

1                   A bill to be entitled  
2           An act relating to juvenile justice; amending s.  
3           944.292, F.S.; creating an exception to the suspension  
4           of civil rights upon the conviction of a felony for  
5           children convicted as adults; amending s. 985.556,  
6           F.S.; deleting provisions requiring that a state  
7           attorney request the court to transfer and certify a  
8           child for prosecution as an adult under certain  
9           circumstances; revising the factors that a court must  
10          consider when determining whether a child should be  
11          transferred to adult court; amending s. 985.557, F.S.;  
12          eliminating discretionary direct filing for children  
13          of specified ages; revising the list of crimes for  
14          which children of specified ages who are charged with  
15          committing, attempting to commit, or conspiring to  
16          commit may have an information filed against them by a  
17          state attorney; requiring specified information to be  
18          included in certain orders; requiring courts to  
19          periodically report certain data to the department;  
20          deleting provisions requiring that a child be  
21          prosecuted as an adult if the child committed or  
22          attempted to commit specified crimes; deleting  
23          provisions relating to sentencing a child who commits  
24          or attempts to commit specified crimes; authorizing a  
25          child who is transferred to adult court to request, in

26 | writing, a hearing before the court to determine  
27 | whether he or she shall remain in adult court;  
28 | requiring the court to make specified considerations  
29 | in determining whether the public safety would be  
30 | served by retaining jurisdiction; authorizing the  
31 | court to transfer a child back to a juvenile court;  
32 | prohibiting the transfer of a child to adult court  
33 | until his or her competency is restored in certain  
34 | circumstances; requiring the Department of Juvenile  
35 | Justice, beginning on a specified date, to collect  
36 | specified information relating to children who qualify  
37 | for prosecution as adults and children who are  
38 | transferred for criminal prosecution as adults;  
39 | requiring the department to work with the Office of  
40 | Program Policy Analysis and Government Accountability  
41 | to generate a report analyzing the data of juveniles  
42 | transferred for prosecution as adults during a certain  
43 | period and provide such report to the Governor and  
44 | Legislature by a specified date; requiring the  
45 | department to work with the Office of Program Policy  
46 | Analysis and Government Accountability to generate an  
47 | annual report analyzing certain data and provide such  
48 | report to the Governor and Legislature by a specified  
49 | date; requiring children of certain ages who are  
50 | convicted and sentenced to the Department of

51 Corrections to be kept completely separated from adult  
52 offenders in the facility; amending s. 985.56, F.S.;  
53 limiting the age of children who are subject to the  
54 jurisdiction of a court if they are charged with a  
55 violation punishable by death or life imprisonment;  
56 prohibiting the transfer of a child to adult court  
57 until his or her competency is restored in certain  
58 circumstances; providing for the tolling of time  
59 limits for specified purposes; making technical  
60 changes; amending s. 985.565, F.S.; revising the  
61 criteria to be used in determining whether to impose  
62 juvenile or adult sanctions; deleting provisions  
63 requiring the sentencing of children who commit  
64 offenses punishable by death or life imprisonment or  
65 other specified offenses; conforming provisions to  
66 changes made by the act; amending s. 985.03, F.S.;  
67 conforming a cross-reference; amending s. 985.15,  
68 F.S.; conforming provisions to changes made by the  
69 act; amending s. 985.265, F.S.; authorizing, rather  
70 than requiring, a court to order a child to be housed  
71 in an adult detention facility in certain  
72 circumstances; reenacting s. 985.514(3), F.S.,  
73 relating to responsibility for cost of care and fees,  
74 to incorporate amendments made by the act; providing  
75 an effective date.

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

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

944.292 Suspension of civil rights.—

(1) Upon conviction of a felony as defined in s. 10, Art. X of the State Constitution, the civil rights of the person convicted, except for a child convicted as an adult pursuant to s. 985.56, s. 985.556, or s. 985.557, shall be suspended in Florida until such rights are restored by a full pardon, conditional pardon, or restoration of civil rights granted pursuant to s. 8, Art. IV of the State Constitution.

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

985.556 Waiver of juvenile court jurisdiction; hearing.—

(1) VOLUNTARY WAIVER.—The court shall transfer and certify a child's criminal case for trial as an adult if the child is alleged to have committed a violation of law and, prior to the commencement of an adjudicatory hearing, the child, joined by a parent or, in the absence of a parent, by the guardian or guardian ad litem, demands in writing to be tried as an adult. Once a child has been transferred for criminal prosecution pursuant to a voluntary waiver hearing and has been found to

101 have committed the presenting offense or a lesser included  
102 offense, the child shall be handled thereafter in every respect  
103 as an adult for any subsequent violation of state law, unless  
104 the court imposes juvenile sanctions under s. 985.565(4) (b).

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

111 ~~(3) INVOLUNTARY MANDATORY WAIVER.~~

112 ~~(a) If the child was 14 years of age or older, and if the~~  
113 ~~child has been previously adjudicated delinquent for an act~~  
114 ~~classified as a felony, which adjudication was for the~~  
115 ~~commission of, attempt to commit, or conspiracy to commit~~  
116 ~~murder, sexual battery, armed or strong-armed robbery,~~  
117 ~~earjacking, home-invasion robbery, aggravated battery,~~  
118 ~~aggravated assault, or burglary with an assault or battery, and~~  
119 ~~the child is currently charged with a second or subsequent~~  
120 ~~violent crime against a person; or~~

121 ~~(b) If the child was 14 years of age or older at the time~~  
122 ~~of commission of a fourth or subsequent alleged felony offense~~  
123 ~~and the child was previously adjudicated delinquent or had~~  
124 ~~adjudication withheld for or was found to have committed, or to~~  
125 ~~have attempted or conspired to commit, three offenses that are~~

126 ~~felony offenses if committed by an adult, and one or more of~~  
127 ~~such felony offenses involved the use or possession of a firearm~~  
128 ~~or violence against a person;~~

129  
130 ~~the state attorney shall request the court to transfer and~~  
131 ~~certify the child for prosecution as an adult or shall provide~~  
132 ~~written reasons to the court for not making such request, or~~  
133 ~~proceed under s. 985.557(1). Upon the state attorney's request,~~  
134 ~~the court shall either enter an order transferring the case and~~  
135 ~~certifying the case for trial as if the child were an adult or~~  
136 ~~provide written reasons for not issuing such an order.~~

137 (3)~~(4)~~ WAIVER HEARING BEFORE A JUDGE.—

138 (a) Within 7 days, excluding Saturdays, Sundays, and legal  
139 holidays, after the date a petition alleging that a child has  
140 committed a delinquent act or violation of law has been filed,  
141 or later with the approval of the court, but before an  
142 adjudicatory hearing and after considering the recommendation of  
143 the juvenile probation officer, the state attorney may file a  
144 motion requesting the court to transfer the child for criminal  
145 prosecution.

146 (b) After the filing of the motion of the state attorney,  
147 summonses must be issued and served in conformity with s.  
148 985.319. A copy of the motion and a copy of the delinquency  
149 petition, if not already served, must be attached to each  
150 summons.

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

155 1. The seriousness of the alleged offense to the community  
156 and whether the protection of the community is best served by  
157 transferring the child for adult sanctions.

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

160 3. Whether the alleged offense was against persons or  
161 against property, greater weight being given to offenses against  
162 persons, especially if personal injury resulted.

163 4. The probable cause as found in the report, affidavit,  
164 or complaint.

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

168 5.6. The sophistication, and maturity, and mental  
169 development of the child.

170 ~~6.7.~~ The record and previous history of the child,  
171 including:

172 a. Previous contacts with the department, the Department  
173 of Corrections, the former Department of Health and  
174 Rehabilitative Services, the Department of Children and  
175 Families, other law enforcement agencies, and courts.+

176 b. Prior periods of probation.†

177 c. Prior adjudications that the child committed a  
178 delinquent act or violation of law, greater weight being given  
179 if the child has previously been found by a court to have  
180 committed a delinquent act or violation of law involving an  
181 offense classified as a felony or has twice previously been  
182 found to have committed a delinquent act or violation of law  
183 involving an offense classified as a misdemeanor.† ~~and~~

184 d. Prior commitments to institutions.

185 ~~7.8.~~ The prospects for adequate protection of the public  
186 and the likelihood of reasonable rehabilitation of the child, if  
187 the child is found to have committed the alleged offense, by the  
188 use of procedures, services, and facilities currently available  
189 to the court.

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

197 (e) Any decision to transfer a child for criminal  
198 prosecution must be in writing and include consideration of, and  
199 findings of fact with respect to, all criteria in paragraph (c).  
200 The court shall render an order including a specific finding of

201 fact and the reasons for a decision to impose adult sanctions.  
 202 The order shall be reviewable on appeal under s. 985.534 and the  
 203 Florida Rules of Appellate Procedure.

204 (4)~~(5)~~ EFFECT OF ORDER WAIVING JURISDICTION.—

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

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

222 Section 3. Section 985.557, Florida Statutes, is amended  
 223 to read:

224 985.557 Prosecuting children as adults ~~Direct filing of an~~  
 225 ~~information;~~ discretionary ~~and mandatory~~ criteria.—

226 (1) DISCRETIONARY PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~  
 227 ~~FILE.~~—

228 (a) With respect to any child who was 16 ~~14~~ or 17 ~~15~~ years  
 229 of age at the time the alleged offense was committed, the state  
 230 attorney may file an information when in the state attorney's  
 231 judgment and discretion the public interest requires that adult  
 232 sanctions be considered or imposed and when the offense charged  
 233 is for the commission of, attempt to commit, or conspiracy to  
 234 commit:

- 235 1. Arson;
- 236 2. Sexual battery;
- 237 3. Robbery;
- 238 4. Kidnapping;
- 239 5. Aggravated child abuse;
- 240 6. Aggravated assault;
- 241 7. Aggravated stalking;
- 242 8. Murder;
- 243 9. Manslaughter;
- 244 10. Unlawful throwing, placing, or discharging of a  
 245 destructive device or bomb;
- 246 11. Armed burglary in violation of s. 810.02(2)(b) or  
 247 specified burglary of a dwelling or structure in violation of s.  
 248 810.02(2)(c), or burglary with an assault or battery in  
 249 violation of s. 810.02(2)(a);
- 250 12. Aggravated battery;

251 13. Any lewd or lascivious offense committed upon or in  
252 the presence of a person less than 16 years of age;

253 14. Carrying, displaying, using, threatening, or  
254 attempting to use a weapon or firearm during the commission of a  
255 felony;

256 ~~15. Grand theft in violation of s. 812.014(2)(a);~~

257 15.16. Possessing or discharging any weapon or firearm on  
258 school property in violation of s. 790.115;

259 16.17. Home invasion robbery;

260 17.18. Carjacking; or

261 18.19. Grand theft of a motor vehicle in violation of s.  
262 812.014(2)(c)6. or grand theft of a motor vehicle valued at  
263 \$20,000 or more in violation of s. 812.014(2)(b) if the child  
264 has a previous adjudication for grand theft of a motor vehicle  
265 in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).

266 (b)1. Beginning October 1, 2018, at the time the court  
267 adjudicates a case eligible for transfer to adult court under s.  
268 985.556, s. 985.557, or s. 985.56, the court shall, with the  
269 assistance of the department, prosecutor, and defense counsel,  
270 include the following information in the disposition order or  
271 the judgment and sentence order:

272 a. Whether the case was adjudicated in juvenile or  
273 adult court.

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

276 c. If the case was adjudicated in juvenile court:  
277 (I) Whether the child had to waive statutory limits on  
278 secure detention in order to avoid being prosecuted as an  
279 adult and, if available, the amount of time the child who  
280 waived secure detention limits actually spent in secure  
281 detention.

282 (II) Whether the child waived the right to trial in  
283 exchange for the case remaining in juvenile court.

284 (III) If the decision not to transfer to adult court  
285 resulted in a plea agreement, the details of the plea  
286 agreement, including previous plea offers made by the state but  
287 not accepted by the child, and any conditions placed on the  
288 plea offer.

289 (IV) Whether any discovery was conducted on the case  
290 before the plea.

291 (V) Whether the judge sentenced the child to a  
292 disposition other than what the prosecutor was offering in  
293 exchange for the child not being prosecuted as an adult.

294 d. If the case was adjudicated in adult court:  
295 (I) Whether any discovery was conducted on the case  
296 after the child's transfer to adult court.

297 (II) Whether the sentence was the result of a plea  
298 agreement that did not involve the judge.

299 (III) Whether the sentence was the result of a plea  
300 agreement that did involve the judge.

301 (IV) Whether the sentence was the result of a trial.

302 2. On or before the 15th of each month, the chief judge in  
303 each judicial circuit shall collect the information specified in  
304 subparagraph 1. for all cases disposed of in the previous month  
305 and submit such information to the department for data  
306 collection.

307 ~~(b) With respect to any child who was 16 or 17 years of~~  
308 ~~age at the time the alleged offense was committed, the state~~  
309 ~~attorney may file an information when in the state attorney's~~  
310 ~~judgment and discretion the public interest requires that adult~~  
311 ~~sanctions be considered or imposed. However, the state attorney~~  
312 ~~may not file an information on a child charged with a~~  
313 ~~misdemeanor, unless the child has had at least two previous~~  
314 ~~adjudications or adjudications withheld for delinquent acts, one~~  
315 ~~of which involved an offense classified as a felony under state~~  
316 ~~law.~~

317 ~~(2) MANDATORY DIRECT FILE.—~~

318 ~~(a) With respect to any child who was 16 or 17 years of~~  
319 ~~age at the time the alleged offense was committed, the state~~  
320 ~~attorney shall file an information if the child has been~~  
321 ~~previously adjudicated delinquent for an act classified as a~~  
322 ~~felony, which adjudication was for the commission of, attempt to~~  
323 ~~commit, or conspiracy to commit murder, sexual battery, armed or~~  
324 ~~strong-armed robbery, carjacking, home-invasion robbery,~~  
325 ~~aggravated battery, or aggravated assault, and the child is~~

326 ~~currently charged with a second or subsequent violent crime~~  
327 ~~against a person.~~

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

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

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

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

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

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

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

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

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

376 ~~notwithstanding s. 985.565.~~

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

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

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

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

395 (2)(3) EFFECT OF PROSECUTION OF CHILDREN AS ADULTS DIRECT  
 396 FILE.-

397 (a) Once a child has been transferred for criminal  
 398 prosecution pursuant to an information and has been found to  
 399 have committed the presenting offense or a lesser included  
 400 offense, the child shall be handled thereafter in every respect

401 as if an adult for any subsequent violation of state law, unless  
402 the court imposes juvenile sanctions under s. 985.565.

403 (b) When a child is transferred for criminal prosecution  
404 as an adult, the court shall immediately transfer and certify to  
405 the adult circuit court all felony cases pertaining to the  
406 child, for prosecution of the child as an adult, which have not  
407 yet resulted in a plea of guilty or nolo contendere or in which  
408 a finding of guilt has not been made. If a child is acquitted of  
409 all charged offenses or lesser included offenses contained in  
410 the original case transferred to adult court, all felony cases  
411 that were transferred to adult court as a result of this  
412 paragraph shall be subject to the same penalties to which such  
413 cases would have been subject before being transferred to adult  
414 court.

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

420 (3) FITNESS HEARING BEFORE A JUDGE.—A child who is  
421 transferred to adult court under this section may request, in  
422 writing, a hearing before the court to determine whether he or  
423 she shall remain in adult court. The adult court, in determining  
424 whether public safety would be best served by retaining  
425 jurisdiction, shall consider the seriousness of the offense; the

426 extent of the child's alleged participation or role in the  
427 offense; the sophistication, maturity, and mental development of  
428 the child; any prior adjudications or adjudications withheld of  
429 the child; and any other consideration set forth in s.  
430 985.556(3) (c). The adult court may, based on these  
431 considerations, transfer the case back to juvenile court.

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

438 (5) DATA COLLECTION RELATING TO PROSECUTING CHILDREN AS  
439 ADULTS.—

440 (a) Beginning January 1, 2019, the department shall  
441 collect data relating to children who qualify to be prosecuted  
442 as adults under this section and s. 985.556, regardless of the  
443 outcome of the case, including, but not limited to:

- 444 1. Age.
- 445 2. Race and ethnicity.
- 446 3. Gender.
- 447 4. Circuit and county of residence.
- 448 5. Circuit and county of offense.
- 449 6. Prior adjudications or adjudications withheld.
- 450 7. Prior periods of probation, including any violations of

451 probation.

452 8. Previous contact with law enforcement agencies or the  
453 court that resulted in a civil citation, arrest, or other charge  
454 being filed with the state.

455 9. Initial charges.

456 10. Charges at disposition.

457 11. Whether child codefendants were involved who were  
458 transferred to adult court.

459 12. Whether the child was represented by counsel or  
460 whether the child waived counsel.

461 13. Risk assessment instrument score.

462 14. The child's medical, mental health, substance abuse,  
463 or trauma history.

464 15. The child's history of mental impairment or  
465 disability-related accommodations.

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

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

469 18. Whether the child has below-average intellectual  
470 functioning.

471 19. Whether the child has received of mental health  
472 services or treatment.

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

476 21. Whether the child was transferred for criminal  
477 prosecution as an adult.

478 22. The case resolution in juvenile court.

479 23. The case resolution in adult court.

480 24. Information generated by the office of the state  
481 attorney in each judicial circuit under subparagraph (1)(b)1.

482 (b) Beginning January 1, 2019, the department shall also  
483 collect data relating to children transferred for criminal  
484 prosecution as adults, including, but not limited to:

485 1. Disposition data, including, but not limited to, adult  
486 sanctions, juvenile sanctions, or diversions received and, if  
487 sentenced to prison, the length of the prison sentence or the  
488 length of the enhanced sentence.

489 2. Incompetence to proceed in juvenile court.

490 (c) For every juvenile case transferred between July 1,  
491 2017, and June 30, 2018, the department shall work with the  
492 Office of Program Policy Analysis and Government Accountability  
493 to generate a report analyzing the aggregated data under  
494 paragraphs (a) and (b). The department must provide the report  
495 to the Governor, the President of the Senate, and the Speaker of  
496 the House of Representatives by January 31, 2019.

497 (d) The department must work with the Office of Program  
498 Policy Analysis and Government Accountability to generate a  
499 report analyzing the aggregated data under paragraphs (a) and  
500 (b) on an annual basis. The department shall provide the report

501 annually to the Governor, the President of the Senate, and the  
 502 Speaker of the House of Representatives no later than January 31  
 503 of the following calendar year.

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

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

509 985.56 Indictment of a juvenile.—

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

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

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

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

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

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

549 (4) (a) If ~~Once~~ a child has been indicted pursuant to this  
550 section and has been found to have committed any offense for

551 which he or she was indicted as a part of the criminal episode,  
552 the child shall be handled thereafter in every respect as if an  
553 adult for any subsequent violation of state law, unless the  
554 court imposes juvenile sanctions under s. 985.565.

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

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

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

571 (1) POWERS OF DISPOSITION.—

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

576 juvenile probation.

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

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

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

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

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

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

591 6.4. The sophistication, ~~and~~ maturity, and mental  
592 development of the child, including: offender.

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

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

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

600 d. The effect, if any, of characteristics attributable to

601 the child's age on the child's judgment.

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

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

610 b. Prior periods of probation.

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

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

619 e. Previous contacts with law enforcement agencies and the  
620 courts.

621 f. History of abuse, abandonment, or neglect.

622 g. History of foster care placements.

623 h. Identification of the child as having a disability.

624 i. History of mental health services or treatment.

625 ~~8.6.~~ The prospects for adequate protection of the public

626 and the likelihood of deterrence and reasonable rehabilitation  
 627 of the offender if assigned to services and facilities of the  
 628 Department of Juvenile Justice.

629 9.7. Whether the Department of Juvenile Justice has  
 630 appropriate programs, facilities, and services immediately  
 631 available.

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

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

637 (4) SENTENCING ALTERNATIVES.—

638 (a) *Adult sanctions.*—

639 ~~1. Cases prosecuted on indictment. If the child is found~~  
 640 ~~to have committed the offense punishable by death or life~~  
 641 ~~imprisonment, the child shall be sentenced as an adult. If the~~  
 642 ~~juvenile is not found to have committed the indictable offense~~  
 643 ~~but is found to have committed a lesser included offense or any~~  
 644 ~~other offense for which he or she was indicted as a part of the~~  
 645 ~~criminal episode, the court may sentence as follows:~~

646 ~~a. As an adult;~~

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

648 ~~e. As a juvenile under this section.~~

649 1.2. ~~Other cases.~~—If a child who has been transferred for  
 650 criminal prosecution pursuant to indictment, information, or

651 waiver of juvenile court jurisdiction is found to have committed  
652 a violation of state law or a lesser included offense for which  
653 he or she was charged as a part of the criminal episode, the  
654 court may sentence as follows:

655 a. As an adult;

656 b. Under chapter 958; or

657 c. As a juvenile under this section.

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

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

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

673 (b) *Juvenile sanctions.* ~~For juveniles transferred to adult~~  
674 ~~court but who do not qualify for such transfer under s.~~  
675 ~~985.556(3) or s. 985.557(2) (a) or (b),~~ The court may impose

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

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

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

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

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

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

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

715 985.03 Definitions.—As used in this chapter, the term:

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

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

720 985.15 Filing decisions.—

721 (1) The state attorney may in all cases take action  
 722 independent of the action or lack of action of the juvenile  
 723 probation officer and shall determine the action that is in the  
 724 best interest of the public and the child. ~~If the child meets~~  
 725 ~~the criteria requiring prosecution as an adult under s. 985.556,~~

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

- 730 (a) File a petition for dependency;
- 731 (b) File a petition under chapter 984;
- 732 (c) File a petition for delinquency;
- 733 (d) File a petition for delinquency with a motion to
- 734 transfer and certify the child for prosecution as an adult;
- 735 (e) File an information under s. 985.557;
- 736 (f) Refer the case to a grand jury;
- 737 (g) Refer the child to a diversionary, pretrial
- 738 intervention, arbitration, or mediation program, or to some
- 739 other treatment or care program if such program commitment is
- 740 voluntarily accepted by the child or the child's parents or
- 741 legal guardian; or
- 742 (h) Decline to file.

743 Section 8. Subsection (5) of section 985.265, Florida  
 744 Statutes, is amended to read:

745 985.265 Detention transfer and release; education; adult  
 746 jails.—

747 (5) The court may ~~shall~~ order the delivery of a child to a  
 748 jail or other facility intended or used for the detention of  
 749 adults:

- 750 (a) When the child has been transferred or indicted for

751 criminal prosecution as an adult under part X, except that the  
752 court may not order or allow a child alleged to have committed a  
753 misdemeanor who is being transferred for criminal prosecution  
754 pursuant to either s. 985.556 or s. 985.557 to be detained or  
755 held in a jail or other facility intended or used for the  
756 detention of adults; however, such child may be held temporarily  
757 in a detention facility; or

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

760

761 The child shall be housed separately from adult inmates to  
762 prohibit a child from having regular contact with incarcerated  
763 adults, including trustees. "Regular contact" means sight and  
764 sound contact. Separation of children from adults shall permit  
765 no more than haphazard or accidental contact. The receiving jail  
766 or other facility shall contain a separate section for children  
767 and shall have an adequate staff to supervise and monitor the  
768 child's activities at all times. Supervision and monitoring of  
769 children includes physical observation and documented checks by  
770 jail or receiving facility supervisory personnel at intervals  
771 not to exceed 10 minutes. This subsection does not prohibit  
772 placing two or more children in the same cell. Under no  
773 circumstances shall a child be placed in the same cell with an  
774 adult.

775 Section 9. For the purpose of incorporating the amendment

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776 made by this act to section 985.565, Florida Statutes, in a  
777 reference thereto, subsection (3) of section 985.514, Florida  
778 Statutes, is reenacted to read:

779 985.514 Responsibility for cost of care; fees.—

780 (3) When the court under s. 985.565 orders any child  
781 prosecuted as an adult to be supervised by or committed to the  
782 department for treatment in any of the department's programs for  
783 children, the court shall order the child's parents to pay fees  
784 as provided in s. 985.039.

785 Section 10. This act shall take effect July 1, 2018.