

1 A bill to be entitled
 2 An act relating to the detention of children; amending
 3 s. 985.265, F.S.; prohibiting holding a child awaiting
 4 trial who is being prosecuted as an adult in a jail or
 5 other facility intended or used for the detention of
 6 adults; providing an exception; requiring the court to
 7 consider specified factors in making a certain
 8 determination; providing a requirement and a
 9 prohibition if a court determines that it is in the
 10 interest of justice to allow a child to be held in a
 11 jail or other facility intended or used for the
 12 detention of adults; deleting provisions under which a
 13 court is required to order the delivery of a child to
 14 a jail or other facility intended or used for the
 15 detention of adults; conforming a provision to changes
 16 made by the act; providing an effective date.

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

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 20 Section 1. Subsection (5) of section 985.265, Florida
 21 Statutes, is amended to read:

22 985.265 Detention transfer and release; education; adult
 23 jails.—

24 (5) (a) Unless a court finds in writing and after a hearing
 25 that it is in the interest of justice, a child awaiting trial or

26 other legal process who is treated as an adult for purposes of
27 prosecution in criminal court and is housed in a secure facility
28 may not be held in a ~~The court shall order the delivery of a~~
29 ~~child to a~~ jail or other facility intended or used for the
30 detention of adults~~+~~. In determining whether it is in the
31 interest of justice to allow a child to be held in a jail or
32 other facility intended or used for the detention of adults, a
33 court shall consider all of the following:

- 34 1. The age of the juvenile.
- 35 2. The physical and mental maturity of the juvenile.
- 36 3. The present mental state of the juvenile, including
37 whether the juvenile presents an imminent risk of harm to
38 himself or herself.
- 39 4. The nature and circumstances of the alleged offense.
- 40 5. The juvenile's history of prior delinquent acts.
- 41 6. The relative ability of the available adult and
42 juvenile detention facilities to not only meet the specific
43 needs of the juvenile but also to protect the safety of the
44 public as well as other juveniles detained in such facilities.
- 45 7. Any other relevant factor.

46 (b) If a court determines that it is in the interest of
47 justice to allow a child to be held in a jail or other facility
48 intended or used for the detention of adults:

- 49 1. The court must hold a hearing no less frequently than
50 once every 30 days, or in the case of a rural jurisdiction, no

51 less frequently than once every 45 days, to review whether it is
52 still in the interest of justice to allow the child to be so
53 held; and

54 2. The child may not be held in a jail or other facility
55 intended or used for the detention of adults for more than 180
56 days, unless the court in writing determines there is good cause
57 for an extension or the child expressly waives this limitation.

58 ~~(a) When the child has been transferred or indicted for~~
59 ~~criminal prosecution as an adult under part X, except that the~~
60 ~~court may not order or allow a child alleged to have committed a~~
61 ~~misdemeanor who is being transferred for criminal prosecution~~
62 ~~pursuant to either s. 985.556 or s. 985.557 to be detained or~~
63 ~~held in a jail or other facility intended or used for the~~
64 ~~detention of adults; however, such child may be held temporarily~~
65 ~~in a detention facility; or~~

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

68
69 The child held in a jail or other facility intended or used for
70 the detention of adults shall be housed separately from adult
71 inmates to prohibit a child from having regular contact with
72 incarcerated adults, including trustees. "Regular contact" means
73 sight and sound contact. Separation of children from adults
74 shall permit no more than haphazard or accidental contact. The
75 receiving jail or other facility shall contain a separate

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76 | section for children and shall have an adequate staff to
77 | supervise and monitor the child's activities at all times.
78 | Supervision and monitoring of children includes physical
79 | observation and documented checks by jail or receiving facility
80 | supervisory personnel at intervals not to exceed 10 minutes.
81 | This subsection does not prohibit placing two or more children
82 | in the same cell. Under no circumstances shall a child be placed
83 | in the same cell with an adult.

84 | Section 2. This act shall take effect July 1, 2020.