read:

367 985.672 Direct-support organization; definition; use of
368 property; board of directors; audit.—

369 (3) BOARD OF DIRECTORS.—The Secretary of Juvenile Justice
370 shall appoint a board of directors of the direct-support
371 organization according to the direct-support organization's
372 established bylaws. ~~Members of the organization must include~~
373 ~~representatives from businesses, representatives from each of~~
374 ~~the juvenile justice service districts, and one representative~~
375 ~~appointed at large.~~

376 (7) REPEAL.—This section is repealed October 1, 2028 ~~2018~~,
377 unless reviewed and saved from repeal by the Legislature.

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378 Section 6. For the purpose of incorporating the amendment
379 made by this act to section 985.26, Florida Statutes, in a
380 reference thereto, subsection (8) of section 790.22, Florida
381 Statutes, is reenacted to read:

382 790.22 Use of BB guns, air or gas-operated guns, or
383 electric weapons or devices by minor under 16; limitation;
384 possession of firearms by minor under 18 prohibited; penalties.-

385 (8) Notwithstanding s. 985.24 or s. 985.25(1), if a minor
386 is charged with an offense that involves the use or possession
387 of a firearm, including a violation of subsection (3), or is
388 charged for any offense during the commission of which the minor
389 possessed a firearm, the minor shall be detained in secure
390 detention, unless the state attorney authorizes the release of
391 the minor, and shall be given a hearing within 24 hours after
392 being taken into custody. At the hearing, the court may order
393 that the minor continue to be held in secure detention in
394 accordance with the applicable time periods specified in s.
395 985.26(1)-(5), if the court finds that the minor meets the
396 criteria specified in s. 985.255, or if the court finds by clear
397 and convincing evidence that the minor is a clear and present
398 danger to himself or herself or the community. The Department of
399 Juvenile Justice shall prepare a form for all minors charged
400 under this subsection which states the period of detention and
401 the relevant demographic information, including, but not limited
402 to, the gender, age, and race of the minor; whether or not the
403 minor was represented by private counsel or a public defender;
404 the current offense; and the minor's complete prior record,
405 including any pending cases. The form shall be provided to the
406 judge for determining whether the minor should be continued in

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407 secure detention under this subsection. An order placing a minor
408 in secure detention because the minor is a clear and present
409 danger to himself or herself or the community must be in
410 writing, must specify the need for detention and the benefits
411 derived by the minor or the community by placing the minor in
412 secure detention, and must include a copy of the form provided
413 by the department.

414 Section 7. For the purpose of incorporating the amendment
415 made by this act to section 985.26, Florida Statutes, in a
416 reference thereto, subsection (2) of section 985.115, Florida
417 Statutes, is reenacted to read:

418 985.115 Release or delivery from custody.—

419 (2) Unless otherwise ordered by the court under s. 985.255
420 or s. 985.26, and unless there is a need to hold the child, a
421 person taking a child into custody shall attempt to release the
422 child as follows:

423 (a) To the child's parent, guardian, or legal custodian or,
424 if the child's parent, guardian, or legal custodian is
425 unavailable, unwilling, or unable to provide supervision for the
426 child, to any responsible adult. Prior to releasing the child to
427 a responsible adult, other than the parent, guardian, or legal
428 custodian, the person taking the child into custody may conduct
429 a criminal history background check of the person to whom the
430 child is to be released. If the person has a prior felony
431 conviction, or a conviction for child abuse, drug trafficking,
432 or prostitution, that person is not a responsible adult for the
433 purposes of this section. The person to whom the child is
434 released shall agree to inform the department or the person
435 releasing the child of the child's subsequent change of address

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436 and to produce the child in court at such time as the court may
437 direct, and the child shall join in the agreement.

438 (b) Contingent upon specific appropriation, to a shelter
439 approved by the department or to an authorized agent.

440 (c) If the child is believed to be suffering from a serious
441 physical condition which requires either prompt diagnosis or
442 prompt treatment, to a law enforcement officer who shall deliver
443 the child to a hospital for necessary evaluation and treatment.

444 (d) If the child is believed to be mentally ill as defined
445 in s. 394.463(1), to a law enforcement officer who shall take
446 the child to a designated public receiving facility as defined
447 in s. 394.455 for examination under s. 394.463.

448 (e) If the child appears to be intoxicated and has
449 threatened, attempted, or inflicted physical harm on himself or
450 herself or another, or is incapacitated by substance abuse, to a
451 law enforcement officer who shall deliver the child to a
452 hospital, addictions receiving facility, or treatment resource.

453 (f) If available, to a juvenile assessment center equipped
454 and staffed to assume custody of the child for the purpose of
455 assessing the needs of the child in custody. The center may then
456 release or deliver the child under this section with a copy of
457 the assessment.

458 Section 8. For the purpose of incorporating the amendment
459 made by this act to section 985.26, Florida Statutes, in a
460 reference thereto, subsection (2) of section 985.13, Florida
461 Statutes, is reenacted to read:

462 985.13 Probable cause affidavits.—

463 (2) A person taking a child into custody who determines,
464 under part V, that the child should be detained or released to a

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465 shelter designated by the department, shall make a reasonable
466 effort to immediately notify the parent, guardian, or legal
467 custodian of the child and shall, without unreasonable delay,
468 deliver the child to the appropriate juvenile probation officer
469 or, if the court has so ordered under s. 985.255 or s. 985.26,
470 to a detention center or facility. Upon delivery of the child,
471 the person taking the child into custody shall make a written
472 report or probable cause affidavit to the appropriate juvenile
473 probation officer. Such written report or probable cause
474 affidavit must:

475 (a) Identify the child and, if known, the parents,
476 guardian, or legal custodian.

477 (b) Establish that the child was legally taken into
478 custody, with sufficient information to establish the
479 jurisdiction of the court and to make a prima facie showing that
480 the child has committed a violation of law.

481 Section 9. For the purpose of incorporating the amendment
482 made by this act to section 985.26, Florida Statutes, in a
483 reference thereto, subsection (2) and paragraphs (a) and (c) of
484 subsection (3) of section 985.255, Florida Statutes, are
485 reenacted to read:

486 985.255 Detention criteria; detention hearing.—

487 (2) A child who is charged with committing an offense that
488 is classified as an act of domestic violence as defined in s.
489 741.28 and whose risk assessment instrument indicates secure
490 detention is not appropriate may be held in secure detention if
491 the court makes specific written findings that:

492 (a) Respite care for the child is not available.

493 (b) It is necessary to place the child in secure detention

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494 in order to protect the victim from injury.

495

496 The child may not be held in secure detention under this
497 subsection for more than 48 hours unless ordered by the court.
498 After 48 hours, the court shall hold a hearing if the state
499 attorney or victim requests that secure detention be continued.
500 The child may continue to be held in detention care if the court
501 makes a specific, written finding that detention care is
502 necessary to protect the victim from injury. However, the child
503 may not be held in detention care beyond the time limits set
504 forth in this section or s. 985.26.

505 (3) (a) The purpose of the detention hearing required under
506 subsection (1) is to determine the existence of probable cause
507 that the child has committed the delinquent act or violation of
508 law that he or she is charged with and the need for continued
509 detention. Unless a child is detained under paragraph (1) (d) or
510 paragraph (1) (e), the court shall use the results of the risk
511 assessment performed by the department and, based on the
512 criteria in subsection (1), shall determine the need for
513 continued detention. If the child is a prolific juvenile
514 offender who is detained under s. 985.26(2) (c), the court shall
515 use the results of the risk assessment performed by the
516 department and the criteria in subsection (1) or subsection (2)
517 only to determine whether the prolific juvenile offender should
518 be held in secure detention.

519 (c) Except as provided in s. 790.22(8) or s. 985.27, when a
520 child is placed into detention care, or into a respite home or
521 other placement pursuant to a court order following a hearing,
522 the court order must include specific instructions that direct

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523 the release of the child from such placement no later than 5
524 p.m. on the last day of the detention period specified in s.
525 985.26 or s. 985.27, whichever is applicable, unless the
526 requirements of such applicable provision have been met or an
527 order of continuance has been granted under s. 985.26(4). If the
528 court order does not include a release date, the release date
529 shall be requested from the court on the same date that the
530 child is placed in detention care. If a subsequent hearing is
531 needed to provide additional information to the court for safety
532 planning, the initial order placing the child in detention care
533 shall reflect the next detention review hearing, which shall be
534 held within 3 calendar days after the child's initial detention
535 placement.

536 Section 10. For the purpose of incorporating the amendment
537 made by this act to section 985.26, Florida Statutes, in a
538 reference thereto, paragraph (a) of subsection (1) of section
539 985.35, Florida Statutes, is reenacted to read:

540 985.35 Adjudicatory hearings; withheld adjudications;
541 orders of adjudication.—

542 (1)(a) Except as provided in paragraph (b), the
543 adjudicatory hearing must be held as soon as practicable after
544 the petition alleging that a child has committed a delinquent
545 act or violation of law is filed and in accordance with the
546 Florida Rules of Juvenile Procedure; but reasonable delay for
547 the purpose of investigation, discovery, or procuring counsel or
548 witnesses shall be granted. If the child is being detained, the
549 time limitations in s. 985.26(2) and (3) apply.

550 Section 11. For the purpose of incorporating the amendment
551 made by this act to section 985.556, Florida Statutes, in a

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552 reference thereto, subsection (1) of section 985.15, Florida
553 Statutes, is reenacted to read:

554 985.15 Filing decisions.—

555 (1) The state attorney may in all cases take action
556 independent of the action or lack of action of the juvenile
557 probation officer and shall determine the action that is in the
558 best interest of the public and the child. If the child meets
559 the criteria requiring prosecution as an adult under s. 985.556,
560 the state attorney shall request the court to transfer and
561 certify the child for prosecution as an adult or shall provide
562 written reasons to the court for not making such a request. In
563 all other cases, the state attorney may:

564 (a) File a petition for dependency;

565 (b) File a petition under chapter 984;

566 (c) File a petition for delinquency;

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

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

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

571 (g) Refer the child to a diversionary, pretrial
572 intervention, arbitration, or mediation program, or to some
573 other treatment or care program if such program commitment is
574 voluntarily accepted by the child or the child's parents or
575 legal guardian; or

576 (h) Decline to file.

577 Section 12. For the purpose of incorporating the amendments
578 made by this act to sections 985.556 and 985.557, Florida
579 Statutes, in references thereto, subsection (5) of section
580 985.265, Florida Statutes, is reenacted to read:

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581 985.265 Detention transfer and release; education; adult
582 jails.—

583 (5) The court shall order the delivery of a child to a jail
584 or other facility intended or used for the detention of adults:

585 (a) When the child has been transferred or indicted for
586 criminal prosecution as an adult under part X, except that the
587 court may not order or allow a child alleged to have committed a
588 misdemeanor who is being transferred for criminal prosecution
589 pursuant to either s. 985.556 or s. 985.557 to be detained or
590 held in a jail or other facility intended or used for the
591 detention of adults; however, such child may be held temporarily
592 in a detention facility; or

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

595

596 The child shall be housed separately from adult inmates to
597 prohibit a child from having regular contact with incarcerated
598 adults, including trustees. "Regular contact" means sight and
599 sound contact. Separation of children from adults shall permit
600 no more than haphazard or accidental contact. The receiving jail
601 or other facility shall contain a separate section for children
602 and shall have an adequate staff to supervise and monitor the
603 child's activities at all times. Supervision and monitoring of
604 children includes physical observation and documented checks by
605 jail or receiving facility supervisory personnel at intervals
606 not to exceed 10 minutes. This subsection does not prohibit
607 placing two or more children in the same cell. Under no
608 circumstances shall a child be placed in the same cell with an
609 adult.

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610 Section 13. For the purpose of incorporating the amendments
611 made by this act to sections 985.556 and 985.557, Florida
612 Statutes, in references thereto, subsection (4) of section
613 985.565, Florida Statutes, is reenacted to read:

614 985.565 Sentencing powers; procedures; alternatives for
615 juveniles prosecuted as adults.—

616 (4) SENTENCING ALTERNATIVES.—

617 (a) *Adult sanctions*.—

618 1. Cases prosecuted on indictment.—If the child is found to
619 have committed the offense punishable by death or life
620 imprisonment, the child shall be sentenced as an adult. If the
621 juvenile is not found to have committed the indictable offense
622 but is found to have committed a lesser included offense or any
623 other offense for which he or she was indicted as a part of the
624 criminal episode, the court may sentence as follows:

625 a. As an adult;

626 b. Under chapter 958; or

627 c. As a juvenile under this section.

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

634 a. As an adult;

635 b. Under chapter 958; or

636 c. As a juvenile under this section.

637 3. Notwithstanding any other provision to the contrary, if
638 the state attorney is required to file a motion to transfer and

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639 certify the juvenile for prosecution as an adult under s.
640 985.556(3) and that motion is granted, or if the state attorney
641 is required to file an information under s. 985.557(2)(a) or
642 (b), the court must impose adult sanctions.

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

647 5. When a child has been transferred for criminal
648 prosecution as an adult and has been found to have committed a
649 violation of state law, the disposition of the case may include
650 the enforcement of any restitution ordered in any juvenile
651 proceeding.

652 (b) *Juvenile sanctions*.—For juveniles transferred to adult
653 court but who do not qualify for such transfer under s.
654 985.556(3) or s. 985.557(2)(a) or (b), the court may impose
655 juvenile sanctions under this paragraph. If juvenile sentences
656 are imposed, the court shall, under this paragraph, adjudge the
657 child to have committed a delinquent act. Adjudication of
658 delinquency shall not be deemed a conviction, nor shall it
659 operate to impose any of the civil disabilities ordinarily
660 resulting from a conviction. The court shall impose an adult
661 sanction or a juvenile sanction and may not sentence the child
662 to a combination of adult and juvenile punishments. An adult
663 sanction or a juvenile sanction may include enforcement of an
664 order of restitution or probation previously ordered in any
665 juvenile proceeding. However, if the court imposes a juvenile
666 sanction and the department determines that the sanction is
667 unsuitable for the child, the department shall return custody of

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668 the child to the sentencing court for further proceedings,
669 including the imposition of adult sanctions. Upon adjudicating a
670 child delinquent under subsection (1), the court may:

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

675 2. Commit the child to the department for treatment in an
676 appropriate program for children for an indeterminate period of
677 time until the child is 21 or sooner if discharged by the
678 department. The department shall notify the court of its intent
679 to discharge no later than 14 days prior to discharge. Failure
680 of the court to timely respond to the department's notice shall
681 be considered approval for discharge.

682 3. Order disposition under ss. 985.435, 985.437, 985.439,
683 985.441, 985.45, and 985.455 as an alternative to youthful
684 offender or adult sentencing if the court determines not to
685 impose youthful offender or adult sanctions.

686 (c) *Adult sanctions upon failure of juvenile sanctions.*—If
687 a child proves not to be suitable to a commitment program,
688 juvenile probation program, or treatment program under paragraph
689 (b), the department shall provide the sentencing court with a
690 written report outlining the basis for its objections to the
691 juvenile sanction and shall simultaneously provide a copy of the
692 report to the state attorney and the defense counsel. The
693 department shall schedule a hearing within 30 days. Upon
694 hearing, the court may revoke the previous adjudication, impose
695 an adjudication of guilt, and impose any sentence which it may
696 lawfully impose, giving credit for all time spent by the child

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697 in the department. The court may also classify the child as a
698 youthful offender under s. 958.04, if appropriate. For purposes
699 of this paragraph, a child may be found not suitable to a
700 commitment program, community control program, or treatment
701 program under paragraph (b) if the child commits a new violation
702 of law while under juvenile sanctions, if the child commits any
703 other violation of the conditions of juvenile sanctions, or if
704 the child's actions are otherwise determined by the court to
705 demonstrate a failure of juvenile sanctions.

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

710 (e) *School attendance.*—If the child is attending or is
711 eligible to attend public school and the court finds that the
712 victim or a sibling of the victim in the case is attending or
713 may attend the same school as the child, the court placement
714 order shall include a finding pursuant to the proceeding
715 described in s. 985.455(2), regardless of whether adjudication
716 is withheld.

717
718 It is the intent of the Legislature that the criteria and
719 guidelines in this subsection are mandatory and that a
720 determination of disposition under this subsection is subject to
721 the right of the child to appellate review under s. 985.534.

722 Section 14. For the purpose of incorporating the amendment
723 made by this act to section 985.557, Florida Statutes, in a
724 reference thereto, paragraph (c) of subsection (2) of section
725 985.26, Florida Statutes, is reenacted to read:

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726 985.26 Length of detention.—

727 (2)

728 (c) A prolific juvenile offender under s. 985.255(1)(j)
729 shall be placed on nonsecure detention care with electronic
730 monitoring or in secure detention care under a special detention
731 order until disposition. If secure detention care is ordered by
732 the court, it must be authorized under this part and may not
733 exceed:

734 1. Twenty-one days unless an adjudicatory hearing for the
735 case has been commenced in good faith by the court or the period
736 is extended by the court pursuant to paragraph (b); or

737 2. Fifteen days after the entry of an order of
738 adjudication.

739

740 As used in this paragraph, the term "disposition" means a
741 declination to file under s. 985.15(1)(h), the entry of nolle
742 prosequi for the charges, the filing of an indictment under s.
743 985.56 or an information under s. 985.557, a dismissal of the
744 case, or an order of final disposition by the court.

745 Section 15. This act shall take effect July 1, 2018.