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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
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The Committee on Criminal Justice (Powell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 134 - 245

and insert:

at the time the alleged forcible felony, as defined in s. 776.08, offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed. However, the state attorney may not file an information on a child charged with a misdemeanor, unless the



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11 child has had at least two previous adjudications or
12 adjudications withheld for delinquent acts, one of which
13 involved an offense classified as a violent felony under state
14 law.

15 (2) EFFECT OF PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~
16 ~~FILE~~.—

17 (a) Once a child has been transferred for criminal
18 prosecution pursuant to an information and has been found to
19 have committed the presenting offense or a lesser included
20 offense, the child shall be handled thereafter in every respect
21 as if an adult for any subsequent violation of state law, unless
22 the court imposes juvenile sanctions under s. 985.565.

23 (b) When a child is transferred for criminal prosecution as
24 an adult, the court shall immediately transfer and certify to
25 the adult circuit court all felony cases pertaining to the
26 child, for prosecution of the child as an adult, which have not
27 yet resulted in a plea of guilty or nolo contendere or in which
28 a finding of guilt has not been made. If a child is acquitted of
29 all charged offenses or lesser included offenses contained in
30 the original case transferred to adult court, all felony cases
31 that were transferred to adult court as a result of this
32 paragraph shall be subject to the same penalties to which such
33 cases would have been subject before being transferred to adult
34 court.

35 (c) When a child has been transferred for criminal
36 prosecution as an adult and has been found to have committed a
37 violation of state law, the disposition of the case may be made
38 under s. 985.565 and may include the enforcement of any
39 restitution ordered in any juvenile proceeding.



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40 (3) CHARGES INCLUDED ON INFORMATION.—An information filed
41 pursuant to this section may include all charges that are based
42 on the same act, criminal episode, or transaction as the primary
43 offenses.

44 Section 3. Section 985.56, Florida Statutes, is amended to
45 read:

46 985.56 Indictment of a juvenile.—

47 (1) A child 14 years of age or older ~~of any age~~ who is
48 charged with a violation of state law punishable by death or by
49 life imprisonment is subject to the jurisdiction of the court as
50 set forth in s. 985.0301(2) unless and until an indictment on
51 the charge is returned by the grand jury. When such indictment
52 is returned, the petition for delinquency, if any, must be
53 dismissed and the child must be tried and handled in every
54 respect as an adult:

55 (a) On the indictable offense punishable by death or by
56 life imprisonment; and

57 (b) On all other felonies or misdemeanors charged in the
58 indictment which are based on the same act or transaction as the
59 indictable offense punishable by death or by life imprisonment
60 or on one or more acts or transactions connected with the
61 offense punishable by death or by life imprisonment.

62 (2) An adjudicatory hearing may not be held until 21 days
63 after the child is taken into custody and charged with having
64 committed an indictable offense punishable by death or by life
65 imprisonment, unless the state attorney advises the court in
66 writing that he or she does not intend to present the case to
67 the grand jury, or has presented the case to the grand jury and
68 the grand jury has not returned an indictment. If the court



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69 receives such a notice from the state attorney, or if the grand
70 jury fails to act within the 21-day period, the court may
71 proceed as otherwise authorized under this part.

72 (3) Notwithstanding any other law, a child who commits an
73 offense for which he or she may be indicted and who has a
74 pending competency hearing in juvenile court or who previously
75 has been found to be incompetent and has not been restored to
76 competency by a court may not be transferred to adult court for
77 criminal prosecution until the child's competency is restored. A
78 pending competency hearing or a finding of incompetency tolls
79 the time limits in subsection (2). If the child is found to have
80 committed the offense punishable by death or by life
81 imprisonment, the child may ~~shall~~ be sentenced pursuant to s.
82 985.565 ~~as an adult~~. If the juvenile is not found to have
83 committed the indictable offense but is found to have committed
84 a lesser included offense or any other offense for which he or
85 she was indicted as a part of the criminal episode, the court
86 may sentence under s. 985.565.

87 (4) (a) If ~~Once~~ a child has been indicted pursuant to this
88 section and has been found to have committed any offense for
89 which he or she was indicted as a part of the criminal episode,
90 the child must ~~shall~~ be handled thereafter in every respect as
91 if an adult for any subsequent violation of state law, unless
92 the court imposes juvenile sanctions under s. 985.565.

93 (b) If ~~When~~ a child has been indicted pursuant to this
94 section, the court must ~~shall~~ immediately transfer and certify
95 to the adult circuit court all felony cases pertaining to the
96 child, for prosecution of the child as an adult, which have not
97 yet resulted in a plea of guilty or nolo contendere or in which



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98 a finding of guilt has not been made. If the child is acquitted
99 of all charged offenses or lesser included offenses contained in
100 the indictment case, all felony cases that were transferred to
101 adult court pursuant to this paragraph must ~~shall~~ be subject to
102 the same penalties such cases were subject to before being
103 transferred to adult court.

104 Section 4. Subsection (54) of section 985.03, Florida
105 Statutes, is amended to read:

106 985.03 Definitions.—As used in this chapter, the term:

107 (54) "Waiver hearing" means a hearing provided for under s.
108 985.556(3) ~~s. 985.556(4)~~.

109 Section 5. Paragraphs (a) and (b) of subsection (4) of
110 section 985.565, Florida Statutes, are amended to read:

111 985.565 Sentencing powers; procedures; alternatives for
112 juveniles prosecuted as adults.—

113 (4) SENTENCING ALTERNATIVES.—

114 (a) *Adult sanctions*.—

115 1. Cases prosecuted on indictment.—If the child is found to
116 have committed the offense punishable by death or life
117 imprisonment, the child may ~~shall~~ be sentenced as an adult. If
118 the

119 ===== T I T L E A M E N D M E N T =====

120 And the title is amended as follows:

121 Delete line 28

122 and insert:

123 s. 985.565, F.S.; providing discretion in sentencing;
124 conforming provisions to changes