

By Senator Powell

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

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

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

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

25 (5) (a) Unless a court finds in writing and after a hearing
26 that it is in the interest of justice, a child awaiting trial or
27 other legal process who is treated as an adult for purposes of
28 prosecution in criminal court and is housed in a secure facility
29 may not be held in ~~The court shall order the delivery of a child~~

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30 ~~to~~ a jail or other facility intended or used for the detention
31 of adults. In determining whether it is in the interest of
32 justice to allow a child to be held in a jail or other facility
33 intended or used for the detention of adults, a court shall
34 consider all of the following:

35 1. The age of the juvenile.

36 2. The physical and mental maturity of the juvenile.

37 3. The present mental state of the juvenile, including
38 whether the juvenile presents an imminent risk of harm to
39 himself or herself.

40 4. The nature and circumstances of the alleged offense.

41 5. The juvenile's history of prior delinquent acts.

42 6. The relative ability of the available adult and juvenile
43 detention facilities to meet the specific needs of the juvenile
44 and to protect the safety of the public and other juveniles
45 detained in such facilities.

46 7. Any other relevant factor.

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

50 1. The court must hold a hearing no less frequently than
51 once every 30 days, or in the case of a rural jurisdiction, no
52 less frequently than once every 45 days, to review whether it is
53 still in the interest of justice to allow the child to be so
54 held; and

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

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

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

69
70 The child held in a jail or other facility intended or used for
71 the detention of adults shall be housed separately from adult
72 inmates to prohibit a child from having regular contact with
73 incarcerated adults, including trusties. "Regular contact" means
74 sight and sound contact. Separation of children from adults
75 shall permit no more than haphazard or accidental contact. The
76 receiving jail or other facility shall contain a separate
77 section for children and shall have an adequate staff to
78 supervise and monitor the child's activities at all times.
79 Supervision and monitoring of children includes physical
80 observation and documented checks by jail or receiving facility
81 supervisory personnel at intervals not to exceed 10 minutes.
82 This subsection does not prohibit placing two or more children
83 in the same cell. Under no circumstances shall a child be placed
84 in the same cell with an adult.

85 Section 2. This act shall take effect July 1, 2022.