

By Senator Bracy

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1 A bill to be entitled
2 An act relating to juvenile justice; amending s.
3 985.03, F.S.; redefining the term "child"; creating s.
4 985.031, F.S.; prohibiting children younger than a
5 certain age from being adjudicated delinquent,
6 arrested, or charged with a crime; amending s.
7 985.101, F.S.; authorizing children of at least a
8 specified age, rather than of any age, to be taken
9 into custody under certain circumstances; authorizing
10 children of specified ages to be taken into custody or
11 arrested only under certain circumstances; providing
12 construction; authorizing a child enrolled in a
13 primary or secondary school to be taken into custody
14 or arrested only under certain circumstances;
15 providing construction; amending s. 985.24, F.S.;
16 requiring that children who are taken into custody
17 pursuant to certain circuit court orders be treated in
18 a specified manner and be detained only pursuant to
19 specified findings; reenacting s. 316.003(11), F.S.,
20 relating to the definition of the term "child," to
21 incorporate the amendment made to s. 985.03, F.S., in
22 a reference thereto; reenacting ss. 960.001(1)(b) and
23 985.439(2), F.S., both relating to children being
24 taken into custody, to incorporate the amendment made
25 to s. 985.101, F.S., in references thereto; reenacting
26 s. 985.25(1), F.S., relating to a detention intake, to
27 incorporate the amendment made to s. 985.24, F.S., in
28 a reference thereto; providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

31
32 Section 1. Subsection (7) of section 985.03, Florida
33 Statutes, is amended to read:

34 985.03 Definitions.—As used in this chapter, the term:

35 (7) "Child," ~~or~~ "juvenile," or "youth" means any person 12
36 years of age or older but younger than 18 years of age ~~under the~~
37 ~~age of 18~~ or any person who is alleged to have committed a
38 violation of law occurring after the person reached 12 years of
39 age or older and before ~~prior to the time~~ that person reached
40 ~~the age of 18 years~~ of age.

41 Section 2. Section 985.031, Florida Statutes, is created to
42 read:

43 985.031 Children incapable of committing crimes.—Children
44 younger than 12 years of age are incapable of the mental
45 culpability needed to commit crimes and, therefore, may not be
46 adjudicated delinquent, arrested, or charged with a crime on the
47 basis of acts occurring before they reach such age.

48 Section 3. Subsection (1) of section 985.101, Florida
49 Statutes, is amended, and subsections (5) and (6) are added to
50 that section, to read:

51 985.101 Taking a child into custody.—

52 (1) A child 15 years of age or older may be taken into
53 custody under the following circumstances:

54 (a) Pursuant to an order of the circuit court issued under
55 this chapter, based upon sworn testimony, either before or after
56 a petition is filed.

57 (b) For a delinquent act or violation of law, pursuant to
58 Florida law pertaining to a lawful arrest. If such delinquent

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59 act or violation of law would be a felony if committed by an
60 adult or involves a crime of violence, the arresting authority
61 shall immediately notify the district school superintendent, or
62 the superintendent's designee, of the school district with
63 educational jurisdiction of the child. Such notification must
64 ~~shall~~ include other education providers, such as the Florida
65 School for the Deaf and the Blind, university developmental
66 research schools, and private elementary and secondary schools.
67 The information obtained by the superintendent of schools
68 pursuant to this section must be released within 48 hours after
69 receipt to appropriate school personnel, including the principal
70 of the child's school, or as otherwise provided by law. The
71 principal must immediately notify the child's immediate
72 classroom teachers. Information provided by an arresting
73 authority under this paragraph may not be placed in the
74 student's permanent record and must ~~shall~~ be removed from all
75 school records no later than 9 months after the date of the
76 arrest.

77 (c) By a law enforcement officer for failing to appear at a
78 court hearing after being properly noticed.

79 (d) By a law enforcement officer who has probable cause to
80 believe that the child is in violation of the conditions of the
81 child's probation, supervised release detention, postcommitment
82 probation, or conditional release supervision; has absconded
83 from nonresidential commitment; or has escaped from residential
84 commitment.

85
86 This ~~Nothing in this~~ subsection may not ~~shall~~ be construed to
87 allow the detention of a child who does not meet the detention

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88 criteria in part V of this chapter.

89 (5) A child 12 years of age or older but 14 years of age or
90 younger may be taken into custody or arrested only under any of
91 the following circumstances:

92 (a) By a law enforcement officer for failing to appear at a
93 court hearing after being properly noticed.

94 (b) By a law enforcement officer who has probable cause to
95 believe that the child has absconded from a nonresidential
96 commitment or has escaped from a residential commitment.

97 (c) By a law enforcement officer who has probable cause to
98 believe that detention is necessary to prevent an imminent
99 threat of serious bodily harm to another individual.

100

101 This subsection may not be construed to allow the detention of a
102 child who does not meet the detention criteria in part V of this
103 chapter.

104 (6) A child enrolled in a primary or secondary school may
105 be taken into custody or arrested at the school they attend only
106 under any the following circumstances:

107 (a) By a law enforcement officer for failing to appear at a
108 court hearing after being properly noticed.

109 (b) By a law enforcement officer who has probable cause to
110 believe that detention is necessary to prevent an imminent
111 threat of serious bodily harm to another individual.

112

113 This subsection may not be construed to allow the detention of a
114 child who does not meet the detention criteria in part V of this
115 chapter.

116 Section 4. Present subsection (4) of section 985.24,

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117 Florida Statutes, is redesignated as subsection (5), and a new
118 subsection (4) is added to that section, to read:

119 985.24 Use of detention; prohibitions.—

120 (4) A child who is taken into custody pursuant to a
121 summons, an arrest warrant, or other circuit court order that
122 does not explicitly require detention, must be treated in the
123 same manner as a child taken into custody under s. 985.101(1)(b)
124 and may be detained only pursuant to a finding under subsection
125 (1).

126 Section 5. For the purpose of incorporating the amendment
127 made by this act to section 985.03, Florida Statutes, in a
128 reference thereto, subsection (11) of section 316.003, Florida
129 Statutes, is reenacted to read:

130 316.003 Definitions.—The following words and phrases, when
131 used in this chapter, shall have the meanings respectively
132 ascribed to them in this section, except where the context
133 otherwise requires:

134 (11) CHILD.—A child as defined in s. 39.01, s. 984.03, or
135 s. 985.03.

136 Section 6. For the purpose of incorporating the amendment
137 made by this act to section 985.101, Florida Statutes, in a
138 reference thereto, paragraph (b) of subsection (1) of section
139 960.001, Florida Statutes, is reenacted to read:

140 960.001 Guidelines for fair treatment of victims and
141 witnesses in the criminal justice and juvenile justice systems.—

142 (1) The Department of Legal Affairs, the state attorneys,
143 the Department of Corrections, the Department of Juvenile
144 Justice, the Florida Commission on Offender Review, the State
145 Courts Administrator and circuit court administrators, the

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146 Department of Law Enforcement, and every sheriff's department,
147 police department, or other law enforcement agency as defined in
148 s. 943.10(4) shall develop and implement guidelines for the use
149 of their respective agencies, which guidelines are consistent
150 with the purposes of this act and s. 16(b), Art. I of the State
151 Constitution and are designed to implement s. 16(b), Art. I of
152 the State Constitution and to achieve the following objectives:

153 *(b) Information for purposes of notifying victim or*
154 *appropriate next of kin of victim or other designated contact of*
155 *victim.*—In the case of a homicide, pursuant to chapter 782; or a
156 sexual offense, pursuant to chapter 794; or an attempted murder
157 or sexual offense, pursuant to chapter 777; or stalking,
158 pursuant to s. 784.048; or domestic violence, pursuant to s.
159 25.385:

160 1. The arresting law enforcement officer or personnel of an
161 organization that provides assistance to a victim or to the
162 appropriate next of kin of the victim or other designated
163 contact must request that the victim or appropriate next of kin
164 of the victim or other designated contact complete a victim
165 notification card. However, the victim or appropriate next of
166 kin of the victim or other designated contact may choose not to
167 complete the victim notification card.

168 2. Unless the victim or the appropriate next of kin of the
169 victim or other designated contact waives the option to complete
170 the victim notification card, a copy of the victim notification
171 card must be filed with the incident report or warrant in the
172 sheriff's office of the jurisdiction in which the incident
173 report or warrant originated. The notification card shall, at a
174 minimum, consist of:

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- 175 a. The name, address, and phone number of the victim; or
176 b. The name, address, and phone number of the appropriate
177 next of kin of the victim; or
178 c. The name, address, and telephone number of a designated
179 contact other than the victim or appropriate next of kin of the
180 victim; and
181 d. Any relevant identification or case numbers assigned to
182 the case.
- 183 3. The chief administrator, or a person designated by the
184 chief administrator, of a county jail, municipal jail, juvenile
185 detention facility, or residential commitment facility shall
186 make a reasonable attempt to notify the alleged victim or
187 appropriate next of kin of the alleged victim or other
188 designated contact within 4 hours following the release of the
189 defendant on bail or, in the case of a juvenile offender, upon
190 the release from residential detention or commitment. If the
191 chief administrator, or designee, is unable to contact the
192 alleged victim or appropriate next of kin of the alleged victim
193 or other designated contact by telephone, the chief
194 administrator, or designee, must send to the alleged victim or
195 appropriate next of kin of the alleged victim or other
196 designated contact a written notification of the defendant's
197 release.
- 198 4. Unless otherwise requested by the victim or the
199 appropriate next of kin of the victim or other designated
200 contact, the information contained on the victim notification
201 card must be sent by the chief administrator, or designee, of
202 the appropriate facility to the subsequent correctional or
203 residential commitment facility following the sentencing and

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204 incarceration of the defendant, and unless otherwise requested
205 by the victim or the appropriate next of kin of the victim or
206 other designated contact, he or she must be notified of the
207 release of the defendant from incarceration as provided by law.

208 5. If the defendant was arrested pursuant to a warrant
209 issued or taken into custody pursuant to s. 985.101 in a
210 jurisdiction other than the jurisdiction in which the defendant
211 is being released, and the alleged victim or appropriate next of
212 kin of the alleged victim or other designated contact does not
213 waive the option for notification of release, the chief
214 correctional officer or chief administrator of the facility
215 releasing the defendant shall make a reasonable attempt to
216 immediately notify the chief correctional officer of the
217 jurisdiction in which the warrant was issued or the juvenile was
218 taken into custody pursuant to s. 985.101, and the chief
219 correctional officer of that jurisdiction shall make a
220 reasonable attempt to notify the alleged victim or appropriate
221 next of kin of the alleged victim or other designated contact,
222 as provided in this paragraph, that the defendant has been or
223 will be released.

224 Section 7. For the purpose of incorporating the amendment
225 made by this act to section 985.101, Florida Statutes, in a
226 reference thereto, subsection (2) of section 985.439, Florida
227 Statutes, is reenacted to read:

228 985.439 Violation of probation or postcommitment
229 probation.—

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

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233 instrument score.

234 Section 8. For the purpose of incorporating the amendment
235 made by this act to section 985.24, Florida Statutes, in a
236 reference thereto, subsection (1) of section 985.25, Florida
237 Statutes, is reenacted to read:

238 985.25 Detention intake.—

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

244 (a) During the period of time from the taking of the child
245 into custody to the date of the detention hearing, the initial
246 decision as to the child's placement into detention care shall
247 be made by the department under ss. 985.24 and 985.245(1).

248 (b) The department shall base the decision whether to place
249 the child into detention care on an assessment of risk in
250 accordance with the risk assessment instrument and procedures
251 developed by the department under s. 985.245, except that a
252 child shall be placed in secure detention care until the child's
253 detention hearing if the child meets the criteria specified in
254 s. 985.255(1)(f) or is charged with possessing or discharging a
255 firearm on school property in violation of s. 790.115.

256 (c) If the final score on the child's risk assessment
257 instrument indicates detention care is appropriate, but the
258 department otherwise determines the child should be released,
259 the department shall contact the state attorney, who may
260 authorize release.

261 (d) If the final score on the risk assessment instrument

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262 indicates detention is not appropriate, the child may be
263 released by the department in accordance with ss. 985.115 and
264 985.13.

265
266 Under no circumstances shall the department or the state
267 attorney or law enforcement officer authorize the detention of
268 any child in a jail or other facility intended or used for the
269 detention of adults, without an order of the court.

270 Section 9. This act shall take effect July 1, 2020.