

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: CS/CS/SB 626

INTRODUCER: Criminal Justice Committee; Children, Families, and Elder Affairs Committee; and Senators Bracy and Torres

SUBJECT: Juvenile Justice

DATE: March 16, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 626, also cited as the “Kaia Rolle Act,” creates s. 985.031, F.S., prohibiting a child younger than 7 years of age from being taken into custody, arrested, charged, or adjudicated delinquent for a delinquent act or violation of law based on an act occurring before he or she reaches 7 years of age, unless the violation of law is a forcible felony as defined in s. 776.08, F.S.

The bill does not have a fiscal impact on state or local governments. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

**II. Present Situation:**

**Culpability of Children**

There are various age limitations on criminal liability throughout the United States. A recent United Nations study suggests that all member states should set a minimum age of criminal

liability no younger than age 14.<sup>1</sup> Several states have enacted legislation to establish a minimum age at which children may be held criminally liable.<sup>2</sup> Of the states that have passed this legislation, the minimum age ranges from 6 to 12 years of age.<sup>3</sup> For instance, Massachusetts law protects children 12 years of age or younger from criminal liability<sup>4</sup> whereas North Carolina protects children 6 years of age or younger from criminal liability.<sup>5</sup> Fifteen jurisdictions set the minimum age for criminal liability at 10.<sup>6</sup> Some states have adopted exceptions to the minimum age requirement, such as Nevada which protects children who are 10 years of age or younger from criminal liability unless the child between 8 to 10 years old is charged with murder or a sexual offense.<sup>7</sup>

The Model Penal Code (MPC) sets out four kinds of culpability that may be required in any valid criminal conviction,<sup>8</sup> including “purposely,”<sup>9</sup> “knowingly,”<sup>10</sup> “recklessly,”<sup>11</sup> and “negligently.”<sup>12</sup> Culpability requirements are not required for a person to be convicted of a crime that provides for strict liability.<sup>13</sup> Some studies suggest, and precedents from the U.S. Supreme Court have held, that adolescents have a diminished capacity to make consistent choices, engage in self-management, assess risk perception, and calculate future consequences,<sup>14</sup> in other words, to formulate the required culpability.

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<sup>1</sup> National Juvenile Defender Center, *Minimum Age for Delinquency Adjudication – Multi-jurisdiction Survey*, (January 22, 2020) available at <https://njdc.info/practice-policy-resources/state-profiles/multi-jurisdiction-data/minimum-age-for-delinquency-adjudication-multi-jurisdiction-survey/> (last visited March 9, 2021) (hereinafter cited as “NJDC Article”).

<sup>2</sup> NJDC Article; *See also* Interstate Commission for Juveniles, *Age Matrix*, available at <https://www.juvenilecompact.org/age-matrix> (last visited March 9, 2021).

<sup>3</sup> NJDC Article.

<sup>4</sup> Section 119.52, M.G.L.

<sup>5</sup> Section 7B-1501(7), N.C.G.S.

<sup>6</sup> NJDC Article (citing American Samoa, Arkansas, Arizona, Colorado, Kansas, Louisiana, Minnesota, Mississippi, Nevada, North Dakota, Pennsylvania, South Dakota, Texas, Vermont, and Wisconsin).

<sup>7</sup> Section 194.010, N.R.S.

<sup>8</sup> Section 2.02(1), M.P.C.

<sup>9</sup> Section 2.02(2)(a), M.P.C. If the material element of an offense involves the nature of a person’s conduct or a result thereof, a person acts purposely when it is his conscious object to engage in conduct of that nature or to cause such a result, and, if a material element involves the attendant circumstances, he is aware of them or he believes or hopes that they exist. Material element means issues relating to the harm or evil sought to be prevented by the law. MPC s. 1.13(10).

<sup>10</sup> Section 2.02(2)(b), M.P.C. If a material element of an offense involves the nature of a person’s conduct or the attendant circumstances, a person acts knowingly when he is aware that his conduct is of that nature or that such circumstances exist, and, if the material element involves the result of his conduct, he is aware that it is practically certain that his conduct will cause such a result.

<sup>11</sup> Section 2.02(2)(c), M.P.C. A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor’s conduct and the circumstances known to him, his conduct involves a gross deviation from the standard that a law-abiding person would observe in the actor’s situation.

<sup>12</sup> Section 2.02(2)(d), M.P.C. A person acts negligently with respect to a material element of an offense when he should be aware of a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that the actor’s failure to perceive it, considering the nature and purpose of his conduct and the circumstances known to him, involves a gross deviation from the standard of care that a reasonable person would observe in the actor’s situation.

<sup>13</sup> Section 2.05, M.P.C.

<sup>14</sup> Jenny E. Carroll, *Brain Science and the Theory of Juvenile Mens Rea*, 94 N.C. L. REV. 539, 582 (2016). *See also Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010); *Miller v. Alabama*, 567 U.S. 460 (2012).

## Offenses Committed by Children

A person may not be tried for a capital crime without presentment or indictment by a grand jury, or for any other felony without such presentment or indictment or an information under oath filed by the prosecuting officer of the court, except persons on active duties in the militia when tried by courts martial.<sup>15</sup>

However, a child may be charged with a violation of law as an act of delinquency instead of a crime and tried without a jury or other requirements applicable to criminal cases.<sup>16</sup> If a child is found to be delinquent, he or she must be disciplined as provided by law.<sup>17</sup>

Under ch. 985, F.S., the terms child, juvenile or youth currently mean any person under the age of 18 or any person who is alleged to have committed a violation of law occurring prior to the time that person reached the age of 18 years.<sup>18</sup> However, Florida law does not presently restrict the age in which a child, juvenile, or youth may be taken into custody, charged with a violation of the law, or adjudicated delinquent.

The Department of Juvenile Justice (DJJ) reports that in FY 2019-20 12,224 youth at least 7 years of age but younger than 15 years of age were referred to the DJJ for charges ranging from murder and kidnapping to armed robbery and sexual battery.<sup>19</sup> The most common of these offenses were misdemeanor assault and battery (19%), burglary (14%), felony aggravated assault and battery (11%), and petit theft (5%).<sup>20</sup> A total of 2,200 youth ages 7 years or older but younger than 15 years of age were admitted to secure detention.<sup>21</sup>

## Florida's Juvenile Justice System

The DJJ is tasked with providing a full continuum of care to youth, including but not limited to, prevention,<sup>22</sup> diversion,<sup>23</sup> detention,<sup>24</sup> probation,<sup>25</sup> and residential commitment.<sup>26, 27</sup>

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<sup>15</sup> FLA. CONST. art. I, s. 15(a).

<sup>16</sup> FLA. CONST. art. I, s. 15(b).

<sup>17</sup> *Id.*

<sup>18</sup> Section 985.03(7), F.S.

<sup>19</sup> The DJJ, *Agency Analysis for SB 626*, p. 3, February 8, 2021 (On file with the Senate Committee on Criminal Justice) (hereinafter cited as "DJJ Analysis").

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *See* s. 985.17, F.S.

<sup>23</sup> Section 985.12, F.S. (providing for civil citation or similar arrest diversion programs).

<sup>24</sup> Chapter 985, Part V., F.S.

<sup>25</sup> Section 985.435, F.S.

<sup>26</sup> Section 985.441, F.S. Sections 985.435(1) and 985.441(1), F.S., provide the court with jurisdiction to sanction children who are adjudicated delinquent to probation or residential commitment.

<sup>27</sup> DJJ Analysis at p. 2.

### ***Prevention Services***

The purpose of prevention services mandated under ch. 985, F.S., is to reduce recidivism, prevent further involvement in the juvenile justice system, protect public safety, and assist with at-risk youth's reentry into the community.<sup>28</sup> As a condition of state funds, the DJJ is required, in part, to design programs providing services to further one or more of the following strategies:

- Design the programs providing such services to further one or more of the following strategies:
  - Encouraging youth to attend and succeed in school.
  - Engaging youth in productive and wholesome activities during non-school hours that build positive character, instill positive values, and enhance educational experiences.
  - Encouraging youth to avoid the use of violence.
  - Assisting youth in acquiring the skills needed to find meaningful employment, which may include assisting the youth in finding a suitable employer.
- Provide demographic information, dates of services, and types of interventions received by each youth.<sup>29</sup>

Prevention serves at-risk children but is not an alternative for an arrest or charges. These services are offered to at-risk children who have not committed a delinquent act and have not been taken into custody or arrested.<sup>30</sup> Children are often referred to prevention programs such as Big Brothers Big Sisters, Boys and Girls Clubs, PACE Center for Girls, and other smaller community provided programs. These children often have displayed early warning signs of negative behaviors such as poor school attendance and academic performance, disciplinary issues, substance abuse, mental health issues, or negative peer associations. Children may be referred to a prevention program by a school counselor, teacher, a clergy member, friend or parent. In FY 2019-20, 990 children under the age of 7 were referred to a prevention program.<sup>31</sup>

### ***Civil Citation and Prearrest Diversion***

A civil citation or prearrest diversion program for misdemeanors must be established in each judicial circuit.<sup>32</sup> However, the Legislature encourages, but does not mandate, that counties, municipalities, and public or private educational institutions participate in a civil citation or similar diversion program.<sup>33</sup>

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<sup>28</sup> Section 985.17(1), F.S.

<sup>29</sup> Section 985.17(4)(a), F.S.

<sup>30</sup> The DJJ, Electronic mail from Rachel Moscoso, Legislative Affairs Director, RE: Agency Bill Analysis for SB 626, February 8, 2021 (on file with the Senate Committee on Criminal Justice).

<sup>31</sup> *Id.*; The DJJ, Electronic mail from Sam Kerce, Deputy Legislative Affairs Director, RE: Prevention Youth, March 12 2021 (on file with the Senate Committee on Criminal Justice).

<sup>32</sup> Section 985.12(2), F.S.

<sup>33</sup> Section 985.12(1), F.S.

Each circuit civil citation or similar prearrest diversion program must specify:

- The misdemeanor offenses that qualify a juvenile for the program.
- Eligibility criteria of the program.
- The program's implementation and operation.
- The program's requirements.
- A program fee.<sup>34</sup>

Examples of program requirements include community service, restitution, family counseling, substance abuse, and mental health treatment.<sup>35</sup> A civil citation or similar diversion program has been implemented in 65 counties in Florida.<sup>36</sup> Bradford and Hardee counties have not established such a program.<sup>37</sup>

Since 2011, over 76,000 eligible first-time youth offenders who have committed a misdemeanor offense have been offered a civil citation pre-arrest to participate in a diversion program.<sup>38</sup> The DJJ reports that only 2 children under the age of 7 were issued a civil citation for FY 2019-2020.<sup>39</sup>

### ***Taking a Child into Custody***

A child may only be taken into custody of the DJJ under certain circumstances. A child may be taken into custody:

- Pursuant to an order of the circuit court issued under ch. 985, F.S., based on sworn testimony, either before or after a petition is filed.
- For a delinquent act or violation of law.
- By a law enforcement officer for failing to appear at a court hearing after being properly noticed.
- By a law enforcement officer who has probable cause to believe that the child is in violation of the child's probation, supervised release detention, postcommitment probation, or conditional release supervision; has absconded from nonresidential commitment; or has escaped from residential commitment.<sup>40</sup>

When a child violates the law, the arresting officer may elect to release the child as provided by law to a parent, responsible adult relative, or legal guardian, and issue a notice to appear at a

<sup>34</sup> Section 985.12(2)(b)1. and 2., F.S.

<sup>35</sup> Section 985.12(2)(b)4., F.S. The DJJ, *Overview Look Here to Locate the Civil Citation Provider in your Area*, available at <http://www.djj.state.fl.us/docs/probation-policy-memos/civil-citation-contact-list.pdf?sfvrsn=2> (last visited March 12, 2021) (listing the civil citation and similar prearrest diversion programs in Florida, and depicting the process for civil citation and similar prearrest diversion programs in a flow chart).

<sup>36</sup> Florida Department of Juvenile Justice, *Civil Citation Implementation by County as of October 2019*, available at <http://www.djj.state.fl.us/docs/probation-policy-memos/civil-citation-implementation-map-10-2020.pdf?sfvrsn=4> (last visited March 9, 2021).

<sup>37</sup> *Id.*

<sup>38</sup> DJJ Analysis at p. 2. See also The DJJ, *Civil Citation and Similar Diversion Program Best Practices Guide*, (2020), available at <http://www.djj.state.fl.us/docs/probation-policy-memos/civil-citation-and-similar-diversion-program-best-practices-guide-2020.pdf?sfvrsn=2> (last visited March 9, 2021) (explaining statewide utilization for the fiscal year 2019-20 was 59 percent).

<sup>39</sup> The DJJ, Electronic mail from Rachel Moscoso, Legislative Affairs Director, RE: Agency Bill Analysis for SB 626, February 8, 2021 (on file with the Senate Committee on Criminal Justice).

<sup>40</sup> Section 985.101(1)(a)-(d), F.S.

designated court or government office at a specified date and time provided conditions articulated under the rules are met.<sup>41</sup> In FY 2019-20, the DJJ reported that 2 children were charged with a violation of the law, but no petition for delinquency was filed in either case.<sup>42</sup>

### ***Intake and Assessment***

Every child under the age of 18 charged with a crime in Florida is referred to the DJJ.<sup>43</sup> Intake and screening services for youth referred to the DJJ are performed at a Juvenile Assessment Center,<sup>44</sup> but must be performed by a DJJ employee.<sup>45</sup> The purpose of the intake process is to assess the child's needs and risks and to determine the most appropriate treatment plan and setting for the child.<sup>46</sup> Once a child is in the custody of the DJJ, the DJJ determines whether detention care is appropriate.<sup>47</sup> The DJJ makes an initial decision regarding detention care placement using the "Detention Risk Assessment Instrument."<sup>48</sup> In certain instances, the DJJ does not have discretion and must place a child in secure detention (e.g., when a child is charged with possessing or discharging a firearm on school property).<sup>49</sup> The DJJ serves as the primary case manager responsible for managing, coordinating, and monitoring services provided to the child.<sup>50</sup>

### ***Detention of Children***

"Detention care" is "the temporary care of a child in secure, or supervised release detention, pending a court adjudication or disposition or execution of a court order."<sup>51</sup> There are two types of detention care, including:

- "Secure detention" which is the temporary custody of a child while he or she is under the physical restriction of a secure detention center or facility pending adjudication, disposition, or placement.
- "Supervised release detention" which is the temporary, nonsecure custody of a child while the child is released to the custody of a parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of department staff pending adjudication or

<sup>41</sup> See Rule 8.045(b), Fla. R. Juv. P. An officer may issue a notice to appear unless: (1) the child fails or refuses to sufficiently identify himself or herself or supply the required information; (2) the child refuses to sign the notice to appear; (3) the officer has reason to believe that the continued liberty of the child constitutes an unreasonable risk of bodily injury to the child or others; (4) the child has no ties with the jurisdiction reasonably sufficient to ensure an appearance or there is substantial risk that the child will refuse to respond to the notice; (5) the officer has any suspicion that the child may be wanted in any jurisdiction; or (6) it appears that the child has previously failed to respond to a notice or a summons or has violated the conditions of any pretrial release program.

<sup>42</sup> The DJJ, Electronic mail from Rachel Moscoso, Legislative Affairs Director, RE: Agency Bill Analysis for SB 626, February 8, 2021 (on file with the Senate Committee on Criminal Justice).

<sup>43</sup> A referral is similar to an arrest in the adult criminal justice system. See the DJJ, *Probation and Community Intervention, Overview*, available at <http://www.djj.state.fl.us/services/probation> (last visited March 9, 2021).

<sup>44</sup> Section 985.135(4), F.S.

<sup>45</sup> Section 985.14(2), F.S.

<sup>46</sup> *Id.* The intake process consists of a preliminary screening and may be followed by a comprehensive assessment, consisting of a full mental health, cognitive impairment, substance abuse, or psychosexual evaluation.

<sup>47</sup> Section 985.25(1), F.S.

<sup>48</sup> Sections 985.25(1) and 985.245, F.S. Section 985.245, F.S., outlines with whom the Detention Risk Assessment Instrument must be developed, when and how it must be updated, and what factors the assessment instrument should identify when evaluating a child to determine whether detention placement is appropriate.

<sup>49</sup> Section 985.25(1)(b), F.S.

<sup>50</sup> Section 985.145(1), F.S.

<sup>51</sup> Section 985.03(18), F.S.

disposition, through programs that include, but are not limited to, electronic monitoring, day reporting centers, and nonsecure shelters, in addition to other court-imposed requirements.<sup>52</sup>

A child is entitled to a hearing within 24 hours of being taken into custody or placed in detention care. At the hearing, the court may order continued detention care only under certain circumstances.<sup>53</sup> Generally, a child may not be held in detention care for more than 21 days, unless an adjudicatory hearing for the case has been commenced in good faith by the court.<sup>54</sup>

### ***Probation or Postcommitment Probation (Probation)***

After a child is found to have committed a delinquent act, the court must hold a disposition hearing.<sup>55</sup> At the disposition hearing, the court must determine whether the child will be committed to the DJJ or receive community based sanctions. If the court determines not to commit the child to the DJJ, the court must determine what community-based sanctions it will impose in a probation program for the child. Community-based sanctions may include, but are not limited to:

- Participation in substance abuse treatment.
- A day-treatment probation program.
- Restitution in money or in kind.
- A curfew.
- Revocation or suspension of the driver license of the child.
- Community service.
- Appropriate educational programs as determined by the district school board.<sup>56</sup>

A probation program for a child adjudicated delinquent must include a penalty component,<sup>57</sup> and a rehabilitative program component.<sup>58</sup> A probation program may also include an alternative

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<sup>52</sup> *Id.*

<sup>53</sup> Section 985.255(1), F.S. Provides that a court may order continued detention care when: (1) the result of the risk assessment instrument pursuant to s. 985.245, F.S., indicates secure or supervised release detention; (2) the child is alleged to be an escapee from a residential commitment program; or an absconder from a nonresidential commitment program, a probation program, or conditional release supervision; or is alleged to have escaped while being lawfully transported to or from release supervision; or is alleged to have escaped while being lawfully transported to or from a residential commitment program; and (3) the child is detained on a judicial order for failure to appear, after proper notice for an adjudicatory hearing on the same case, regardless of the results of the risk assessment; or at two or more court hearings of any nature on the same case regardless of the results of the risk assessment.

<sup>54</sup> Section 985.26, F.S. The court may extend the length of detention for an additional 9 days if the child is charged with certain offenses, and there is good cause shown that the nature of the charge requires additional time for the prosecution or defense of the case. Additionally, a prolific juvenile offender must be placed on supervised release detention care with electronic monitoring or in secure detention care under a special detention order. Section 985.255, F.S., provides that a “prolific juvenile offender” means a child that is charged with a delinquent act that would be a felony if committed by an adult, has a prior adjudication or adjudication withheld for a delinquent act that would be a felony if committed by an adult, and has 5 or more arrests, adjudications, or adjudications withheld, 3 of which must have been felony offenses.

<sup>55</sup> Section 985.433, F.S.

<sup>56</sup> Section 985.433(8), F.S.

<sup>57</sup> Section 985.435(2), F.S. A penalty component may include restitution, community service, a curfew, revocation or suspension of the driver license, or other nonresidential punishment appropriate to the offense.

<sup>58</sup> Section 985.435(3), F.S. A rehabilitative component may include a substance abuse treatment program, or a school or career and technical education program.

consequence component to address instances in which a child is noncompliant with technical conditions of his or her probation but has not committed any new law violations.<sup>59</sup>

### ***Residential Commitment***

The court may commit a child who has been adjudicated delinquent to: a licensed child-caring agency willing to receive the child or to the DJJ.<sup>60</sup> Commitment programs vary by “restrictiveness level,” which means “the level of programming and security provided by programs that service the supervision, custody, care, and treatment needs of committed children.”<sup>61</sup> Levels of commitment are:

- Minimum-risk nonresidential where children remain in their community and participate at least 5 days a week in day treatment;
- Nonsecure residential where children are in a residential program and have supervised access to their community;
- High-risk residential where children are not allowed access to their community with limited exception; and
- Maximum-risk residential including juvenile correctional facilities or juvenile prisons that do not allow the children to have any access to their community.<sup>62</sup>

If the child’s offense is a misdemeanor, or a technical violation of misdemeanor probation, the court may not commit the child to a restrictiveness level other than minimum-risk nonresidential, except in certain circumstances.<sup>63</sup>

### **Forcible Felony Offenses**

Section 776.08, F.S., defines “forcible felony” to mean:

- Treason;<sup>64</sup>
- Murder;<sup>65</sup>
- Manslaughter;<sup>66</sup>
- Sexual battery;<sup>67</sup>
- Carjacking;<sup>68</sup>

<sup>59</sup> Section 985.435(4), F.S. The alternative consequence component is designed to provide swift and appropriate consequences to any noncompliance with technical conditions of probation. If the probation program includes this component, specific consequences that apply to noncompliance with specific technical conditions of probation must be detailed in the disposition order.

<sup>60</sup> Section 985.441(1), F.S.

<sup>61</sup> Section 985.03(44), F.S.

<sup>62</sup> Section 985.03(44), F.S. Florida law caps the number of beds at maximum-risk residential facilities at 90 beds each.

<sup>63</sup> Section 985.441(2), F.S. The court may commit a child with a misdemeanor or a technical violation of a misdemeanor offense if: (1) the child has previously been adjudicated or had adjudication withheld for a felony; (2) the child has previously been adjudicated or had adjudication withheld for three or more misdemeanor offenses within the previous 18 months; (3) the child is before the court for disposition for a violation of ss. 800.03, 806.031, or 828.12, F.S.; or (4) the court makes written findings by preponderance of the evidence that the protection of the public requires such placement or that the particular needs of the child would be best served by such placement.

<sup>64</sup> Section 876.32, F.S.

<sup>65</sup> Section 782.04, F.S.

<sup>66</sup> Section 782.07(1), F.S.

<sup>67</sup> Section 794.011, F.S.

<sup>68</sup> Section 812.133, F.S.



- Home-invasion robbery;<sup>69</sup>
- Robbery;<sup>70</sup>
- Burglary;<sup>71</sup>
- Arson;<sup>72</sup>
- Kidnapping;<sup>73</sup>
- Aggravated assault;<sup>74</sup>
- Aggravated battery;<sup>75</sup>
- Aggravated stalking;<sup>76</sup>
- Aircraft piracy;<sup>77</sup>
- Unlawful throwing, placing, or discharging of a destructive device or bomb;<sup>78</sup> and
- Any other felony which involves the use or threat of physical force or violence against any individual.

### III. Effect of Proposed Changes:

The bill, also cited as the “Kaia Rolle Act,” creates s. 985.031, F.S., prohibiting a child younger than 7 years of age from being taken into custody, arrested, charged, or adjudicated delinquent for a delinquent act or violation of law based on an act occurring before he or she reaches 7 years of age, unless the violation of law is a forcible felony as defined in s. 776.08, F.S.

The bill is effective July 1, 2021.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

The bill prohibits a child under the age of 7 from being arrested, charged with a violation of the law, or adjudicated delinquent except in specified circumstances which may result in indeterminate reduction of local fund expenditures for costs relating to criminal prosecution and confinement if such child would have otherwise been detained or charged with a crime. However, these provisions relate to the defense, prosecution, or punishment of criminal offenses, and criminal law and are therefore exempt from the requirements of Art. VII, s. 18(d) of the Florida Constitution, relating to unfunded mandates.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>69</sup> Section 812.135, F.S.

<sup>70</sup> Section 812.13, F.S.

<sup>71</sup> Section 810.02, F.S.

<sup>72</sup> Section 806.01, F.S.

<sup>73</sup> Section 787.01, F.S.

<sup>74</sup> Section 784.021, F.S.

<sup>75</sup> Section 784.045, F.S.

<sup>76</sup> Section 784.048, F.S.

<sup>77</sup> Section 860.16, F.S.

<sup>78</sup> Section 790.1615, F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not appear to have a fiscal impact on state or local governments.

The Florida Department of Law Enforcement will be required to amend basic recruit and advanced training course curriculums in relation to the new custody and detention laws which may be incorporated in annual training review courses.<sup>79</sup>

The Justice Administrative Commission reports that the bill will have no policy, workload, or fiscal impacts on the agency.<sup>80</sup>

The DJJ does not indicate a fiscal impact but notes that while this bill would divert youth from the criminal justice system, it is not clear what services a youth may receive in place.<sup>81</sup>

**VI. Technical Deficiencies:**

None.

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<sup>79</sup> The Florida Department of Law Enforcement, *Agency Analysis for 626*, p. 5, January 20, 2021 (on file with the Senate Committee on Criminal Justice).

<sup>80</sup> The Justice Administrative Commission, *Memorandum No. 13-21, Exec*, p. 1, February 8, 2021 (on file with the Senate Committee on Criminal Justice).

<sup>81</sup> The Department of Juvenile Justice, *Agency Analysis for 626*, p. 5, February 8, 2021 (on file with the Senate Committee on Criminal Justice).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 985.031 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Criminal Justice on March 16, 2021:**

The committee substitute adds the language, “taken into custody,” to be consistent with the terminology used in ch. 985, F.S., regarding children.

**CS by Children, Families, and Elder Affairs on March 2, 2021:**

The committee substitute provides an:

- Age limitation related to arresting, charging, or adjudicating delinquent a child; and
- Exception for if the child is alleged to have committed a specified offense.

- B. **Amendments:**

None.