

1 A bill to be entitled
2 An act relating to prosecuting children as adults;
3 amending s. 985.265, F.S.; prohibiting a jail or other
4 facility intended or used for the detention of adults
5 from holding a child who has been transferred to adult
6 court for criminal prosecution before a specified
7 hearing is held to determine if the child should be
8 prosecuted as an adult, unless the child waives his or
9 her right to such hearing; amending s. 985.556, F.S.;
10 deleting provisions requiring a state attorney to
11 request a court to transfer and certify a child for
12 prosecution as an adult or to provide written reasons
13 to the court for not making such request, or to
14 proceed under a specified provision; amending s.
15 985.557, F.S.; deleting references to the state
16 attorney's discretion to direct file a juvenile;
17 revising discretionary direct file criteria; requiring
18 a court to advise a child and his or her parent or
19 legal guardian of the child's right to a due process
20 evidentiary hearing before a judge upon the filing by
21 a state attorney of an information transferring the
22 child to adult court; requiring that the child or the
23 child's parent or legal guardian be afforded such
24 hearing; requiring the judge to conduct the hearing
25 within a certain timeframe; requiring the judge to

consider specified information and factors during such hearing; authorizing the judge to consider, and certain parties to the action to examine, certain reports; providing for continued jurisdiction of the adult court with regard to the child unless the court makes a specified finding by a preponderance of the evidence; requiring the adult court to render an order that includes certain findings of fact; authorizing immediate review of the order; providing that the order is reviewable on appeal under specified rules; amending ss. 985.15 and 985.565, F.S.; conforming provisions to changes made by the act; amending s. 985.03, F.S.; conforming a cross-reference; providing an effective date.

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

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

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

(5) The court shall order the delivery of a child to a jail or other facility intended or used for the detention of adults:

(a) When the child has been transferred or indicted for

51 criminal prosecution as an adult under part X, except that:

52 1. The court may not order or allow a child alleged to
53 have committed a misdemeanor who is being transferred for
54 criminal prosecution pursuant to either s. 985.556 or s. 985.557
55 to be detained or held in a jail or other facility intended or
56 used for the detention of adults; however, such child may be
57 held temporarily in a detention facility; and

58 2. A child who has been transferred for criminal
59 prosecution as an adult pursuant to s. 985.557 may not be held
60 in a jail or other facility intended or used for the detention
61 of adults before a court finding, as a result of a hearing under
62 s. 985.557(3), that the child should be prosecuted as an adult,
63 unless the child waives his or her right to such hearing; or

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

66
67 The child shall be housed separately from adult inmates to
68 prohibit a child from having regular contact with incarcerated
69 adults, including trustees. "Regular contact" means sight and
70 sound contact. Separation of children from adults shall permit
71 no more than haphazard or accidental contact. The receiving jail
72 or other facility shall contain a separate section for children
73 and shall have an adequate staff to supervise and monitor the
74 child's activities at all times. Supervision and monitoring of
75 children includes physical observation and documented checks by

76 jail or receiving facility supervisory personnel at intervals
77 not to exceed 10 minutes. This subsection does not prohibit
78 placing two or more children in the same cell. Under no
79 circumstances shall a child be placed in the same cell with an
80 adult.

81 **Section 2. Subsections (4) and (5) of section 985.556,**
82 **Florida Statutes, are renumbered as subsections (3) and (4),**
83 **respectively, and subsection (2) and present subsection (3) of**
84 **that section are amended to read:**

85 985.556 Waiver of juvenile court jurisdiction; hearing.—

86 (2) INVOLUNTARY DISCRETIONARY WAIVER.—~~Except as provided~~
87 ~~in subsection (3),~~ The state attorney may file a motion
88 requesting the court to transfer the child for criminal
89 prosecution if the child was 14 years of age or older at the
90 time the alleged delinquent act or violation of law was
91 committed.

92 ~~(3) INVOLUNTARY MANDATORY WAIVER.—~~

93 ~~(a) If the child was 14 years of age or older, and if the~~
94 ~~child has been previously adjudicated delinquent for an act~~
95 ~~classified as a felony, which adjudication was for the~~
96 ~~commission of, attempt to commit, or conspiracy to commit~~
97 ~~murder, sexual battery, armed or strong-armed robbery,~~
98 ~~earjacking, home invasion robbery, aggravated battery,~~
99 ~~aggravated assault, or burglary with an assault or battery, and~~
100 ~~the child is currently charged with a second or subsequent~~

~~violent crime against a person; or~~

~~(b) If the child was 14 years of age or older at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for or was found to have committed, or to have attempted or conspired to commit, three offenses that are felony offenses if committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person;~~

~~the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request, or proceed under s. 985.557(1). Upon the state attorney's request, the court shall either enter an order transferring the case and certifying the case for trial as if the child were an adult or provide written reasons for not issuing such an order.~~

Section 3. Section 985.557, Florida Statutes, is amended to read:

985.557 Prosecuting children as adults ~~Direct filing of an information;~~ discretionary criteria.—

(1) DISCRETIONARY PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT FILE.~~—

~~(a) With respect to any child who was 14 or 15 years of age at the time the alleged 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 and when the offense charged is for the commission of, attempt to commit, or conspiracy to commit:

1. ~~Arson;~~
2. ~~Sexual battery;~~
3. ~~Robbery;~~
4. ~~Kidnapping;~~
5. ~~Aggravated child abuse;~~
6. ~~Aggravated assault;~~
7. ~~Aggravated stalking;~~
8. ~~Murder;~~
9. ~~Manslaughter;~~
10. ~~Unlawful throwing, placing, or discharging of a destructive device or bomb;~~
11. ~~Armed burglary in violation of s. 810.02(2)(b) or specified burglary of a dwelling or structure in violation of s. 810.02(2)(c), or burglary with an assault or battery in violation of s. 810.02(2)(a);~~
12. ~~Aggravated battery;~~
13. ~~Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age;~~
14. ~~Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a~~

felony;

~~15. Grand theft in violation of s. 812.014(2)(a);~~

~~16. Possessing or discharging any weapon or firearm on school property in violation of s. 790.115;~~

~~17. Home invasion robbery;~~

~~18. Carjacking; or~~

~~19. Grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or grand theft of a motor vehicle valued at \$20,000 or more in violation of s. 812.014(2)(b) if the child has a previous adjudication for grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).~~

~~(b)~~ With respect to any child who was 16 or 17 years of age 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 child has had at least two previous adjudications ~~or~~ ~~adjudications withheld~~ for delinquent acts, one of which involved an offense classified as a forcible felony as defined in s. 776.08 ~~under state law~~.

(2) NOTIFICATION TO PARENT OR GUARDIAN.—Upon the filing by the state attorney of an information transferring a child to adult court, the court must advise the child and his or her

parent or legal guardian that the child has the right to a due process evidentiary hearing before a judge.

(3) DUE PROCESS EVIDENTIARY HEARING.—Notwithstanding any other law, and in all cases, a child charged with a crime or his or her parent or legal guardian must be afforded a due process evidentiary hearing before a judge after the state attorney files an information in adult court under this section.

(a) The judge shall conduct the hearing within 30 days after the information is filed, excluding Saturdays, Sundays, and legal holidays, unless the child or the child's attorney shows good cause for a delay. The purpose of the hearing is for the court to determine whether it is necessary for the community's protection that the child be prosecuted in adult court. The judge shall consider all of the following:

1. Evaluations and assessments completed by the department.

2. The sophistication and maturity of the child, including:

a. The effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on the child's participation in the alleged offense.

b. The child's age, maturity, intellectual capacity, and mental and emotional health at the time of the alleged offense.

c. The effect, if any, of characteristics attributable to the child's youth on his or her judgment.

201 3. The record and previous history of the child,
202 including:

203 a. Previous contacts with the department, the Department
204 of Corrections, the Department of Children and Families, other
205 law enforcement agencies, and the courts.

206 b. Prior periods of probation.

207 c. Prior adjudications that the child committed a
208 delinquent act or violation of law, with greater weight being
209 given if a court previously found that the child committed a
210 delinquent act or violation of law involving violence to
211 persons.

212 d. Prior commitments to institutions of the department,
213 the Department of Corrections, or agencies under contract with
214 either department.

215 e. Any history of trauma, abuse or neglect, foster care
216 placements, failed adoption, fetal alcohol syndrome, exposure to
217 controlled substances at birth, or below-average intellectual
218 functioning.

219 f. Identification of the child as a student requiring
220 exceptional student education or having previously received
221 psychological services.

222 4. The nature of the alleged offense and the child's
223 participation in it, including:

224 a. Whether the alleged offense is punishable by death or
225 life imprisonment.

226 b. Whether the alleged offense was against persons or
227 property.

228 c. Whether the alleged offense is alleged to have been
229 committed in an aggressive, violent, or premeditated manner.

230 d. The extent of the child's participation in the alleged
231 offense.

232 e. The effect, if any, of familial pressure or peer
233 pressure on the child's actions.

234 5. The prospects for adequate protection of the public and
235 the likelihood of reasonable rehabilitation of the child, if the
236 child is found to have committed the alleged offense:

237 a. By the use of procedures, services, and facilities
238 currently available to the juvenile court.

239 b. By the use of procedures, services, and facilities
240 currently available to the adult court, including whether the
241 lowest permissible sentence under the Criminal Punishment Code
242 is a nonstate prison sanction.

243 6. Whether the child could obtain habilitative or
244 rehabilitative services available in the juvenile justice
245 system.

246 7. Whether the child could receive a sentence in juvenile
247 court which would provide adequate safety and protection for the
248 community.

249 8. Whether the child's best interests would be served by
250 prosecuting the child in juvenile court.

251 (b) The judge may consider any reports that may assist the
252 court, including prior predisposition reports, psychosocial
253 assessments, individual educational plans, developmental
254 assessments, school records, abuse or neglect reports, home
255 studies, protective investigations, and psychological and
256 psychiatric evaluations. The child, the child's parent or legal
257 guardian, the child's defense counsel, and the state attorney
258 may examine these reports and, at the hearing, question the
259 parties responsible for creating such reports.

260 (c) The adult court shall retain jurisdiction unless the
261 court finds by a preponderance of the evidence that the factors
262 listed in paragraph (a) support returning the child to juvenile
263 court.

264 (d) The adult court shall render an order that includes
265 specific findings of fact and the reasons for its decision. The
266 prosecution or defense may seek immediate review of the order
267 through interlocutory appeal. The order is reviewable on appeal
268 under the Florida Rules of Appellate Procedure.

269 (4) ~~(2)~~ EFFECT OF PROSECUTING CHILDREN AS ADULTS ~~DIRECT~~
270 FILE.—

271 (a) Once a child has been transferred for criminal
272 prosecution pursuant to an information and has been found to
273 have committed the presenting offense or a lesser included
274 offense, the child shall be handled thereafter in every respect
275 as if an adult for any subsequent violation of state law, unless

the court imposes juvenile sanctions under s. 985.565.

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

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

~~(5)-(3)~~ CHARGES THAT MAY BE INCLUDED IN INFORMATION.—An information filed pursuant to this section may include all charges that are based on the same act, criminal episode, or transaction as the primary offenses.

Section 4. Subsection (1) of section 985.15, Florida Statutes, is amended to read:

985.15 Filing decisions.—

(1) The state attorney may in all cases take action independent of the action or lack of action of the juvenile probation officer and shall determine the action that is in the best interest of the public and the child. ~~If the child meets the criteria requiring prosecution as an adult under s. 985.556, the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such a request. In all other cases,~~ The state attorney may:

- (a) File a petition for dependency;
- (b) File a petition under chapter 984;
- (c) File a petition for delinquency;
- (d) File a petition for delinquency with a motion to transfer and certify the child for prosecution as an adult;
- (e) File an information under s. 985.557;
- (f) Refer the case to a grand jury;
- (g) Refer the child to a diversionary, pretrial intervention, arbitration, or mediation program, or to some other treatment or care program if such program commitment is voluntarily accepted by the child or the child's parents or legal guardian; or
- (h) Decline to file.

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

985.565 Sentencing powers; procedures; alternatives for

juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(a) *Adult sanctions*.—

1. Cases prosecuted on indictment.—If the child is found to have committed the offense punishable by death or life imprisonment, the child shall be sentenced as an adult. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence as follows:

- a. As an adult;
- b. Under chapter 958; or
- c. As a juvenile under this section.

2. Other cases.—If a child who has been transferred for criminal prosecution pursuant to information or waiver of juvenile court jurisdiction is found to have committed a violation of state law or a lesser included offense for which he or she was charged as a part of the criminal episode, the court may sentence as follows:

- a. As an adult;
- b. Under chapter 958; or
- c. As a juvenile under this section.

~~3. Notwithstanding any other provision to the contrary, if the state attorney is required to file a motion to transfer and certify the juvenile for prosecution as an adult under s.~~

351 ~~985.556(3) and that motion is granted, the court must impose~~
352 ~~adult sanctions.~~

353 3.4. Any sentence imposing adult sanctions is presumed
354 appropriate, and the court is not required to set forth specific
355 findings or enumerate the criteria in this subsection as any
356 basis for its decision to impose adult sanctions.

357 4.5. When a child has been transferred for criminal
358 prosecution as an adult and has been found to have committed a
359 violation of state law, the disposition of the case may include
360 the enforcement of any restitution ordered in any juvenile
361 proceeding.

362 (b) *Juvenile sanctions.*—For juveniles transferred to adult
363 court ~~but who do not qualify for such transfer under s.~~
364 ~~985.556(3)~~, the court may impose juvenile sanctions under this
365 paragraph. If juvenile sentences are imposed, the court shall,
366 under this paragraph, adjudge the child to have committed a
367 delinquent act. Adjudication of delinquency may not be deemed a
368 conviction, nor shall it operate to impose any of the civil
369 disabilities ordinarily resulting from a conviction. The court
370 shall impose an adult sanction or a juvenile sanction and may
371 not sentence the child to a combination of adult and juvenile
372 punishments. An adult sanction or a juvenile sanction may
373 include enforcement of an order of restitution or probation
374 previously ordered in any juvenile proceeding. However, if the
375 court imposes a juvenile sanction and the department determines

that the sanction is unsuitable for the child, the department shall return custody of the child to the sentencing court for further proceedings, including the imposition of adult sanctions. Upon adjudicating a child delinquent under subsection (1), the court may:

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

2. Commit the child to the department for treatment in an appropriate program for children for an indeterminate period of time until the child is 21 or sooner if discharged by the department. The department shall notify the court of its intent to discharge no later than 14 days before discharge. Failure of the court to timely respond to the department's notice shall be considered approval for discharge.

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

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

401 **Section 6. Subsection (55) of section 985.03, Florida**
402 **Statutes, is amended to read:**

403 985.03 Definitions.—As used in this chapter, the term:

404 (55) "Waiver hearing" means a hearing provided for under
405 s. 985.556(3) ~~s. 985.556(4)~~.

406 **Section 7.** This act shall take effect July 1, 2026.