

1                   A bill to be entitled  
2           An act relating to juvenile justice programs and  
3           detention; amending s. 20.316, F.S.; creating the  
4           Accountability and Program Support Program within the  
5           Department of Juvenile Justice and revising the name  
6           of an existing program; amending s. 985.255, F.S.;  
7           authorizing a child to be placed in secure detention  
8           on a judicial order if the child has willfully failed  
9           to appear after proper notice; requiring that, before  
10          issuing an order to take a child into custody, a court  
11          make certain determinations based on information  
12          obtained from the department regarding the child's  
13          failure to appear; authorizing the holding of certain  
14          children in secure detention for up to a specified  
15          period of time; specifying that children may be held  
16          in secure detention for up to 72 hours immediately  
17          before the next scheduled court hearing; amending s.  
18          985.439, F.S.; requiring each judicial circuit to  
19          develop a specified plan in consultation with certain  
20          parties; providing information upon which the plan  
21          must be based; repealing s. 985.686, F.S., relating to  
22          the shared county and state financial support  
23          responsibility for juvenile detention; amending s.  
24          985.6865, F.S.; deleting provisions relating to  
25          legislative findings and intent; requiring the

26 Department of Juvenile Justice to calculate annually  
 27 by a certain date and provide to each county that is  
 28 not a fiscally constrained county and that does not  
 29 provide its own detention care for juveniles its  
 30 annual percentage share of detention costs; requiring  
 31 each county that is not a fiscally constrained county  
 32 and that does not provide its own detention care for  
 33 juveniles to incorporate into its annual county budget  
 34 sufficient funds to pay its annual percentage share of  
 35 detention costs; amending ss. 985.245, 985.25, 985.26,  
 36 and 985.35, F.S.; conforming cross-references;  
 37 providing an effective date.

38

39 Be It Enacted by the Legislature of the State of Florida:

40

41 Section 1. Upon the expiration and reversion of the  
 42 amendment made to section 20.316, Florida Statutes, pursuant to  
 43 section 65 of chapter 2020-114, Laws of Florida, subsections (2)  
 44 and (3) of section 20.316, Florida Statutes, are amended to  
 45 read:

46 20.316 Department of Juvenile Justice.—There is created a  
 47 Department of Juvenile Justice.

48 (2) DEPARTMENT PROGRAMS.—The following programs are  
 49 established within the Department of Juvenile Justice:

50 (a) Accountability and Program Support.

- 51        (d) ~~(a)~~ Prevention ~~and Victim~~ Services.
- 52        (c) ~~(b)~~ Intake and Detention.
- 53        (f) ~~(e)~~ Residential and Correctional Facilities.
- 54        (e) ~~(d)~~ Probation and Community Corrections.
- 55        (b) ~~(e)~~ Administration.

56  
 57 The secretary may establish assistant secretary positions and a  
 58 chief of staff position as necessary to administer the  
 59 requirements of this section.

60        (3) JUVENILE JUSTICE OPERATING CIRCUITS.—The department  
 61 shall plan and administer its programs through a substate  
 62 structure that conforms to the boundaries of the judicial  
 63 circuits prescribed in s. 26.021. A county may seek placement in  
 64 a juvenile justice operating circuit other than as prescribed in  
 65 s. 26.021 for participation in the Prevention ~~and Victim~~  
 66 Services Program and the Probation and Community Corrections  
 67 Program by making a request of the chief circuit judge in each  
 68 judicial circuit affected by such request. Upon a showing that  
 69 geographic proximity, community identity, or other legitimate  
 70 concern for efficiency of operations merits alternative  
 71 placement, each affected chief circuit judge may authorize the  
 72 execution of an interagency agreement specifying the alternative  
 73 juvenile justice operating circuit in which the county is to be  
 74 placed and the basis for the alternative placement. Upon the  
 75 execution of said interagency agreement by each affected chief

76 circuit judge, the secretary may administratively place a county  
77 in an alternative juvenile justice operating circuit pursuant to  
78 the agreement.

79 Section 2. Present subsections (1), (2), and (3) of  
80 section 985.255, Florida Statutes, are redesignated as  
81 subsections (2), (3), and (4), respectively, a new subsection  
82 (1) is added to that section, and paragraph (e) of present  
83 subsection (1) and paragraph (a) of present subsection (3) are  
84 amended, to read:

85 985.255 Detention criteria; detention hearing.—

86 (1) A child may be placed and held for up to 24 hours in  
87 secure detention pending a detention hearing upon a judicial  
88 order for failure to appear if the child has willfully failed to  
89 appear after proper notice. Before the court issues an order to  
90 take such a child into custody, it must obtain sufficient  
91 information from the department to make a preliminary  
92 determination that the failure was willful and was not merely  
93 due to the unavailability of transportation or to circumstances  
94 beyond the child's control.

95 (2)~~(1)~~ Subject to s. 985.25(1), a child taken into custody  
96 and placed into detention care shall be given a hearing within  
97 24 hours after being taken into custody. At the hearing, the  
98 court may order a continued detention status if:

99 (e) The child is detained on a judicial order for failure  
100 to appear and has previously willfully failed to appear, after

101 proper notice:

102 1. For an adjudicatory hearing on the same case regardless  
103 of the results of the risk assessment instrument; or

104 2. At two or more court hearings of any nature on the same  
105 case regardless of the results of the risk assessment  
106 instrument.

107  
108 A child who meets the requirements of this paragraph may be held  
109 in secure detention for up to 72 hours immediately before ~~in~~  
110 ~~advance of~~ the next scheduled court hearing ~~pursuant to this~~  
111 ~~paragraph~~. The child's failure to keep the clerk of court and  
112 defense counsel informed of a current and valid mailing address  
113 where the child will receive notice to appear at court  
114 proceedings does not provide an adequate ground for excusal of  
115 the child's nonappearance at the hearings.

116 (4) (a) ~~(3) (a)~~ The purpose of the detention hearing required  
117 under subsection (2) ~~(1)~~ is to determine the existence of  
118 probable cause that the child has committed the delinquent act  
119 or violation of law that he or she is charged with and the need  
120 for continued detention. The court shall use the results of the  
121 risk assessment performed by the department and, based on the  
122 criteria in subsection (2) ~~(1)~~, shall determine the need for  
123 continued detention. If the child is a prolific juvenile  
124 offender who is detained under s. 985.26(2)(c), the court shall  
125 use the results of the risk assessment performed by the

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126 department and the criteria in subsection (2) ~~(1)~~ or subsection  
127 (3) ~~(2)~~ only to determine whether the prolific juvenile offender  
128 should be held in secure detention.

129 Section 3. Subsection (1) of section 985.439, Florida  
130 Statutes, is amended to read:

131 985.439 Violation of probation or postcommitment  
132 probation.—

133 (1) (a) This section is applicable when the court has  
134 jurisdiction over a child on probation or postcommitment  
135 probation, regardless of adjudication.

136 (b) If the conditions of the probation program or the  
137 postcommitment probation program are violated, the department or  
138 the state attorney may bring the child before the court on a  
139 petition alleging a violation of the program. A child who  
140 violates the conditions of probation or postcommitment probation  
141 must be brought before the court if sanctions are sought.

142 (c) Each judicial circuit shall develop a written plan, in  
143 consultation with judges, the state attorney, the public  
144 defender, the relevant law enforcement agency, and the  
145 department, which describes a methodology for determining the  
146 appropriate sanction or incentive if a child under supervision  
147 violates a condition of his or her probation which does not  
148 involve a new law violation. These plans must be based upon the  
149 principle that sanctions must reflect the seriousness of the  
150 violation, the assessed criminogenic needs and risks of the

151 child, the child's age and maturity level, and how effective the  
152 sanction or incentive will be in moving the child to compliant  
153 behavior.

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

155 Section 5. Subsections (1) through (6) of section  
156 985.6865, Florida Statutes, are amended to read:

157 985.6865 Juvenile detention.—

158 ~~(1) The Legislature finds that various counties and the~~  
159 ~~Department of Juvenile Justice have engaged in a multitude of~~  
160 ~~legal proceedings regarding detention cost sharing for~~  
161 ~~juveniles. Such litigation has largely focused on how the~~  
162 ~~Department of Juvenile Justice calculates the detention costs~~  
163 ~~that the counties are responsible for paying, leading to the~~  
164 ~~overbilling of counties for a period of years. Additionally,~~  
165 ~~litigation pending in 2016 is a financial burden on the~~  
166 ~~taxpayers of this state.~~

167 ~~(2) It is the intent of the Legislature that all counties~~  
168 ~~that are not fiscally constrained counties and that have pending~~  
169 ~~administrative or judicial claims or challenges file a notice of~~  
170 ~~voluntary dismissal with prejudice to dismiss all actions~~  
171 ~~pending on or before February 1, 2016, against the state or any~~  
172 ~~state agency related to juvenile detention cost sharing.~~  
173 ~~Furthermore, all counties that are not fiscally constrained~~  
174 ~~shall execute a release and waiver of any existing or future~~  
175 ~~claims and actions arising from detention cost share prior to~~

176 | ~~the 2016-2017 fiscal year. The department may not seek~~  
177 | ~~reimbursement from counties complying with this subsection for~~  
178 | ~~any underpayment for any cost-sharing requirements before the~~  
179 | ~~2016-2017 fiscal year.~~

180 |       (1)~~(3)~~ As used in this section, the term:

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

183 |       (b) "Fiscally constrained county" means a county within a  
184 | rural area of opportunity as designated by the Governor pursuant  
185 | to s. 288.0656 or each county for which the value of a mill will  
186 | raise no more than \$5 million in revenue, based on the certified  
187 | school taxable value certified pursuant to s. 1011.62(4)(a)1.a.,  
188 | from the previous July 1.

189 |       (c) "Total shared detention costs" means the amount of  
190 | funds expended by the department for the costs of detention care  
191 | for the prior fiscal year. This amount includes the most recent  
192 | actual certify forward amounts minus any funds it expends on  
193 | detention care for juveniles residing in fiscally constrained  
194 | counties or out of state.

195 |       (2)~~(4)~~ ~~Notwithstanding s. 985.686, for the 2017-2018~~  
196 | ~~fiscal year, and each fiscal year thereafter, each county that~~  
197 | ~~is not a fiscally constrained county and that has taken the~~  
198 | ~~action fulfilling the intent of this section as described in~~  
199 | ~~subsection (2) shall pay its annual percentage share of 50~~  
200 | ~~percent of the total shared detention costs. By Annually by July~~



201 15, ~~2017, and each year thereafter,~~ the department shall  
202 calculate and provide to each county that is not a fiscally  
203 constrained county and that does not provide its own detention  
204 care for juveniles its annual percentage share by dividing the  
205 total number of detention days for juveniles residing in the  
206 county for the most recently completed 12-month period by the  
207 total number of detention days for juveniles in all counties  
208 that are not fiscally constrained counties during the same  
209 period. The annual percentage share of each county that is not a  
210 fiscally constrained county and that does not provide its own  
211 detention care for juveniles must be multiplied by 50 percent of  
212 the total shared detention costs to determine that county's  
213 share of detention costs. Beginning August 1, each such county  
214 shall pay to the department its share of detention costs, which  
215 shall be paid in 12 equal payments due on the first day of each  
216 month. The state shall pay the remaining actual costs of  
217 detention care.

218 ~~(3)-(5)~~ The state shall pay all costs of detention care for  
219 juveniles residing in a fiscally constrained county and for  
220 juveniles residing out of state. The state shall pay all costs  
221 of detention care for juveniles housed in state detention  
222 centers from counties that provide their own detention care for  
223 juveniles.

224 ~~(4)-(6)~~ Each county that is not a fiscally constrained  
225 county and that does not provide its own detention care for

226 ~~juveniles has taken the action fulfilling the intent of this~~  
 227 ~~section as described in subsection (2)~~ shall incorporate into  
 228 its annual county budget sufficient funds to pay its annual  
 229 percentage share of the total shared detention costs required by  
 230 subsection (2) ~~(4)~~.

231 Section 6. Subsection (1) of section 985.245, Florida  
 232 Statutes, is amended to read:

233 985.245 Risk assessment instrument.—

234 (1) All determinations and court orders regarding  
 235 placement of a child into detention care shall comply with all  
 236 requirements and criteria provided in this part and shall be  
 237 based on a risk assessment of the child, unless the child is  
 238 placed into detention care as provided in s. 985.255(3) ~~s.~~  
 239 ~~985.255(2)~~.

240 Section 7. Subsection (1) of section 985.25, Florida  
 241 Statutes, is amended to read:

242 985.25 Detention intake.—

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

248 (a) During the period of time from the taking of the child  
 249 into custody to the date of the detention hearing, the initial  
 250 decision as to the child's placement into detention care shall

251 be made by the department under ss. 985.24 and 985.245(1).

252 (b) The department shall base the decision whether to  
253 place the child into detention care on an assessment of risk in  
254 accordance with the risk assessment instrument and procedures  
255 developed by the department under s. 985.245, except that a  
256 child shall be placed in secure detention care until the child's  
257 detention hearing if the child meets the criteria specified in  
258 s. 985.255(2)(f) ~~s. 985.255(1)(f)~~ or is charged with possessing  
259 or discharging a firearm on school property in violation of s.  
260 790.115.

261 (c) If the final score on the child's risk assessment  
262 instrument indicates detention care is appropriate, but the  
263 department otherwise determines the child should be released,  
264 the department shall contact the state attorney, who may  
265 authorize release.

266 (d) If the final score on the risk assessment instrument  
267 indicates detention is not appropriate, the child may be  
268 released by the department in accordance with ss. 985.115 and  
269 985.13.

270  
271 Under no circumstances shall the department or the state  
272 attorney or law enforcement officer authorize the detention of  
273 any child in a jail or other facility intended or used for the  
274 detention of adults, without an order of the court.

275 Section 8. Paragraphs (c) and (d) of subsection (2) of

276 | section 985.26, Florida Statutes, are amended to read:

277 |       985.26 Length of detention.—

278 |       (2)

279 |       (c) A prolific juvenile offender under s. 985.255(2)(f) ~~s.~~  
 280 | ~~985.255(1)(f)~~ shall be placed on supervised release detention  
 281 | care with electronic monitoring or in secure detention care  
 282 | under a special detention order until disposition. If secure  
 283 | detention care is ordered by the court, it must be authorized  
 284 | under this part and may not exceed:

285 |           1. Twenty-one days unless an adjudicatory hearing for the  
 286 | case has been commenced in good faith by the court or the period  
 287 | is extended by the court pursuant to paragraph (b); or

288 |           2. Fifteen days after the entry of an order of  
 289 | adjudication.

290 |

291 | As used in this paragraph, the term "disposition" means a  
 292 | declination to file under s. 985.15(1)(h), the entry of nolle  
 293 | prosequi for the charges, the filing of an indictment under s.  
 294 | 985.56 or an information under s. 985.557, a dismissal of the  
 295 | case, or an order of final disposition by the court.

296 |       (d) A prolific juvenile offender under s. 985.255(2)(f) ~~s.~~  
 297 | ~~985.255(1)(f)~~ who is taken into custody for a violation of the  
 298 | conditions of his or her supervised release detention must be  
 299 | held in secure detention until a detention hearing is held.

300 |       Section 9. Subsection (1) of section 985.35, Florida

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301 Statutes, is amended to read:

302 985.35 Adjudicatory hearings; withheld adjudications;  
303 orders of adjudication.—

304 (1)(a) Except as provided in paragraph (b), the  
305 adjudicatory hearing must be held as soon as practicable after  
306 the petition alleging that a child has committed a delinquent  
307 act or violation of law is filed and in accordance with the  
308 Florida Rules of Juvenile Procedure; but reasonable delay for  
309 the purpose of investigation, discovery, or procuring counsel or  
310 witnesses shall be granted. If the child is being detained, the  
311 time limitations in s. 985.26(2) and (3) apply.

312 (b) If the child is a prolific juvenile offender under s.  
313 985.255(2)(f) ~~s. 985.255(1)(f)~~, the adjudicatory hearing must be  
314 held within 45 days after the child is taken into custody unless  
315 a delay is requested by the child.

316 Section 10. This act shall take effect July 1, 2021.