

**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 Fiscal Policy

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BILL: CS/SB 1274

INTRODUCER: Criminal Justice Committee and Senator Martin

SUBJECT: Juvenile Justice

DATE: February 20, 2024

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Parker</u>	<u>Yeatman</u>	<u>FP</u>	<u>Pre-meeting</u>

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

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 1274 makes multiple changes throughout ch. 985, F.S., to revise provisions relating to citation programs, secure detention, probation, conditional release, and contraband. Sections relating to firearm offenses committed by minors are amended throughout ch. 790, F.S., and ch. 985, F.S. Additionally, the bill amends s. 1002.221, F.S., to provide that education records may be used for proceedings initiated under ch. 984, F.S., and ch. 985, F.S.

**Prearrest Delinquency Citation Programs**

The bill amends s. 985.12, F.S., relating to civil citation programs, to rename civil citation programs as prearrest delinquency citation programs, prohibit such programs for firearm related offenses, and provide such programs must specify classes established for the program. Additionally, s. 985.125, F.S., is amended to prohibit school districts from operating a postarrest diversion program.

The bill amends s. 985.126, F.S., to revise reporting requirements for law enforcement agencies, and the Florida Department of Juvenile Justice (DJJ).

### **Firearm and Other Serious Offenses**

The bill amends s. 790.22, F.S., to increase the penalty for the unlawful possession of a firearm by a minor, from a first degree misdemeanor to a third degree felony. Additionally, the bill provides specified punishments for such violations, including minimum mandatory days in secure detention, community service or paid work, and driver license restrictions. Section 985.455, F.S., is amended to provide that the court may, upon finding a compelling circumstance, direct the Florida Department of Highway Safety and Motor Vehicles (DHSMV) to make an exception to issue the minor a license for driving privileges restricted to business or employment purposes only.

Sections 790.115, and 790.22, F.S., are amended to remove provisions requiring secure detention for any minor who is charged with firearm related offenses.

The bill amends s. 985.433, F.S., requiring any youth committed for any offense or attempted offense involving a firearm be placed on conditional release for at least 1 year after release from the residential commitment program, with terms of conditional release including electronic monitoring for the initial six months under terms and conditions set by the DJJ.

For a firearm offense, other than minor possession under s. 790.22(3), F.S., or for an offense that is committed while the minor is in possession of a firearm, the court must order specified punishments, including 30 days of secure detention, 100 hours of community service, 1 year probation, and restrictions on the minor's driver license, if the court decides not to commit the youth to a residential program.

A child who has previously had adjudication withheld for a specified offense shall not be eligible for a second or subsequent withhold of adjudication, and must be committed to a residential program.

The bill amends s. 985.601, F.S., providing that the DJJ must establish a class focused on the risk and consequences of youthful firearm offending which shall be provided by the DJJ to any youth adjudicated or who had adjudication withheld for any offense involving the use or possession of a firearm.

### **Secure Detention**

The bill amends s. 985.25, F.S., requiring that youths arrested for violating the terms of his or her electronic monitoring supervision or his or her supervised release shall be placed in secure detention until a detention hearing.

A child on probation for an underlying felony firearm offense who is taken into custody under s. 985.101, F.S., for violating conditions of probation not involving a new law violation shall be held in secure detention to allow the state attorney to review the violation.

The bill amends s. 985.255, F.S., to provide that the court has the authority to depart from the detention risk assessment instrument and order a placement more or less restrictive than what the risk assessment recommends. Additionally, the bill provides when minors committing specified

offenses must be held in secure detention, and that the court must make certain findings before releasing such finding. Written notice of release must be given to the victim, the arresting agency, and the law enforcement agency with primary jurisdiction over the minor's residence.

The bill amends s. 985.26, F.S., to provide the court may order a child to be held in secure detention beyond 21 days based on the nature of the charge under specified circumstances, including if the child is held for specified offenses.

### **Probation**

The bill amends multiple sections throughout ch. 985, F.S., to remove post commitment probation. Under the bill, a child must be placed on conditional release following commitment to a DJJ program, or may be directly released from such program.

The bill amends s. 985.435, F.S., providing that a probation program must include an alternative consequences component and such an alternative consequence component must be aligned with the DJJ's graduated response matrix as described in s. 985.438, F.S.

Section 985.438, F.S., is created and requires the DJJ to create and administer a statewide graduated response matrix to hold youths accountable to the term of their court ordered probation and the terms of their conditional release. The graduated response matrix shall outline sanctions for youth based on their risk to reoffend.

The bill amends s. 985.439, F.S., to provide that upon receiving notice of a violation of probation from the DJJ, the state attorney must file the violation within 5 days or provide in writing to the DJJ and the court a reason as to why he or she is not filing.

Additionally, the DJJ may place a youth on electronic monitoring for a violation of probation if it determines doing so will preserve and protect public safety.

### **Conditional Release**

The bill amends s. 985.46, F.S., revising legislative intent concerning conditional release to require conditional release after commitment unless the youth is directly released. Specified conditions of conditional release must be placed on the minor.

The bill provides that a youth who violates the terms of his or her conditional release shall be assessed using the graduated response matrix as described in s. 985.438, F.S. A youth who fails to move into compliance shall be recommitted to a residential facility.

### **Contraband**

The bill amends s. 985.711, F.S., to add specified items to the list of contraband, and provides it is a second degree felony to introduce contraband into a DJJ facility.

The bill is effective on July 1, 2024.

## II. Present Situation:

### Civil Citation/Pre-arrest Diversion

The Florida Department of Juvenile Justice (DJJ) civil citation or similar prearrest delinquency initiative addresses a youth's behavior at his or her first encounter with the juvenile justice system and provides an alternative to arrest for that child.<sup>1</sup>

A civil citation or similar prearrest delinquency program for misdemeanor offenses shall be established in each judicial circuit in the state. The state attorney and public defender of each circuit, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit shall create a civil citation or similar prearrest delinquency program and develop its policies and procedures. In developing the program's policies and procedures, input from other interested stakeholders may be solicited. The DJJ shall annually develop and provide guidelines on best practice models for civil citation or similar prearrest delinquency programs to the judicial circuits as a resource.<sup>2</sup>

Each judicial circuit's civil citation or similar prearrest delinquency program must specify:

- The misdemeanor offenses that qualify a juvenile for participation in the program;
- The eligibility criteria for the program;
- The program's implementation and operation;
- The program's requirements, including, but not limited to, the completion of community service hours, payment of restitution, if applicable, and intervention services indicated by a needs assessment of the juvenile, approved by the DJJ, such as family counseling, urinalysis monitoring, and substance abuse and mental health treatment services; and
- A program fee, if any, to be paid by a juvenile participating in the program. If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.<sup>3</sup>

The state attorney of each circuit shall operate a civil citation or similar prearrest delinquency program in each circuit. A sheriff, police department, county, municipality, locally authorized entity, or public or private educational institution may continue to operate an independent civil citation or similar prearrest delinquency program that is in operation as of October 1, 2018, if the independent program is reviewed by the state attorney of the applicable circuit and he or she determines that the independent program is substantially similar to the civil citation or similar prearrest delinquency program developed by the circuit. If the state attorney determines that the independent program is not substantially similar to the civil citation or similar prearrest delinquency program developed by the circuit, the operator of the independent diversion program may revise the program and the state attorney may conduct an additional review of the independent program.<sup>4</sup>

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<sup>1</sup> Department of Juvenile Justice, Florida Civil Citation or Similar Prearrest delinquency Overview, available at <https://www.djj.state.fl.us/partners-providers-staff/our-approach/florida-civil-citation-or-similar-prearrest-diversion>) last visited on January 16, 2024).

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

<sup>3</sup> Section 985.12(2)(b), F.S.

<sup>4</sup> Section 985.12(2)(c), F.S.

Pursuant to s. 985.126, F.S., citation entities submit demographic data and indicate the law violation. Law enforcement agencies report data to the DJJ that identifies each minor who was eligible for a diversion program but was instead referred to the DJJ, given a notice to appear, or arrested. Within 7 days of the admission into a citation program, the citation entity enters data into the Juvenile Justice Information System Prevention Web. De-identified data collected through the state's civil citation programs is published and continually updated on the DJJ's website, and helps inform the department-produced, civil citation best practice report disseminated to judicial circuits.<sup>5</sup>

### **Detention of Children in Florida – Intake and Assessment**

Every child under the age of 18 charged with a crime in Florida is referred to the DJJ.<sup>6</sup> The DJJ serves as the primary case manager responsible for managing, coordinating, and monitoring services provided to the child.<sup>7</sup> Intake and screening services for a child referred to the DJJ are performed at a Juvenile Assessment Center.<sup>8</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's programmatic need and risks.<sup>9</sup> Once a child is in the custody of the DJJ, the DJJ determines whether detention care is appropriate.<sup>10</sup>

The DJJ makes an initial decision regarding detention care placement using the "Detention Risk Assessment Instrument."<sup>11</sup> This instrument takes into consideration, but need not be limited to, the following:

- Pending felony and misdemeanor offenses;
- Offenses committed pending adjudication;
- Prior offenses;
- Unlawful possession of a firearm;
- Prior history of failure to appear;
- Supervision violations;
- Supervision status at the time the child is taken into custody;
- All statutory mandates for detention care; and
- Any information on the child's history of abuse and neglect.<sup>12</sup>

### **Secure Detention Care**

The DJJ shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable

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<sup>5</sup> Section 985.126(2), F.S.

<sup>6</sup> A referral is similar to an arrest in the adult criminal justice system. See Probation and Community Intervention, Overview, Department of Juvenile Justice, available at <http://www.djj.state.fl.us/services/probation> (last visited January 16, 2024).

<sup>7</sup> Section 985.145(1), F.S.

<sup>8</sup> Section 985.135(4), F.S.

<sup>9</sup> Section 985.14(2), F.S. 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>10</sup> Section 985.25(1), F.S.

<sup>11</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>12</sup> Section 985.245(2)(b), F.S.

cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.<sup>13</sup> A child may not be held in secure detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced in good faith by the court.<sup>14</sup>

All determinations and court orders regarding the use of detention care shall be based primarily upon findings that the child:

- Presents a substantial risk of not appearing at a subsequent hearing;<sup>15</sup>
- Presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior, including the illegal possession or use of a firearm;<sup>16</sup>
- Presents a history of committing a property offense prior to adjudication, disposition, or placement;<sup>17</sup>
- Has committed contempt of court by:
  - Intentionally disrupting the administration of the court;
  - Intentionally disobeying a court order; or
  - Engaging in a punishable act or speech in the court's presence which shows disrespect for the authority and dignity of the court;<sup>18</sup> or
- Requests protection from imminent bodily harm.<sup>19</sup>

### **Alternative Consequence Component for Violations of Probation**

A probation program may also include an alternative 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 violations of law. Each judicial circuit shall develop, in consultation with judges, the state attorney, the public defender, the regional counsel, relevant law enforcement agencies, and the DJJ, a written plan specifying the alternative consequence component which must be based upon the principle that sanctions must reflect the seriousness of the violation, the assessed criminogenic needs and risks of the child, the child's age and maturity level, and how effective the sanction or incentive will be in moving the child to compliant behavior. The alternative consequence component is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of probation. If the probation program includes this component, specific consequences that apply to noncompliance with specific technical conditions of probation, as well as incentives used to move the child toward compliant behavior, must be detailed in the disposition order.<sup>20</sup>

If a youth is noncompliant with technical conditions of his or her probation, but has not committed any new violations of law the court may specify in the disposition order that the

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<sup>13</sup> Section 985.25(1), F.S.

<sup>14</sup> Section 985.26(2)(a)2., F.S.

<sup>15</sup> Section 985.24(1)(a), F.S.

<sup>16</sup> Section 985.24(1)(b), F.S.

<sup>17</sup> Section 985.24(1)(c), F.S.

<sup>18</sup> Section 985.24(1)(d), F.S.

<sup>19</sup> Section 985.24(1)(e), F.S.

<sup>20</sup> Section 985.435(4), F.S.

Juvenile Probation Officer may access a local alternative consequence program for youth with technical conditions of probation.<sup>21</sup>

### **Post Commitment Probation/Conditional Release**

After release from a residential commitment program, a youth can be placed on post-commitment probation (PCP),<sup>22,23</sup> conditional release (CR),<sup>24</sup> or be directly released.

Conditional Release is designed to provide monitoring and services to those youth who are transitioning back to the community after being in a residential program. These youth have court-ordered sanctions and services that they must complete. Youth on Probation or Conditional Release may be ordered by the Court (or referred by the DJJ) to attend a Day Treatment program while they are being supervised. Day Treatment programs provide additional monitoring of youth and typically offer an alternative educational setting. They also provide additional services, such as anger management classes, social skills building, and substance abuse education.<sup>25</sup>

### **Minor in Possession of a Firearm**

The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices, by any minor under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult who is acting with the consent of the minor's parent.<sup>26</sup> A minor who violates subsection (3) commits a misdemeanor of the first degree;<sup>27</sup> for a first offense, may serve a period of detention of up to 5 days in a secure detention facility; and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service;<sup>28</sup> and:

- If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the DHSMV to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.<sup>29</sup>
- If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the DHSMV to extend the period of suspension or revocation by an additional period of up to 1 year.<sup>30</sup>

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

<sup>22</sup> Florida Administrative Code 63T.1.002 - Post-Commitment Probation (PCP) – Assessment and intervention services provided to youth who are released from residential commitment programs. Under the legal status of post-commitment probation, the youth is legally transferred from commitment status to probation status, and is subject to court-ordered sanctions.

<sup>23</sup> Section 985.439, F.S.

<sup>24</sup> Section 985.46(1)(a), F.S., “Conditional Release” is the care, treatment, help, supervision, and provision of transition-to-adulthood services to juveniles released from residential commitment programs to promote rehabilitation and prevent recidivism.

<sup>25</sup> Florida Department of Juvenile Justice, Probation & Community Intervention Overview, available at <https://www.djj.state.fl.us/services/probation-community-intervention> (last visited January 16, 2024).

<sup>26</sup> Section 790.22(1), F.S.

<sup>27</sup> Section 790.22 (3), F.S.

<sup>28</sup> Section 790.22(5)(a), F.S.

<sup>29</sup> Section 790.22(5)(a)1., F.S.

<sup>30</sup> Section 790.22(5)(a)2., F.S.

- If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the DHSMV to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.<sup>31</sup>

### **Contraband**

Except as authorized through program policy or operating procedure or as authorized by the facility superintendent, program director, or manager, a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program, any of the following articles, which are declared to be contraband under this section:<sup>32</sup>

- Any unauthorized article of food or clothing.
- Any intoxicating beverage or any beverage that causes or may cause an intoxicating effect.
- Any controlled substance as defined in s. 893.02(4), F.S., marijuana as defined in s. 381.986, F.S., hemp as defined in s. 581.217, F.S., industrial hemp as defined in s. 1004.4473, F.S., or any prescription or nonprescription drug that has a hypnotic, stimulating, or depressing effect.
- Any firearm or weapon of any kind or any explosive substance.
- Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6., F.S., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program. As used in this subparagraph, the term "portable communication device" does not include any device that has communication capabilities which has been approved or issued by the facility superintendent, program director, or manager.
- Any vapor-generating electronic device as defined in s. 386.203, F.S., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program.

A person may not transmit contraband to, cause contraband to be transmitted to or received by, attempt to transmit contraband to, or attempt to cause contraband to be transmitted to or received by, a juvenile offender into or upon the grounds of a juvenile detention facility or commitment program, except as authorized through program policy or operating procedures or as authorized by the facility superintendent, program director, or manager.<sup>33</sup>

### **III. Effect of Proposed Changes:**

The bill makes multiple changes throughout ch. 985, F.S., to revise provisions relating to citation programs, secure detention, probation, conditional release, and contraband. Sections relating to firearm offenses committed by minors are amended throughout ch. 790, F.S., and ch. 985, F.S.

Additionally, the bill amends s. 1002.221, F.S., to provide that education records may be used for proceedings initiated under ch. 984, F.S., and ch. 985, F.S.

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<sup>31</sup> Section 790.22(5)(a)3., F.S.

<sup>32</sup> Section 985.711(1)(a), F.S.

<sup>33</sup> Section 985.711(1)(b), F.S.

### **Prearrest Delinquency Citation Programs**

The bill amends s. 985.12, F.S., relating to civil citation programs, to:

- Redesignate civil citation programs as prearrest delinquency citation programs.
- Prohibit delinquency citations for firearm-related offenses.
- Provide that each judicial circuit must specify classes established by the DJJ or delinquency citation entity.
- Provide that a civil citation or similar prearrest delinquency program existing before July 1, 2024, must be deemed a delinquency citation program authorized by s. 985.12, F.S., if the civil citation or similar prearrest delinquency program has been approved by the state attorney of the circuit and it complies with the statutory requirements.

Additionally, s. 985.125, F.S., is amended to remove references to prearrest delinquency programs. The bill provides that school districts are prohibited from operating a postarrest diversion program.

The bill amends s. 985.126, F.S., to:

- Require each law enforcement agency shall submit to the DJJ data for every youth charged for the first time, who is charged with a misdemeanor.
- Require that the DJJ shall provide a quarterly report to be published on its website and distributed to the Governor, President of the Senate, and Speaker of the House of Representatives listing the entities that use delinquency citations for less than 70 percent of first-time misdemeanor offenses.

### **Firearm and Other Serious Offenses**

The bill amends s. 790.22, F.S., to increase the penalty for the unlawful possession of a firearm by a minor, from a first degree misdemeanor to a third degree felony. Additionally, the bill:

- Provides that punishment for a first offense includes 5 days in secure detention, and 100 hours of community service or 100 hours of paid work, if such work is approved by the DJJ.
- Retains language that on a second violation a minor must serve 21 days in a secure detention facility, and must complete at least 100 hours of community service or paid work, but not more than 250 hours.
- Provides that for a third or subsequent violation, a minor shall be adjudicated delinquent and admitted to a residential program.
- Permits the court to direct the DHSMV to revoke or withhold issuance of the minor's driver license or driving privilege for up to 1 year for a first offense and up to 2 years for a second or subsequent offense.
- Permits the court to direct the DHSMV to extend the period of suspension or revocation if a minor's driver's license is under suspension for a first offense and up to 2 years for a second or subsequent offense.
- Permits the court to direct the DHSMV to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible for a first offense and up to 2 years for a second or subsequent offense.

The bill amends s. 985.455, F.S., providing that if the court orders revocation or suspension of a child's driver license as part of a disposition, the court may, upon finding a compelling circumstance, direct the DHSMV to make an exception to issue the minor a license for driving privileges restricted to business or employment purposes only.

Sections 790.115, and 790.22, F.S., are amended to remove provisions requiring secure detention for any minor under 18 years of age who is charged with possessing or discharging a firearm on school property unless the state attorney authorizes the release of the minor.

The bill amends s. 985.433, F.S., requiring any youth committed for any offense or attempted offense involving a firearm be placed on conditional release for at least 1 year after release from the residential commitment program, with terms of conditional release including electronic monitoring for the initial six months under terms and conditions set by the DJJ.

The bill provides that for a firearm offense, other than minor possession under s. 790.22(3), F.S., or for an offense that is committed while the minor is in possession of a firearm, the court must order specified punishments, including 30 days of secure detention, 100 hours of community service, 1 year probation, and restrictions on the minors driver license, if the court decides not to commit the youth to a residential program.

The bill provides that a child who has previously had adjudication withheld for a specified offense shall not be eligible for a second or subsequent withhold of adjudication, and must be committed to a residential program. Specified offenses include:

- Armed robbery involving a firearm.
- Armed carjacking involving the use or possession of a firearm.
- Having a firearm while committing a felony.
- Armed burglary involving the use or possession of a firearm.
- Delinquent in possession of a firearm.
- Any attempt to commit the above listed offenses.

The bill amends s. 985.601, F.S., providing that the DJJ must establish a class focused on the risk and consequences of youthful firearm offending which shall be provided by the DJJ to any youth adjudicated or who had adjudication withheld for any offense involving the use or possession of a firearm.

### **Secure Detention**

The bill amends s. 985.25, F.S., requiring that youths arrested for violating the terms of his or her electronic monitoring supervision or his or her supervised release shall be placed in secure detention until a detention hearing.

The bill also provides that a child on probation for an underlying felony firearm offense who is taken into custody under s. 985.101, F.S., for violating conditions of probation not involving a new law violation shall be held in secure detention to allow the state attorney to review the violation. If within 21 days, the state attorney notifies the court that commitment will be sought, then the child shall remain in secure detention pending proceedings under s. 985.439, F.S., until the initial 21-day period of secure detention has expired. Upon motion of the state attorney, the

child may be held for an additional 21-day period if the court finds that the totality of the circumstances, including the preservation of public safety, warrants such extension.

The bill amends s. 985.255, F.S., to provide that the court has the authority to depart from the detention risk assessment instrument and order a placement more or less restrictive than what the risk assessment recommends. Additionally, the bill:

- Provides that when the court finds probable cause at the detention hearing that the child committed one or more specified offenses then there is a presumption that the child is at risk to public safety and a danger to the community and such child must be held in secure detention prior to an adjudicatory hearing. Specific offenses include:
  - Murder (1st degree and 2nd degree).
  - Armed robbery involving the use/possession of a firearm.
  - Armed carjacking involving the use/possession of a firearm.
  - Having a firearm while committing a felony.
  - Armed burglary involving the use/possession of a firearm.
  - Delinquent in possession of a firearm.
  - Attempt to commit any of the above-listed offenses.
- Provides the court must issue a written order for the release of a child from secure detention and such order must be based upon clear and convincing evidence of why the child does not present a risk to public safety or a danger to the community, and provide that the child shall be placed on supervised release detention care with electronic monitoring until the child's adjudicatory hearing.
- Provide that the court must provide a copy of the written notice to the victim, the arresting agency, and the law enforcement agency with primary jurisdiction over the youth's residence for any youth released on supervised release under these circumstances.

The bill amends s. 985.26, F.S., to provide that the court may order a minor to be held in secure detention beyond 21 days based on the nature of the charge under specified circumstances, including if the child is held for offenses listed in s. 985.255(1)(g), F.S.

### **Probation**

The bill amends multiple sections throughout ch. 985, F.S., to remove post commitment probation. Under the bill, a child must be placed on conditional release following commitment to a DJJ program, or may be directly released from such program.

The bill amends s. 985.435, F.S., providing that a probation program must include an alternative consequences component and such an alternative consequence component must be aligned with the DJJ's graduated response matrix as described in s. 985.438, F.S.

The bill creates s. 985.438, F.S., requiring the DJJ to create and administer a statewide graduated response matrix to hold youths accountable to the term of their court ordered probation and the terms of their conditional release.

The graduated response matrix shall outline sanctions for youth based on their risk to reoffend and shall include, but not be limited to:

- Increased contacts.
- Increased drug tests.
- Curfew reductions.
- Increased community service.
- Additional evaluations.
- Addition of electronic monitoring.

The bill amends s. 985.439, F.S., to provide that upon receiving notice of a violation of probation from the DJJ, the state attorney must file the violation within 5 days or provide in writing to the DJJ and the court a reason as to why he or she is not filing.

Additionally, the DJJ may place a youth on electronic monitoring for a violation of probation if it determines doing so will preserve and protect public safety.

### **Conditional Release**

The bill amends s. 985.46, F.S., revising legislative intent concerning conditional release to require conditional release after commitment unless the youth is directly released, and include at a minimum the following conditions:

- Participation in the educational program by students of compulsory school attendance age pursuant to s. 1003.21(1), F.S.
- A curfew.
- A prohibition on contact with victims, co-defendants, or known gang members.
- A prohibition on use of controlled substances.
- A prohibition on possession of firearms.

The bill provides that a youth who violates the terms of his or her conditional release shall be assessed using the graduated response matrix as described in s. 985.438, F.S. A youth who fails to move into compliance shall be recommitted to a residential facility.

### **Contraband**

The bill amends s. 985.711, F.S., revising provisions concerning introduction of contraband into DJJ facilities providing that a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program any of the following articles which are declared to be contraband as follows:

- Food or clothing given or transmitted, or intended to be given or transmitted, to any youth in a juvenile detention facility or commitment program.
- Any currency or coin given or transmitted, to any youth of any juvenile detention facility or commitment program.
- Any cigarettes, or tobacco products, given or intended to be given, to any youth in a juvenile detention facility or commitment program.

The bill provides that introducing contraband into DJJ facilities is a second degree felony.

The bill is effective on July 1, 2024.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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:

This bill will have an indeterminate fiscal impact at this time. However, since the bill could result in additional youth in secure detention, operating costs for non-fiscally constrained counties could increase in relation to their portion of the annual Detention Cost Share billings. The impact on expenditures is indeterminate at this time. However, several provisions within the bill could result in increased operating costs for the department. While the full fiscal impact would be based on the increased number of youth served by department program areas due to the statutory changes within the bill, the current secure detention cost per day for the department is \$460.16/youth, and the

average per diem for contracted residential programs is \$276/youth for nonsecure programs and \$307/youth for secure programs.<sup>34</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends the following sections of the Florida Statutes: 790.115, 790.22, 985.101, 985.12, 985.125, 985.126, 985.245, 985.25, 985.255, 985.26, 985.433, 985.435, 985.438, 985.439, 985.455, 985.46, 985.48, 985.4815, 985.601, 985.711, 1002.221, 943.051, 985.11, and 1006.07.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on January 30, 2024:**

The committee substitute:

- Deletes unnecessary duplicate language.
- Makes technical nonsubstantive changes to maintain consistent terminology throughout the bill.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>34</sup> Department of Juvenile Justice, *2024 Agency Legislative Bill Analysis*, (January 12, 2024), at 9 (on file with the Senate Committee on Criminal Justice).