

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Criminal Justice & Public
2 Safety Subcommittee

3 Representative Plasencia offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 79-315 and insert:

7 Section 2. Paragraph (c) of subsection (1) of section
8 985.101, Florida Statutes, is amended to read:

9 985.101 Taking a child into custody.-

10 (1) A child may be taken into custody under the following
11 circumstances:

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

14 1. Before the court issues an order to take a child into
15 custody for failing to appear, it must consider all of the

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16 following information relating to whether the child's
17 nonappearance was willful:

18 a. Whether notice was sent to the child's address included
19 in the official court record.

20 b. Whether any person provided notice to the child in any
21 format.

22 c. If the child is represented by counsel, whether counsel
23 for the child had contact or attempted to have contact with the
24 child.

25 d. Whether a department representative had contact or
26 attempted to have contact with the child.

27 e. Whether the department has any other specific
28 information to assist the court in making the determination.

29
30 Nothing in this subsection shall be construed to allow the
31 detention of a child who does not meet the detention criteria in
32 part V.

33 Section 3. Subsection (4) of section 985.435, Florida
34 Statutes, is amended to read:

35 985.435 Probation and postcommitment probation; community
36 service.—

37 (4) A probation program may also include an alternative
38 consequence component to address instances in which a child is
39 noncompliant with technical conditions of his or her probation
40 but has not committed any new violations of law. Each circuit

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41 shall develop, in consultation with judges, the state attorney,
42 the public defender, relevant law enforcement agencies, and the
43 department, a written plan specifying the alternative
44 consequence component which must be based upon the principle
45 that sanctions must reflect the seriousness of the violation,
46 the assessed criminogenic needs and risks of the child, the
47 child's age and maturity level, and how effective the sanction
48 or incentive will be in moving the child to compliant behavior.
49 The alternative consequence component is designed to provide
50 swift and appropriate consequences or incentives to a child who
51 is alleged to be noncompliant with or in violation of ~~to any~~
52 ~~noncompliance with technical conditions of probation.~~ If the
53 probation program includes this component, specific consequences
54 that apply to noncompliance with specific technical conditions
55 of probation, as well as incentives used to move the child
56 toward compliant behavior, must be detailed in the disposition
57 order.

58 Section 4. Section 985.686, Florida Statutes, is repealed.

59 Section 5. Subsections (1) through (6) of section
60 985.6865, Florida Statutes, are amended to read:

61 985.6865 Juvenile detention.—

62 ~~(1) The Legislature finds that various counties and the~~
63 ~~Department of Juvenile Justice have engaged in a multitude of~~
64 ~~legal proceedings regarding detention cost sharing for~~
65 ~~juveniles. Such litigation has largely focused on how the~~

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66 ~~Department of Juvenile Justice calculates the detention costs~~
67 ~~that the counties are responsible for paying, leading to the~~
68 ~~overbilling of counties for a period of years. Additionally,~~
69 ~~litigation pending in 2016 is a financial burden on the~~
70 ~~taxpayers of this state.~~

71 ~~(2) It is the intent of the Legislature that all counties~~
72 ~~that are not fiscally constrained counties and that have pending~~
73 ~~administrative or judicial claims or challenges file a notice of~~
74 ~~voluntary dismissal with prejudice to dismiss all actions~~
75 ~~pending on or before February 1, 2016, against the state or any~~
76 ~~state agency related to juvenile detention cost sharing.~~
77 ~~Furthermore, all counties that are not fiscally constrained~~
78 ~~shall execute a release and waiver of any existing or future~~
79 ~~claims and actions arising from detention cost share prior to~~
80 ~~the 2016-2017 fiscal year. The department may not seek~~
81 ~~reimbursement from counties complying with this subsection for~~
82 ~~any underpayment for any cost-sharing requirements before the~~
83 ~~2016-2017 fiscal year.~~

84 ~~(1)-(3)~~ As used in this section, the term:

85 (a) "Detention care" means secure detention and respite
86 beds for juveniles charged with a domestic violence crime.

87 (b) "Fiscally constrained county" means a county within a
88 rural area of opportunity as designated by the Governor pursuant
89 to s. 288.0656 or each county for which the value of a mill will
90 raise no more than \$5 million in revenue, based on the certified

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91 school taxable value certified pursuant to s. 1011.62(4)(a)1.a.,
92 from the previous July 1.

93 (c) "Total shared detention costs" means the amount of
94 funds expended by the department for the costs of detention care
95 for the prior fiscal year. This amount includes the most recent
96 actual certify forward amounts minus any funds it expends on
97 detention care for juveniles residing in fiscally constrained
98 counties or out of state.

99 ~~(2)(4) Notwithstanding s. 985.686, for the 2017-2018~~
100 ~~fiscal year, and each fiscal year thereafter, each county that~~
101 ~~is not a fiscally constrained county and that has taken the~~
102 ~~action fulfilling the intent of this section as described in~~
103 ~~subsection (2) shall pay its annual percentage share of 50~~
104 ~~percent of the total shared detention costs. By Annually by July~~
105 ~~15, 2017, and each year thereafter, the department shall~~
106 ~~calculate and provide to each county that is not a fiscally~~
107 ~~constrained county and that does not provide its own detention~~
108 ~~care for juveniles its annual percentage share by dividing the~~
109 ~~total number of detention days for juveniles residing in the~~
110 ~~county for the most recently completed 12-month period by the~~
111 ~~total number of detention days for juveniles in all counties~~
112 ~~that are not fiscally constrained counties during the same~~
113 ~~period. The annual percentage share of each county that is not a~~
114 ~~fiscally constrained county and that does not provide its own~~
115 ~~detention care for juveniles must be multiplied by 50 percent of~~

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116 the total shared detention costs to determine that county's
117 share of detention costs. Beginning August 1, each such county
118 shall pay to the department its share of detention costs, which
119 shall be paid in 12 equal payments due on the first day of each
120 month. The state shall pay the remaining actual costs of
121 detention care.

122 ~~(3)(5)~~ The state shall pay all costs of detention care for
123 juveniles residing in a fiscally constrained county and for
124 juveniles residing out of state. The state shall pay all costs
125 of detention care for juveniles housed in state detention
126 centers from counties that provide their own detention care for
127 juveniles.

128 ~~(4)(6)~~ Each county that is not a fiscally constrained
129 county and that does not provide its own detention care for
130 juveniles ~~has taken the action fulfilling the intent of this~~
131 ~~section as described in subsection (2)~~ shall incorporate into
132 its annual county budget sufficient funds to pay its annual
133 percentage share of the total shared detention costs required by
134 subsection ~~(2)(4)~~.

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

139 960.001 Guidelines for fair treatment of victims and
140 witnesses in the criminal justice and juvenile justice systems.-

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141 (1) The Department of Legal Affairs, the state attorneys,
142 the Department of Corrections, the Department of Juvenile
143 Justice, the Florida Commission on Offender Review, the State
144 Courts Administrator and circuit court administrators, the
145 Department of Law Enforcement, and every sheriff's department,
146 police department, or other law enforcement agency as defined in
147 s. 943.10(4) shall develop and implement guidelines for the use
148 of their respective agencies, which guidelines are consistent
149 with the purposes of this act and s. 16(b), Art. I of the State
150 Constitution and are designed to implement s. 16(b), Art. I of
151 the State Constitution and to achieve the following objectives:

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

159 1. The arresting law enforcement officer or personnel of
160 an organization that provides assistance to a victim or to the
161 appropriate next of kin of the victim or other designated
162 contact must request that the victim or appropriate next of kin
163 of the victim or other designated contact complete a victim
164 notification card. However, the victim or appropriate next of

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165 kin of the victim or other designated contact may choose not to
166 complete the victim notification card.

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

174 a. The name, address, and phone number of the victim; or

175 b. The name, address, and phone number of the appropriate
176 next of kin of the victim; or

177 c. The name, address, and telephone number of a designated
178 contact other than the victim or appropriate next of kin of the
179 victim; and

180 d. Any relevant identification or case numbers assigned to
181 the case.

182 3. The chief administrator, or a person designated by the
183 chief administrator, of a county jail, municipal jail, juvenile
184 detention facility, or residential commitment facility shall
185 make a reasonable attempt to notify the alleged victim or
186 appropriate next of kin of the alleged victim or other
187 designated contact within 4 hours following the release of the
188 defendant on bail or, in the case of a juvenile offender, upon
189 the release from residential detention or commitment. If the

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190 chief administrator, or designee, is unable to contact the
191 alleged victim or appropriate next of kin of the alleged victim
192 or other designated contact by telephone, the chief
193 administrator, or designee, must send to the alleged victim or
194 appropriate next of kin of the alleged victim or other
195 designated contact a written notification of the defendant's
196 release.

197 4. Unless otherwise requested by the victim or the
198 appropriate next of kin of the victim or other designated
199 contact, the information contained on the victim notification
200 card must be sent by the chief administrator, or designee, of
201 the appropriate facility to the subsequent correctional or
202 residential commitment facility following the sentencing and
203 incarceration of the defendant, and unless otherwise requested
204 by the victim or the appropriate next of kin of the victim or
205 other designated contact, he or she must be notified of the
206 release of the defendant from incarceration as provided by law.

207 5. If the defendant was arrested pursuant to a warrant
208 issued or taken into custody pursuant to s. 985.101 in a
209 jurisdiction other than the jurisdiction in which the defendant
210 is being released, and the alleged victim or appropriate next of
211 kin of the alleged victim or other designated contact does not
212 waive the option for notification of release, the chief
213 correctional officer or chief administrator of the facility
214 releasing the defendant shall make a reasonable attempt to

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215 immediately notify the chief correctional officer of the
216 jurisdiction in which the warrant was issued or the juvenile was
217 taken into custody pursuant to s. 985.101, and the chief
218 correctional officer of that jurisdiction shall make a
219 reasonable attempt to notify the alleged victim or appropriate
220 next of kin of the alleged victim or other designated contact,
221 as provided in this paragraph, that the defendant has been or
222 will be released.

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

227 985.439 Violation of probation or postcommitment
228 probation.—

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

233 Section 8. For the purpose of incorporating the amendment
234 made by this act to section 985.435, Florida Statutes, in a
235 reference thereto, paragraph (b) of subsection (4) of section
236 985.565, Florida Statutes, is reenacted to read:

237 985.565 Sentencing powers; procedures; alternatives for
238 juveniles prosecuted as adults.—

239 (4) SENTENCING ALTERNATIVES.—

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240 (b) *Juvenile sanctions.*—For juveniles transferred to adult
241 court but who do not qualify for such transfer under s.
242 985.556(3), the court may impose juvenile sanctions under this
243 paragraph. If juvenile sentences are imposed, the court shall,
244 under this paragraph, adjudge the child to have committed a
245 delinquent act. Adjudication of delinquency may not be deemed a
246 conviction, nor shall it operate to impose any of the civil
247 disabilities ordinarily resulting from a conviction. The court
248 shall impose an adult sanction or a juvenile sanction and may
249 not sentence the child to a combination of adult and juvenile
250 punishments. An adult sanction or a juvenile sanction may
251 include enforcement of an order of restitution or probation
252 previously ordered in any juvenile proceeding. However, if the
253 court imposes a juvenile sanction and the department determines
254 that the sanction is unsuitable for the child, the department
255 shall return custody of the child to the sentencing court for
256 further proceedings, including the imposition of adult
257 sanctions. Upon adjudicating a child delinquent under subsection
258 (1), the court may:

259 1. Place the child in a probation program under the
260 supervision of the department for an indeterminate period of
261 time until the child reaches the age of 19 years or sooner if
262 discharged by order of the court.

263 2. Commit the child to the department for treatment in an
264 appropriate program for children for an indeterminate period of

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265 time until the child is 21 or sooner if discharged by the
266 department. The department shall notify the court of its intent
267 to discharge no later than 14 days before discharge. Failure of
268 the court to timely respond to the department's notice shall be
269 considered approval for discharge.

270 3. Order disposition under ss. 985.435, 985.437, 985.439,
271 985.441, 985.45, and 985.455 as an alternative to youthful
272 offender or adult sentencing if the court determines not to
273 impose youthful offender or adult sanctions.

274

275 It is the intent of the Legislature that the criteria and
276 guidelines in this subsection are mandatory and that a
277 determination of disposition under this subsection is subject to
278 the right of the child to appellate review under s. 985.534.

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

282

Remove lines 6-36 and insert:

283

of an existing program; amending s. 985.101, F.S.; requiring a

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court to consider specified information before it issues an

285

order to take a child into custody for a failure to appear;

286

amending s. 985.435, F.S.; requiring each judicial circuit to

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develop, in consultation with specified persons and entities, a

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written plan specifying the alternative consequence component

289

which must be based upon certain principles; providing that the

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290 alternative consequence component is designed to provide swift
291 and appropriate consequences or incentives to a child who is
292 alleged to be noncompliant with or in violation of probation;
293 repealing s. 985.686, F.S., relating to the shared county and
294 state financial support responsibility for juvenile detention;
295 amending s. 985.6865, F.S.; deleting provisions relating to
296 legislative findings and intent; requiring the Department of
297 Juvenile Justice to calculate annually by a certain date and
298 provide to each county that is not a fiscally constrained county
299 and that does not provide its own detention care for juveniles
300 its annual percentage share of detention costs; requiring each
301 county that is not a fiscally constrained county and that does
302 not provide its own detention care for juveniles to incorporate
303 into its annual county budget sufficient funds to pay its annual
304 percentage share of detention costs; reenacting ss.
305 960.001(1)(b) and 985.439(2), F.S., relating to guidelines for
306 fair treatment of victims and witnesses in the criminal justice
307 and juvenile justice systems and violation of probation or
308 postcommitment probation, respectively, to incorporate the
309 amendment made to s. 985.101, F.S., in references thereto;
310 reenacting s. 985.565(4)(b), F.S., relating to sentencing
311 alternatives, to incorporate the amendment made to s. 985.435,
312 F.S., in a reference thereto;