

By Senator Powell

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1 A bill to be entitled
2 An act relating to juvenile justice; amending s.
3 944.292, F.S.; creating an exception to the suspension
4 of civil rights upon the conviction of a felony for
5 children convicted as adults; amending s. 985.556,
6 F.S.; deleting provisions requiring that a state
7 attorney request the court to transfer and certify a
8 child for prosecution as an adult under certain
9 circumstances; revising the factors that a court must
10 consider when determining whether a child should be
11 transferred to adult court; amending s. 985.557, F.S.;
12 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 chief judges of
19 the judicial circuits to periodically collect and
20 report certain data to the Department of Juvenile
21 Justice; deleting provisions requiring that a child be
22 prosecuted as an adult if the child committed or
23 attempted to commit specified crimes; deleting
24 provisions relating to sentencing a child who commits
25 or attempts to commit specified crimes; requiring
26 children of certain ages who are convicted and
27 sentenced to the Department of Corrections to be kept
28 completely separated from adult offenders in the
29 facility; authorizing a child who is transferred to

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30 adult court to request, in writing, a hearing before
31 the court to determine whether he or she shall remain
32 in adult court; requiring the court to consider
33 specified facts in determining whether the public
34 safety would be served by retaining jurisdiction;
35 authorizing the court to transfer a child back to a
36 juvenile court; prohibiting the transfer of a child to
37 adult court until his or her competency is restored in
38 certain circumstances; requiring the department,
39 beginning on a specified date, to collect specified
40 information relating to children who qualify for
41 prosecution as adults and children who are transferred
42 for criminal prosecution as adults; requiring the
43 department to work with the Office of Program Policy
44 Analysis and Government Accountability to generate a
45 report analyzing the data of juveniles transferred for
46 prosecution as adults during a certain period and
47 provide such report to the Governor and Legislature by
48 a specified date; requiring the department to work
49 with the Office of Program Policy Analysis and
50 Government Accountability to generate an annual report
51 analyzing certain data and provide such report to the
52 Governor and Legislature by a specified date; amending
53 s. 985.56, F.S.; providing a minimum age limit for
54 children who are subject to the jurisdiction of a
55 court if they are charged with a violation punishable
56 by death or life imprisonment; prohibiting the
57 transfer of a child to adult court until his or her
58 competency is restored in certain circumstances;

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59 providing for the tolling of time limits for specified
60 purposes; making technical changes; amending s.
61 985.565, F.S.; revising the criteria to be used in
62 determining whether to impose juvenile or adult
63 sanctions; deleting provisions requiring the
64 sentencing of children who commit offenses punishable
65 by death or life imprisonment or other specified
66 offenses; conforming provisions to changes made by the
67 act; amending s. 985.03, F.S.; conforming a cross-
68 reference; amending s. 985.15, F.S.; conforming
69 provisions to changes made by the act; amending s.
70 985.265, F.S.; authorizing, rather than requiring, a
71 court to order a child to be housed in an adult
72 detention facility in certain circumstances;
73 reenacting s. 985.26(2)(c), F.S., relating to the
74 definition of the term "disposition," to incorporate
75 the amendments made to ss. 985.557 and 985.56, F.S.,
76 in references thereto; reenacting s. 985.514(3), F.S.,
77 relating to responsibility for cost of care and fees,
78 to incorporate the amendment made to s. 985.565, F.S.,
79 in a reference thereto; providing an effective date.

80

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

82

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

85 944.292 Suspension of civil rights.—

86 (1) Upon conviction of a felony as defined in s. 10, Art. X
87 of the State Constitution, the civil rights of the person

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88 convicted, except for a child convicted as an adult pursuant to
89 s. 985.56, s. 985.556, or s. 985.557, shall be suspended in
90 Florida until such rights are restored by a full pardon,
91 conditional pardon, or restoration of civil rights granted
92 pursuant to s. 8, Art. IV of the State Constitution.

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

96 985.556 Waiver of juvenile court jurisdiction; hearing.—

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

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

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

115 ~~(a) If the child was 14 years of age or older, and if the~~
116 ~~child has been previously adjudicated delinquent for an act~~

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

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

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

140 (3)-(4) WAIVER HEARING BEFORE A JUDGE.-

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

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146 the juvenile probation officer, the state attorney may file a
147 motion requesting the court to transfer the child for criminal
148 prosecution.

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

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

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

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

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

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

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

171 5.6. The sophistication, ~~and~~ maturity, and mental
172 development of the child.

173 6.7. The record and previous history of the child,
174 including:

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175 a. Previous contacts with the department, the Department of
176 Corrections, the former Department of Health and Rehabilitative
177 Services, the Department of Children and Families, other law
178 enforcement agencies, and courts.†

179 b. Prior periods of probation.†

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

187 d. Prior commitments to institutions.

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

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

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

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

207 (4)~~(5)~~ EFFECT OF ORDER WAIVING JURISDICTION.—

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

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

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

227 985.557 Prosecuting children as adults ~~Direct filing of an~~
228 ~~information;~~ discretionary ~~and mandatory~~ criteria.—

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

231 (a) With respect to any child who was 16 ~~14~~ or 17 ~~15~~ years
232 of age 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 and when the offense charged
236 is for the commission of, attempt to commit, or conspiracy to
237 commit:

- 238 1. Arson;
- 239 2. Sexual battery;
- 240 3. Robbery;
- 241 4. Kidnapping;
- 242 5. Aggravated child abuse;
- 243 6. Aggravated assault;
- 244 7. Aggravated stalking;
- 245 8. Murder;
- 246 9. Manslaughter;
- 247 10. Unlawful throwing, placing, or discharging of a
248 destructive device or bomb;
- 249 11. Armed burglary in violation of s. 810.02(2)(b) or
250 specified burglary of a dwelling or structure in violation of s.
251 810.02(2)(c), or burglary with an assault or battery in
252 violation of s. 810.02(2)(a);
- 253 12. Aggravated battery;
- 254 13. Any lewd or lascivious offense committed upon or in the
255 presence of a person less than 16 years of age;
- 256 14. Carrying, displaying, using, threatening, or attempting
257 to use a weapon or firearm during the commission of a felony;
- 258 ~~15. Grand theft in violation of s. 812.014(2)(a);~~
- 259 15.16. Possessing or discharging any weapon or firearm on
260 school property in violation of s. 790.115;
- 261 16.17. Home invasion robbery;

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262 ~~17.18.~~ Carjacking; or
263 ~~18.19.~~ Grand theft of a motor vehicle in violation of s.
264 812.014(2)(c)6. or grand theft of a motor vehicle valued at
265 \$20,000 or more in violation of s. 812.014(2)(b) if the child
266 has a previous adjudication for grand theft of a motor vehicle
267 in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).

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

274 a. Whether the case was adjudicated in juvenile or adult
275 court.

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

278 c. If the case was adjudicated in juvenile court:

279 (I) Whether the child had to waive statutory limits on
280 secure detention in order to avoid being prosecuted as an adult
281 and, if available, the amount of time the child who waived
282 secure detention limits actually spent in secure detention.

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

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

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

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291 the plea.

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

295 d. If the case was adjudicated in adult court:

296 (I) Whether any discovery was conducted on the case after
 297 the child's transfer to adult court.

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

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

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

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

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

318 ~~(2) MANDATORY DIRECT FILE.—~~

319 ~~(a) With respect to any child who was 16 or 17 years of age~~

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320 ~~at the time the alleged offense was committed, the state~~
321 ~~attorney shall file an information if the child has been~~
322 ~~previously adjudicated delinquent for an act classified as a~~
323 ~~felony, which adjudication was for the commission of, attempt to~~
324 ~~commit, or conspiracy to commit murder, sexual battery, armed or~~
325 ~~strong-armed robbery, carjacking, home invasion robbery,~~
326 ~~aggravated battery, or aggravated assault, and the child is~~
327 ~~currently charged with a second or subsequent violent crime~~
328 ~~against a person.~~

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

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

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349 ~~purposes of this section, the driver and all willing passengers~~
350 ~~in the stolen motor vehicle at the time such serious bodily~~
351 ~~injury or death is inflicted shall also be subject to mandatory~~
352 ~~transfer to adult court. "Stolen motor vehicle," for the~~
353 ~~purposes of this section, means a motor vehicle that has been~~
354 ~~the subject of any criminal wrongful taking. For purposes of~~
355 ~~this section, "willing passengers" means all willing passengers~~
356 ~~who have participated in the underlying offense.~~

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

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

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

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

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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 has~~
386 ~~good cause to believe that exceptional circumstances exist that~~
387 ~~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 or older but has not yet reached the age of 18 and 16 or 17
391 years of age who is convicted and sentenced under this section
392 is paragraph be completely separated such that there is no
393 physical contact with adult offenders in the facility, to the
394 extent that 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 as
404 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

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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

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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 collect
441 data relating to children who qualify to be prosecuted as adults
442 under this section and s. 985.556, regardless of the outcome of
443 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 which resulted in a civil citation, arrest, or other
454 charge 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 waived
460 counsel.

461 13. The child's risk assessment instrument score.

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

464 15. The child's history of mental impairment or disability—

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465 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 mental health services
472 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

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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 life
519 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

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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 ~~One~~ 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,

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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

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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 offender,
603 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 of Juvenile Justice to
609 address the child's needs ~~law enforcement agencies, and the~~

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- 610 ~~courts.~~
- 611 b. Prior periods of probation.
- 612 c. Prior adjudications that the offender committed a
- 613 delinquent act or violation of law as a child.
- 614 d. Prior commitments to the Department of Juvenile Justice,
- 615 the former Department of Health and Rehabilitative Services, the
- 616 Department of Children and Families, or other facilities or
- 617 institutions and the adequacy and appropriateness of the
- 618 services provided by such entity to address the child's 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.*—

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639 ~~1. Cases prosecuted on indictment. If the child is found to~~
640 ~~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 ~~c. 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.~~

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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.

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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 s.
717 985.556(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,~~

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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

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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 wanted
759 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 amendments
776 made by this act to sections 985.557 and 985.56, Florida
777 Statutes, in references thereto, paragraph (c) of subsection (2)
778 of section 985.26, Florida Statutes, is reenacted to read:

779 985.26 Length of detention.—

780 (2)

781 (c) A prolific juvenile offender under s. 985.255(1)(j)
782 shall be placed on nonsecure detention care with electronic
783 monitoring or in secure detention care under a special detention

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784 order until disposition. If secure detention care is ordered by
785 the court, it must be authorized under this part and may not
786 exceed:

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

790 2. Fifteen days after the entry of an order of
791 adjudication.

792

793 As used in this paragraph, the term "disposition" means a
794 declination to file under s. 985.15(1)(h), the entry of nolle
795 prosequi for the charges, the filing of an indictment under s.
796 985.56 or an information under s. 985.557, a dismissal of the
797 case, or an order of final disposition by the court.

798 Section 10. For the purpose of incorporating the amendment
799 made by this act to section 985.565, Florida Statutes, in a
800 reference thereto, subsection (3) of section 985.514, Florida
801 Statutes, is reenacted to read:

802 985.514 Responsibility for cost of care; fees.—

803 (3) When the court under s. 985.565 orders any child
804 prosecuted as an adult to be supervised by or committed to the
805 department for treatment in any of the department's programs for
806 children, the court shall order the child's parents to pay fees
807 as provided in s. 985.039.

808 Section 11. This act shall take effect July 1, 2018.