

20181552er

1
2 An act relating to juvenile justice; amending s.
3 320.08058, F.S.; allowing the Department of Highway
4 Safety and Motor Vehicles to distribute proceeds from
5 the Invest in Children license plate annual use fee on
6 a statewide basis; amending s. 985.03, F.S.; replacing
7 the term "nonsecure detention" with the term
8 "supervised release detention"; defining the term
9 "supervised release detention"; amending ss. 985.037,
10 985.039, and 985.101, F.S.; conforming provisions to
11 changes made by the act; amending s. 985.24, F.S.;
12 deleting provisions authorizing the Department of
13 Juvenile Justice to develop evening reporting centers;
14 conforming provisions to changes made by the act;
15 amending s. 985.245, F.S.; revising risk assessment
16 instrument considerations; conforming provisions to
17 changes made by the act; amending s. 985.25, F.S.;
18 deleting a provision requiring mandatory detention for
19 children taken into custody on three or more separate
20 occasions within a 60-day period; amending s. 985.255,
21 F.S.; revising the circumstances under which a
22 continued detention status may be ordered; amending s.
23 985.26, F.S.; requiring the department to hold a
24 prolific juvenile offender in secure detention pending
25 a detention hearing following a violation of nonsecure
26 detention; amending s. 985.26, F.S.; revising the
27 definition of the term "disposition"; conforming
28 provisions to changes made by the act; amending ss.
29 985.265 and 985.35, F.S.; conforming provisions to

20181552er

30 changes made by the act; amending s. 985.439, F.S.;

31 deleting an authorization for placement of a child in

32 a consequence unit in certain circumstances; allowing

33 a child who violates conditions of probation to be

34 detained or released based on the results of the

35 detention risk assessment instrument; conforming

36 provisions to changes made by the act; amending s.

37 985.601, F.S.; conforming provisions to changes made

38 by the act; amending s. 985.672, F.S.; requiring the

39 board of directors of the department's direct-support

40 organization to be appointed according to the

41 organization's bylaws; deleting the scheduled repeal

42 of provisions governing the direct-support

43 organization established by the department; providing

44 effective dates.

45

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

47

48 Section 1. Paragraph (b) of subsection (11) of section

49 320.08058, Florida Statutes, is amended to read:

50 320.08058 Specialty license plates.—

51 (11) INVEST IN CHILDREN LICENSE PLATES.—

52 (b) The proceeds of the Invest in Children license plate

53 annual use fee must be deposited into the Juvenile Crime

54 Prevention and Early Intervention Trust Fund within the

55 Department of Juvenile Justice. Based on the recommendations of

56 the juvenile justice councils, the department shall use the

57 proceeds of the fee to fund programs and services that are

58 designed to prevent juvenile delinquency. ~~The department shall~~

20181552er

59 ~~allocate moneys for programs and services within each county~~
60 ~~based on that county's proportionate share of the license plate~~
61 ~~annual use fee collected by the county.~~

62 Section 2. Effective July 1, 2019, subsection (18) of
63 section 985.03, Florida Statutes, is amended to read:

64 985.03 Definitions.—As used in this chapter, the term:

65 (18) "Detention care" means the temporary care of a child
66 in secure or supervised release ~~nonsecure~~ detention, pending a
67 court adjudication or disposition or execution of a court order.
68 There are two types of detention care, as follows:

69 (a) "Secure detention" means temporary custody of the child
70 while the child is under the physical restriction of a secure
71 detention center or facility pending adjudication, disposition,
72 or placement.

73 (b) "Supervised release ~~Nonsecure~~ detention" means
74 temporary, nonsecure custody of the child while the child is
75 released to the custody of the parent, guardian, or custodian in
76 a physically nonrestrictive environment under the supervision of
77 the department staff pending adjudication, or disposition,
78 through programs that ~~or placement. Forms of nonsecure detention~~
79 ~~include, but are not limited to, home detention,~~ electronic
80 monitoring, day reporting centers, ~~evening reporting centers,~~
81 and nonsecure shelters. Supervised release ~~Nonsecure~~ detention
82 may include other requirements imposed by the court.

83 Section 3. Effective July 1, 2019, subsection (5) of
84 section 985.037, Florida Statutes, is amended to read:

85 985.037 Punishment for contempt of court; alternative
86 sanctions.—

87 (5) ALTERNATIVE SANCTIONS COORDINATOR.—There is created the

20181552er

88 position of alternative sanctions coordinator within each
89 judicial circuit, pursuant to subsection (3). Each alternative
90 sanctions coordinator shall serve under the direction of the
91 chief administrative judge of the juvenile division as directed
92 by the chief judge of the circuit. The alternative sanctions
93 coordinator shall act as the liaison between the judiciary,
94 local department officials, district school board employees, and
95 local law enforcement agencies. The alternative sanctions
96 coordinator shall coordinate within the circuit community-based
97 alternative sanctions, including supervised release ~~nonsecure~~
98 detention programs, community service projects, and other
99 juvenile sanctions, in conjunction with the circuit plan
100 implemented in accordance with s. 790.22(4)(c).

101 Section 4. Effective July 1, 2019, paragraph (a) of
102 subsection (1) of section 985.039, Florida Statutes, is amended
103 to read:

104 985.039 Cost of supervision; cost of care.—

105 (1) Except as provided in subsection (3) or subsection (4):

106 (a) When any child is placed into supervised release
107 ~~nonsecure~~ detention, probation, or other supervision status with
108 the department, or is committed to the minimum-risk
109 nonresidential restrictiveness level, the court shall order the
110 parent of such child to pay to the department a fee for the cost
111 of the supervision of such child in the amount of \$1 per day for
112 each day that the child is in such status.

113 Section 5. Effective July 1, 2019, paragraph (d) of
114 subsection (1) of section 985.101, Florida Statutes, is amended
115 to read:

116 985.101 Taking a child into custody.—

20181552er

117 (1) A child may be taken into custody under the following
118 circumstances:

119 (d) By a law enforcement officer who has probable cause to
120 believe that the child is in violation of the conditions of the
121 child's probation, supervised release ~~nonsecure~~ detention,
122 postcommitment probation, or conditional release supervision;
123 has absconded from nonresidential commitment; or has escaped
124 from residential commitment.

125

126 Nothing in this subsection shall be construed to allow the
127 detention of a child who does not meet the detention criteria in
128 part V.

129 Section 6. Effective July 1, 2019, subsections (2), (4),
130 and (5) of section 985.24, Florida Statutes, are amended to
131 read:

132 985.24 Use of detention; prohibitions.-

133 (2) A child alleged to have committed a delinquent act or
134 violation of law may not be placed into secure or supervised
135 release ~~nonsecure~~ detention care for any of the following
136 reasons:

137 (a) To allow a parent to avoid his or her legal
138 responsibility.

139 (b) To permit more convenient administrative access to the
140 child.

141 (c) To facilitate further interrogation or investigation.

142 (d) Due to a lack of more appropriate facilities.

143 ~~(4) The department may, within its existing resources,~~
144 ~~develop nonsecure, nonresidential evening reporting centers as~~
145 ~~an alternative to placing a child in secure detention. Evening~~

20181552er

146 ~~reporting centers may be collocated with a juvenile assessment~~
147 ~~center. If established, evening reporting centers shall serve~~
148 ~~children and families who are awaiting a child's court hearing~~
149 ~~and, at a minimum, operate during the afternoon and evening~~
150 ~~hours to provide a highly structured program of supervision.~~
151 ~~Evening reporting centers may also provide academic tutoring,~~
152 ~~counseling, family engagement programs, and other activities.~~

153 (4)~~(5)~~ The department shall continue to identify and
154 develop supervised release detention options ~~alternatives to~~
155 ~~secure detention care and shall develop such alternatives and~~
156 ~~annually submit them to the Legislature for authorization and~~
157 ~~appropriation.~~

158 Section 7. Effective July 1, 2019, paragraph (b) of
159 subsection (2) and subsection (4) of section 985.245, Florida
160 Statutes, are amended to read:

161 985.245 Risk assessment instrument.—

162 (2)

163 (b) The risk assessment instrument shall take into
164 consideration, but need not be limited to, pending felony and
165 misdemeanor offenses, offenses committed pending adjudication,
166 prior offenses, unlawful possession of a firearm, prior history
167 of failure to appear, violations of supervision ~~prior offenses,~~
168 ~~offenses committed pending adjudication, any unlawful possession~~
169 ~~of a firearm, theft of a motor vehicle or possession of a stolen~~
170 ~~motor vehicle, and supervision probation~~ status at the time the
171 child is taken into custody. The risk assessment instrument
172 shall also take into consideration all statutory mandates for
173 detention care ~~appropriate aggravating and mitigating~~
174 ~~circumstances, and shall be designed to target a narrower~~

20181552er

175 ~~population of children than s. 985.255.~~ The risk assessment
176 instrument shall also include any information concerning the
177 child's history of abuse and neglect. The risk assessment shall
178 indicate whether detention care is warranted, and, if detention
179 care is warranted, whether the child should be placed into
180 secure or supervised release ~~nonsecure~~ detention care.

181 (4) For a child who is under the supervision of the
182 department through probation, supervised release ~~nonsecure~~
183 detention, conditional release, postcommitment probation, or
184 commitment and who is charged with committing a new offense, the
185 risk assessment instrument may be completed and scored based on
186 the underlying charge for which the child was placed under the
187 supervision of the department ~~and the new offense.~~

188 Section 8. Effective July 1, 2019, paragraph (b) of
189 subsection (1) of section 985.25, Florida Statutes, is amended
190 to read:

191 985.25 Detention intake.—

192 (1) The department shall receive custody of a child who has
193 been taken into custody from the law enforcement agency or court
194 and shall review the facts in the law enforcement report or
195 probable cause affidavit and make such further inquiry as may be
196 necessary to determine whether detention care is appropriate.

197 (b) The department shall base the decision whether to place
198 the child into detention care on an assessment of risk in
199 accordance with the risk assessment instrument and procedures
200 developed by the department under s. 985.245, except that a
201 child shall be placed in secure detention care until the child's
202 detention hearing if the child meets the criteria specified in
203 s. 985.255(1)(f) or ~~985.255(1)(j)~~, is charged with possessing or

20181552er

204 discharging a firearm on school property in violation of s.
205 790.115, ~~or has been taken into custody on three or more~~
206 ~~separate occasions within a 60-day period.~~

207

208 Under no circumstances shall the department or the state
209 attorney or law enforcement officer authorize the detention of
210 any child in a jail or other facility intended or used for the
211 detention of adults, without an order of the court.

212 Section 9. Effective July 1, 2019, subsection (1) and
213 paragraph (a) of subsection (3) of section 985.255, Florida
214 Statutes, are amended to read:

215 985.255 Detention criteria; detention hearing.—

216 (1) Subject to s. 985.25(1), a child taken into custody and
217 placed into detention care shall be given a hearing within 24
218 hours after being taken into custody. At the hearing, the court
219 may order a continued detention status if:

220 (a) The result of the risk assessment instrument pursuant
221 to s. 985.245 indicates secure or supervised release detention.

222 (b) The child is alleged to be an escapee from a
223 residential commitment program; or an absconder from a
224 nonresidential commitment program, a probation program, or
225 conditional release supervision; or is alleged to have escaped
226 while being lawfully transported to or from a residential
227 commitment program.

228 (c) ~~(b)~~ The child is wanted in another jurisdiction for an
229 offense which, if committed by an adult, would be a felony.

230 (d) ~~(e)~~ The child is charged with a delinquent act or
231 violation of law and requests in writing through legal counsel
232 to be detained for protection from an imminent physical threat

20181552er

233 to his or her personal safety.

234 ~~(d) The child is charged with committing an offense of~~
235 ~~domestic violence as defined in s. 741.28 and is detained as~~
236 ~~provided in subsection (2).~~

237 ~~(e) The child is charged with possession of or discharging~~
238 ~~a firearm on school property in violation of s. 790.115 or the~~
239 ~~illegal possession of a firearm.~~

240 ~~(f) The child is charged with a capital felony, a life~~
241 ~~felony, a felony of the first degree, a felony of the second~~
242 ~~degree that does not involve a violation of chapter 893, or a~~
243 ~~felony of the third degree that is also a crime of violence,~~
244 ~~including any such offense involving the use or possession of a~~
245 ~~firearm.~~

246 ~~(g) The child is charged with any second degree or third~~
247 ~~degree felony involving a violation of chapter 893 or any third~~
248 ~~degree felony that is not also a crime of violence, and the~~
249 ~~child:~~

250 ~~1. Has a record of failure to appear at court hearings~~
251 ~~after being properly notified in accordance with the Rules of~~
252 ~~Juvenile Procedure;~~

253 ~~2. Has a record of law violations prior to court hearings;~~

254 ~~3. Has already been detained or has been released and is~~
255 ~~awaiting final disposition of the case;~~

256 ~~4. Has a record of violent conduct resulting in physical~~
257 ~~injury to others; or~~

258 ~~5. Is found to have been in possession of a firearm.~~

259 ~~(h) The child is alleged to have violated the conditions of~~
260 ~~the child's probation or conditional release supervision.~~

261 ~~However, a child detained under this paragraph may be held only~~

20181552er

262 ~~in a consequence unit as provided in s. 985.439. If a~~
263 ~~consequence unit is not available, the child shall be placed on~~
264 ~~nonsecure detention with electronic monitoring.~~

265 (e)~~(i)~~ The child is detained on a judicial order for
266 failure to appear and has previously willfully failed to appear,
267 after proper notice:

268 1. For an adjudicatory hearing on the same case regardless
269 of the results of the risk assessment instrument; or

270 2. At two or more court hearings of any nature on the same
271 case regardless of the results of the risk assessment
272 instrument.

273
274 A child may be held in secure detention for up to 72 hours in
275 advance of the next scheduled court hearing pursuant to this
276 paragraph. The child's failure to keep the clerk of court and
277 defense counsel informed of a current and valid mailing address
278 where the child will receive notice to appear at court
279 proceedings does not provide an adequate ground for excusal of
280 the child's nonappearance at the hearings.

281 (f)~~(j)~~ The child is a prolific juvenile offender. A child
282 is a prolific juvenile offender if the child:

283 1. Is charged with a delinquent act that would be a felony
284 if committed by an adult;

285 2. Has been adjudicated or had adjudication withheld for a
286 felony offense, or delinquent act that would be a felony if
287 committed by an adult, before the charge under subparagraph 1.;
288 and

289 3. In addition to meeting the requirements of subparagraphs
290 1. and 2., has five or more of any of the following, at least

20181552er

291 three of which must have been for felony offenses or delinquent
292 acts that would have been felonies if committed by an adult:

- 293 a. An arrest event for which a disposition, as defined in
294 s. 985.26, has not been entered;
295 b. An adjudication; or
296 c. An adjudication withheld.

297

298 As used in this subparagraph, the term "arrest event" means an
299 arrest or referral for one or more criminal offenses or
300 delinquent acts arising out of the same episode, act, or
301 transaction.

302 (3) (a) The purpose of the detention hearing required under
303 subsection (1) is to determine the existence of probable cause
304 that the child has committed the delinquent act or violation of
305 law that he or she is charged with and the need for continued
306 detention. ~~Unless a child is detained under paragraph (1) (d) or~~
307 ~~paragraph (1) (e),~~ The court shall use the results of the risk
308 assessment performed by the department and, based on the
309 criteria in subsection (1), shall determine the need for
310 continued detention. If the child is a prolific juvenile
311 offender who is detained under s. 985.26(2) (c), the court shall
312 use the results of the risk assessment performed by the
313 department and the criteria in subsection (1) or subsection (2)
314 only to determine whether the prolific juvenile offender should
315 be held in secure detention.

316 Section 10. Paragraph (d) is added to subsection (2) of
317 section 985.26, Florida Statutes, to read:

318 985.26 Length of detention.—

319 (2)

20181552er

320 (d) A prolific juvenile offender under s. 985.255(1)(j) who
321 is taken into custody for a violation of the conditions of his
322 or her nonsecure detention must be held in secure detention
323 until a detention hearing is held.

324 Section 11. Effective July 1, 2019, paragraphs (c) and (d)
325 of subsection (2) and paragraph (b) of subsection (4) of section
326 985.26, Florida Statutes, as amended by this act, are amended to
327 read:

328 985.26 Length of detention.—

329 (2)

330 (c) A prolific juvenile offender under s. 985.255(1)(f)
331 ~~985.255(1)(j)~~ shall be placed on supervised release ~~nonsecure~~
332 detention care with electronic monitoring or in secure detention
333 care under a special detention order until disposition. If
334 secure detention care is ordered by the court, it must be
335 authorized under this part and may not exceed:

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

339 2. Fifteen days after the entry of an order of
340 adjudication.

341
342 As used in this paragraph, the term "disposition" means a
343 declination to file under s. 985.15(1)(h), the entry of nolle
344 prosequi for the charges, the filing of an indictment under s.
345 985.56 or an information under s. 985.557, a dismissal of the
346 case, or an order of final disposition by the court.

347 (d) A prolific juvenile offender under s. 985.255(1)(f)
348 ~~985.255(1)(j)~~ who is taken into custody for a violation of the

20181552er

349 conditions of his or her supervised release ~~nonsecure~~ detention
350 must be held in secure detention until a detention hearing is
351 held.

352 (4)

353 (b) The period for supervised release ~~nonsecure~~ detention
354 care under this section is tolled on the date that the
355 department or a law enforcement officer alleges that the child
356 has violated a condition of the child's supervised release
357 ~~nonsecure~~ detention care until the court enters a ruling on the
358 violation. Notwithstanding the tolling of supervised release
359 ~~nonsecure~~ detention care, the court retains jurisdiction over
360 the child for a violation of a condition of supervised release
361 ~~nonsecure~~ detention care during the tolling period. If the court
362 finds that a child has violated his or her supervised release
363 ~~nonsecure~~ detention care, the number of days that the child
364 served in any type of detention care before commission of the
365 violation shall be excluded from the time limits under
366 subsections (2) and (3).

367 Section 12. Effective July 1, 2019, subsection (1),
368 paragraph (b) of subsection (3), and paragraph (a) of subsection
369 (4) of section 985.265, Florida Statutes, are amended to read:

370 985.265 Detention transfer and release; education; adult
371 jails.—

372 (1) If a child is detained under this part, the department
373 may transfer the child from supervised release ~~nonsecure~~
374 detention care to secure detention care only if significantly
375 changed circumstances warrant such transfer.

376 (3)

377 (b) When a juvenile is released from secure detention or

20181552er

378 transferred to supervised release ~~nonsecure~~ detention, detention
379 staff shall immediately notify the appropriate law enforcement
380 agency, school personnel, and victim if the juvenile is charged
381 with committing any of the following offenses or attempting to
382 commit any of the following offenses:

- 383 1. Murder, under s. 782.04;
- 384 2. Sexual battery, under chapter 794;
- 385 3. Stalking, under s. 784.048; or
- 386 4. Domestic violence, as defined in s. 741.28.

387 (4) (a) While a child who is currently enrolled in school is
388 in supervised release ~~nonsecure~~ detention care, the child shall
389 continue to attend school unless otherwise ordered by the court.

390 Section 13. Effective July 1, 2019, paragraph (b) of
391 subsection (1) of section 985.35, Florida Statutes, is amended
392 to read:

393 985.35 Adjudicatory hearings; withheld adjudications;
394 orders of adjudication.—

395 (1)

396 (b) If the child is a prolific juvenile offender under s.
397 985.255(1)(f) ~~985.255(1)(j)~~, the adjudicatory hearing must be
398 held within 45 days after the child is taken into custody unless
399 a delay is requested by the child.

400 Section 14. Effective July 1, 2019, subsections (2) and (4)
401 of section 985.439, Florida Statutes, are amended to read:

402 985.439 Violation of probation or postcommitment
403 probation.—

404 (2) A child taken into custody under s. 985.101 for
405 violating the conditions of probation shall be screened and
406 detained or released based on his or her risk assessment

20181552er

407 ~~instrument score or postcommitment probation shall be held in a~~
408 ~~consequence unit if such a unit is available. The child shall be~~
409 ~~afforded a hearing within 24 hours after being taken into~~
410 ~~eustody to determine the existence of probable cause that the~~
411 ~~child violated the conditions of probation or postcommitment~~
412 ~~probation. A consequence unit is a secure facility specifically~~
413 ~~designated by the department for children who are taken into~~
414 ~~eustody under s. 985.101 for violating probation or~~
415 ~~postcommitment probation, or who have been found by the court to~~
416 ~~have violated the conditions of probation or postcommitment~~
417 ~~probation. If the violation involves a new charge of~~
418 ~~delinquency, the child may be detained under part V in a~~
419 ~~facility other than a consequence unit. If the child is not~~
420 ~~eligible for detention for the new charge of delinquency, the~~
421 ~~child may be held in the consequence unit pending a hearing and~~
422 ~~is subject to the time limitations specified in part V.~~

423 (4) Upon the child's admission, or if the court finds after
424 a hearing that the child has violated the conditions of
425 probation or postcommitment probation, the court shall enter an
426 order revoking, modifying, or continuing probation or
427 postcommitment probation. In each such case, the court shall
428 enter a new disposition order and, in addition to the sanctions
429 set forth in this section, may impose any sanction the court
430 could have imposed at the original disposition hearing. If the
431 child is found to have violated the conditions of probation or
432 postcommitment probation, the court may:

433 ~~(a) Place the child in a consequence unit in that judicial~~
434 ~~circuit, if available, for up to 5 days for a first violation~~
435 ~~and up to 15 days for a second or subsequent violation.~~

20181552er

436 (a)~~(b)~~ Place the child in supervised release ~~nonsecure~~
437 detention with electronic monitoring. ~~However, this sanction may~~
438 ~~be used only if a residential consequence unit is not available.~~

439 (b)~~(e)~~ If the violation of probation is technical in nature
440 and not a new violation of law, place the child in an
441 alternative consequence program designed to provide swift and
442 appropriate consequences to any further violations of probation.

443 1. Alternative consequence programs shall be established,
444 within existing resources, at the local level in coordination
445 with law enforcement agencies, the chief judge of the circuit,
446 the state attorney, and the public defender.

447 2. Alternative consequence programs may be operated by an
448 entity such as a law enforcement agency, the department, a
449 juvenile assessment center, a county or municipality, or another
450 entity selected by the department.

451 3. Upon placing a child in an alternative consequence
452 program, the court must approve specific consequences for
453 specific violations of the conditions of probation.

454 (c)~~(d)~~ Modify or continue the child's probation program or
455 postcommitment probation program.

456 (d)~~(e)~~ Revoke probation or postcommitment probation and
457 commit the child to the department.

458 Section 15. Effective July 1, 2019, paragraph (a) of
459 subsection (9) of section 985.601, Florida Statutes, is amended
460 to read:

461 985.601 Administering the juvenile justice continuum.—

462 (9) (a) The department shall operate a statewide, regionally
463 administered system of detention services for children, in
464 accordance with a comprehensive plan for the regional

20181552er

465 administration of all detention services in the state. The plan
466 must provide for the maintenance of adequate availability of
467 detention services for all counties. The plan must cover all the
468 department's operating circuits, with each operating circuit
469 having access to a secure facility and supervised release
470 ~~nonsecure~~ detention programs, and the plan may be altered or
471 modified by the Department of Juvenile Justice as necessary.

472 Section 16. Subsections (3) and (7) of section 985.672,
473 Florida Statutes, are amended to read:

474 985.672 Direct-support organization; definition; use of
475 property; board of directors; audit.—

476 (3) BOARD OF DIRECTORS.—The Secretary of Juvenile Justice
477 shall appoint a board of directors of the direct-support
478 organization. The board members shall be appointed according to
479 the organization's bylaws ~~Members of the organization must~~
480 ~~include representatives from businesses, representatives from~~
481 ~~each of the juvenile justice service districts, and one~~
482 ~~representative appointed at large.~~

483 ~~(7) REPEAL. This section is repealed October 1, 2018,~~
484 ~~unless reviewed and saved from repeal by the Legislature.~~

485 Section 17. Except as otherwise expressly provided in this
486 act, this act shall take effect July 1, 2018.