



Justice Appropriations Subcommittee

Meeting Packet

**March 19, 2014
9:00 a.m. – 11:00 a.m.
Morris Hall**



The Florida House of Representatives

APPROPRIATIONS COMMITTEE

Justice Appropriations Subcommittee

Will Weatherford
Speaker

Charles McBurney
Chair

MEETING AGENDA


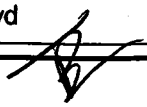
Morris Hall

March 19, 2014

- I. Meeting Called To Order**
- II. Opening Remarks by Chair**
- III. Chair's Budget Proposal for FY 2014-15**
- IV. Consideration of the following proposed committee bill(s):**
 - PCB JUAS 14-01 - Additional Judgeships
 - PCB JUAS 14-02 - Juvenile Detention Costs
 - PCB JUAS 14-03 - Counsel in Proceedings for Executive Clemency
- V. Consideration of the following bill(s):**
 - CS/HB 183 - Drivers Leaving the Scene of a Crash by Transportation & Highway Safety Subcommittee and Rep. Nelson
 - CS/HB 517 - Fraudulent Controlled Substances Prescriptions by Criminal Justice Subcommittee and Rep. Hooper
 - CS/HB 659 - Protective Orders by Criminal Justice Subcommittee and Rep. Mayfield
 - HB 841 - Crime Stoppers Fund by Rep. Broxson
 - CS/HB 989 - Human Trafficking by Criminal Justice Subcommittee and Rep. Trujillo
 - HB 7055 - Juvenile Justice by Criminal Justice Subcommittee and Rep. Pilon
- VI. Closing Remarks**
- VII. Meeting Adjourned**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB JUAS 14-01 Additional Judgeships
SPONSOR(S): Justice Appropriations Subcommittee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Justice Appropriations Subcommittee		deNagy 	Lloyd 

SUMMARY ANALYSIS

The Supreme Court Order No. SC13-2296, dated December 19, 2013, certified the need for a total of forty-nine additional judges, three in the appellate courts, seven in the circuit courts and thirty-nine in the county courts.

The proposed committee bill conforms to the House of Representatives proposed Fiscal Year 2014-15 General Appropriations Act by creating twenty-one new judgeships within the state. PCB JUAS 14-01 establishes three additional appellate judgeships, seven additional circuit court judgeships, and eleven additional county court judgeships.

The House of Representatives proposed FY 2014-15 GAA appropriates \$5 million in recurring general revenue and 50 FTE with associated salary rate. See fiscal impact section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Certification of Need for Additional Judges

Section 9, Article V of the State Constitution requires the Florida Supreme Court to recommend to the Legislature the need for additional judges.¹ Through proviso in the 1998 General Appropriations Act, the Legislature directed the Supreme Court to conduct a "Delphi-based caseload study weighting system to determine the optimum caseloads for circuit and county judges, and in conjunction with other factors, to determine the need for additional circuit and county court judges."² In 2005, the Office of the State Courts Administrator (OSCA) staffed a workgroup of judges, general magistrates, hearing officers, and trial court administrators to review and update the case weights. The resulting 2007 Judicial Resource Study final report outlined the methodology and results.³ This system was used to develop the Court's latest request for additional trial court judgeships.

For the district court of appeal judgeships, OSCA relies on an analysis of weighted caseload dispositions per judge. In 2005, the Commission on District Court of Appeal Performance and Accountability (Commission) developed two processes to examine the uniform criteria applied by the Supreme Court in determining whether to certify the need for increasing or decreasing the number of judges on a district court of appeal:

1. An annual review of the need for new judges by each district court; and
2. Every four years, a review of the workload trends of the district courts of appeal and consideration of adjustments to the relative case weights by the Commission.⁴

This system was used to develop the Court's latest request for new district court of appeal judgeships.

Supreme Court Order, No. SC13-2296; In Re: Certification of Need for Additional Judges, dated December 19, 2013, certifies the need for 49 additional judgeships throughout the state. Specifically, 3 additional District Courts of Appeals judgeships, 7 additional Circuit Court judgeships, and 39 additional County Court judgeships.

¹ Section 9, Article V, State Constitution, states:

Determination of number of judges.—The supreme court shall establish by rule uniform criteria for the determination of the need for additional judges except supreme court justices, the necessity for decreasing the number of judges and for increasing, decreasing or redefining appellate districts and judicial circuits. If the supreme court finds that a need exists for increasing or decreasing the number of judges or increasing, decreasing or redefining appellate districts and judicial circuits, it shall, prior to the next regular session of the legislature, certify to the legislature its findings and recommendations concerning such need. Upon receipt of such certificate, the legislature, at the next regular session, shall consider the findings and recommendations and may reject the recommendations or by law implement the recommendations in whole or in part; provided the legislature may create more judicial offices than are recommended by the supreme court or may decrease the number of judicial offices by a greater number than recommended by the court only upon a finding of two-thirds of the membership of both houses of the legislature, that such a need exists. A decrease in the number of judges shall be effective only after the expiration of a term. If the supreme court fails to make findings as provided above when need exists, the legislature may by concurrent resolution request the court to certify its findings and recommendations and upon the failure of the court to certify its findings for nine consecutive months, the legislature may, upon a finding of two-thirds of the membership of both houses of the legislature that a need exists, increase or decrease the number of judges or increase, decrease or redefine appellate districts and judicial circuits.

² Ch. 98-422, L.O.F.

³ "Delphi-based Weighted Caseload Study Summary" by OSCA (on file with the Justice Appropriations Subcommittee)

⁴ "District Courts of Appeal, History of Certification" by OSCA (on file with Justice Appropriations Subcommittee)

Effect of the Bill

The bill amends s. 35.06, F.S., to establish two additional judges in the Second District Court of Appeal and one additional judgeship in the Fifth District Court of Appeal.

The bill amends s. 26.031, F.S., to establish two additional judgeships in the First Circuit⁵, three additional judgeships in the Fifth Circuit⁶; and one additional judgeship each in the Seventh⁷ and Ninth⁸ Circuits.

The bill amends s. 34.022, F.S., to establish one additional judgeship each in Duval, Citrus, Lake, Osceola, Miami-Dade, Seminole, and Lee Counties; and two additional judgeships each in Hillsborough and Palm Beach Counties.

In total, the bill establishes 21 new judgeships.

B. SECTION DIRECTORY:

Section 1. Amends s. 35.06, F.S., relating to the organization of the district courts of appeal.

Section 2. Amends 26.031, F.S., relating to the number of circuit judges in each judicial circuit.

Section 3. Amends 34.022, F.S., relating to the number of county judges in each county.

Section 4. Provides and effective date of July 1, 2014

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state government revenues.

2. Expenditures:

The House of Representatives proposed FY 2014-15 GAA appropriates \$5 million in recurring general revenue and 50 FTE with associated salary rate for the addition of 21 new judgeships. Each year, the GAA sets the salaries for judges. As of October 1, 2013 the judicial salaries are:

- District Courts of Appeal Judges - \$154,140
- Circuit Court Judges - \$146,080
- County Court Judges - \$138,020

Additional FTE and recurring general revenue are provided for support staff for each additional judge. One appellate judicial assistant and two appellate court law clerks are provided for each additional judge in the appellate court for a total of 12 FTE including the judges. One judicial assistant is provided for each additional judge in the trial courts for a total of 36 FTE including the judges. Also, 2 additional law clerks are provided for the circuit courts. The \$5 million is appropriated to the salaries and benefits, expenses, and HR services categories to each county, circuit, and appellate court receiving additional judgeships.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

⁵ Counties in the First Circuit: Escambia, Okaloosa, Santa Rosa, and Walton

⁶ Counties in the Fifth Circuit: Citrus, Hernando, Lake, Marion, and Sumpter

⁷ Counties in the Seventh Circuit: Flagler, Putnam, St. Johns, and Volusia

⁸ Counties in the Ninth Circuit: Orange and Osceola

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill may create an increase in the workload of the clerk of the courts. In addition, additional trial court judges will require an increase in facilities, security and information technology to support new judges. Such costs for trial court judges are the responsibility of the counties.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in litigants' cases being resolved faster.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create an additional need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to additional judgeships; amending s.
 3 26.031, F.S.; adding judges to certain judicial
 4 circuits; amending s. 34.022, F.S.; adding judges to
 5 certain county courts; amending s. 35.06, F.S.; adding
 6 judges to certain district courts of appeal; providing
 7 an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Subsections (1), (5), (7), and (9) of section
 12 26.031, Florida Statutes, are amended to read:

13 26.031 Judicial circuits; number of judges.—The number of
 14 circuit judges in each circuit shall be as follows:

15 JUDICIAL CIRCUIT	TOTAL
16 (1) First	<u>26</u> 24
17 (5) Fifth	<u>34</u> 31
18 (7) Seventh	<u>28</u> 27
19 (9) Ninth	<u>44</u> 43

20 Section 2. Subsections (9), (15), (28), (34), (35), (43),
 21 (49), (50), and (59) of section 34.022, Florida Statutes, are
 22 amended to read:

23 34.022 Number of county court judges for each county.—The
 24 number of county court judges in each county shall be as
 25 follows:

26 COUNTY	TOTAL
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BILL PCB JUAS 14-01

ORIGINAL

2014

27 (9) Citrus 2 ~~1~~

28 (15) Duval 18 ~~17~~

29 (28) Hillsborough 19 ~~17~~

30 (34) Lake 4 ~~3~~

31 (35) Lee 9 ~~8~~

32 (43) Miami-Dade 44 ~~43~~

33 (49) Osceola 5 ~~4~~

34 (50) Palm Beach 21 ~~19~~

35 (59) Seminole 7 ~~6~~

36 Section 3. Subsections (2) and (5) of section 35.06,
 37 Florida Statutes, are amended to read:

38 35.06 Organization of district courts of appeal.—A
 39 district court of appeal shall be organized in each of the five
 40 appellate districts to be named District Court of Appeal,
 41 District. The number of judges of each district court of appeal
 42 shall be as follows:

43 (2) In the second district there shall be 16 ~~14~~ judges.

44 (5) In the fifth district there shall be 11 ~~10~~ judges.

45 Section 4. This act shall take effect July 1, 2014.

46

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB JUAS 14-02 Juvenile Detentions Costs
SPONSOR(S): Justice Appropriations Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Justice Appropriations Subcommittee		Lloyd	Lloyd

SUMMARY ANALYSIS

Since 2004, the Department of Juvenile Justice (DJJ) has shared the cost of detention of juveniles in detention centers with the counties. The proposed committee bill conforms to the House of Representatives proposed Fiscal Year 2014-15 General Appropriations Act by establishing a new cost sharing approach with the counties. PCB JUAS 14-02 establishes a methodology for determining both county and DJJ responsibilities based on a 50/50 percent sharing of total shared detention costs. The costs will be based on actual expenditures for providing this service during the prior calendar year. The proposed committee bill also addresses disputed billings from fiscal year 2008-09 through fiscal year 2012-13 by providing an annual payment to counties totaling \$6,055,300.

The House of Representatives proposed fiscal year 2014-15 GAA appropriates an additional \$29,500,000 in general revenue for funding the DJJ portion of detention center costs and caps county fiscal responsibility at \$42,500,000. See fiscal impact section.

The bill may be a county mandate requiring a two-thirds vote of the membership of each chamber. The bill contains a statement that the act fulfills an important state interest.

The Bill is effective July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present situation

Under certain circumstances, juveniles who are arrested can be held within a secured detention facility where they await a court hearing. Within 24 hours, a judge decides whether on-going detention is necessary. If ongoing detention is ordered, a juvenile may be held in a secure detention facility awaiting disposition of their case. Secure detention facilities are operated by the Department of Juvenile Justice (department). In 2004, section 985.686, F.S. was created¹ which established a method of cost sharing of juvenile detention between the state and counties. The statute requires non-fiscally restrained counties to pay for the cost of detention care for juveniles who reside in that county for the period of time prior to "final court disposition". The State is responsible for all costs of detention incurred in fiscally constrained counties.²

In June 2013, the First District Court of Appeal affirmed an administrative law judge's order invalidating rules that the department had promulgated in 2010 relating to costs of detention.³ According to the ALJ order,⁴ the rules at issue shifted a greater responsibility for costs to the counties than was required by the relevant statute and this constituted an invalid exercise of delegated legislative authority. In July 2013, the Department of Juvenile Justice changed their method of billing counties to reflect their analysis of the ruling of the court.

Effect of the bill

The bill amends s. 985.686, F.S. relating to shared county and state responsibility for juvenile detention. The bill provides that for fiscal year 2014-15, the non-fiscally restrained counties' annual contribution for the costs of providing detention care will be \$42,500,000. This figure is based on a calculation of actual shared detention expenditures during calendar year 2013. The state will be responsible for paying the remaining actual costs of detention care.

The bill defines the term "total shared detention costs" as "the funds the department expends for providing detention care for a calendar year, less any funds it expends on fiscally constrained counties and the cost of housing out of state detainees." The bill provides that for the 2015-2016 state fiscal year and each year thereafter, non-fiscally constrained counties will be responsible for paying a set amount based on 50 percent of the total shared detention costs of providing detention care for the prior calendar year. The state will be responsible for paying the remaining actual costs of detention care.

The bill requires that by February 1 of each year, the department will calculate and provide to each county that county's annual percentage of total shared detention costs for the prior calendar year. The department will calculate a county's percentage share by taking the total number of detention days for juveniles residing in that county for the prior calendar year and dividing by the total number of detention days for all juveniles statewide for the prior calendar year.

Beginning July 1 of the following year, each county will provide to the department its portion of total shared detention costs based on the prior calendar year by the first day of each month in 12 equal payments. For the 2014-15 state fiscal year, each county's percentage will be multiplied by

¹ Originally created as s. 985.2155, F.S. in chapter 2004-263, Laws of Florida. Subsequently transferred to s. 985.686, F.S. by chapter 2006-120, s. 95, Laws of Florida.

² The term "fiscally constrained county" is defined to mean "a county within a rural area of critical economic concern as designated by the Governor pursuant to s. 288.0656 or each county for which the value of a mill will raise no more than \$5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., from the previous July 1. Currently, 29 counties are considered fiscally constrained.

³ *Department of Juvenile Justice, v. Okaloosa County*, 113 So.3d 1074 (Fla. 1st DCA 2013).

⁴ *Okaloosa County v. Department of Juvenile Justice*, Case No. 12-0891RX

\$42,500,000 to determine each county's detention costs. For the 2015-2016 state fiscal year and thereafter, each county's percentage will be multiplied by 50 percent of the total shared detention cost to determine that county's detention costs.

The bill addresses the disputed billings from FY 2008-09 to FY 2012-13 by establishing an annual payment for each non-fiscally restrained county to be paid on July 1 each year from July 1, 2014 through July 1, 2036. The total amount appropriated annually for this purpose will be \$6,055,300.

B. SECTION DIRECTORY:

Section 1 Amends s. 985.686, F.S. relating to juvenile detention costs.

Section 2 Establishes that this act fulfills an important state interest.

Section 3 Provides effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The House of Representatives proposed 2014-15 GAA appropriates \$29.5 million in recurring funds from the General Revenue Fund for the anticipated increase in the state share of juvenile detention costs. During FY 2013-14, DJJ amended its budget to cover the increased state share of juvenile detention following the court's decision in Department of Juvenile Justice v Okaloosa County.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill will increase the cost of juvenile detention for local government from FY 2013-14 levels. DJJ changed its billing for detention services following the Department of Juvenile Justice v. Okaloosa County decision in June 2013.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any impact on the private sector.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

If the bill results in the counties paying more for juvenile detention costs than what was previously required, the mandates provision of Article VII, section 18 of the constitution may apply. An exemption could apply if the impact on the counties is insignificant. The bill contains a finding that the act fulfills an important state interest. If the bill does qualify as a mandate, final passage must be approved by a two-thirds vote of the membership of each house of the Legislature.

2. Other:

none

B. RULE-MAKING AUTHORITY:

none

C. DRAFTING ISSUES OR OTHER COMMENTS:

none

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to juvenile detention costs; amending
 3 s. 985.686, F.S.; providing a definition; providing
 4 for the total amount of the nonfiscally constrained
 5 counties' annual contribution for the costs of
 6 detention care; revising provisions relating to state
 7 payments for the costs of juveniles residing in
 8 fiscally constrained counties and out of state;
 9 deleting provisions relating to development and use of
 10 a methodology for determining the amount of each
 11 fiscally constrained county's costs of detention care;
 12 requiring each nonfiscally constrained county to
 13 budget a certain amount for costs of juvenile
 14 detention care; specifying duties of the Department of
 15 Juvenile Justice in providing such counties with
 16 certain information; providing for calculation of such
 17 an amount; deleting provisions relating to technical
 18 assistance to counties by specified state departments;
 19 providing for specified payments to certain counties
 20 over a specified period to address disputed billing
 21 methodologies during certain prior fiscal years;
 22 providing an effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:
 25

26 Section 1. Section 985.686, Florida Statutes, is amended

27 to read:

28 985.686 Shared county and state responsibility for
 29 juvenile detention.—

30 (1) It is the policy of this state that the state and the
 31 counties have a joint obligation, as provided in this section,
 32 to contribute to the financial support of the detention care
 33 provided for juveniles.

34 (2) As used in this section, the term:

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

37 (b) "Fiscally constrained county" means a county within a
 38 rural area of critical economic concern as designated by the
 39 Governor pursuant to s. 288.0656 or each county for which the
 40 value of a mill will raise no more than \$5 million in revenue,
 41 based on the certified school taxable value certified pursuant
 42 to s. 1011.62(4)(a)1.a., from the previous July 1.

43 (c) "Total shared detention costs" means the funds that
 44 the department expends for providing detention care for a
 45 calendar year, less any funds it expends on fiscally constrained
 46 counties and the cost of housing out-of-state detainees.

47 (3) (a) For the 2014-2015 state fiscal year, the total
 48 amount of the nonfiscally constrained counties' annual
 49 contribution for the costs of providing detention care is \$42.5
 50 million. The state is responsible for paying the remaining
 51 actual costs of detention care. This paragraph expires June 30,
 52 2015 ~~Each county shall pay the costs of providing detention~~

BILL PCB JUAS 14-02

ORIGINAL

2014

53 ~~care, exclusive of the costs of any preadjudicatory nonmedical~~
 54 ~~educational or therapeutic services and \$2.5 million provided~~
 55 ~~for additional medical and mental health care at the detention~~
 56 ~~centers, for juveniles for the period of time prior to final~~
 57 ~~court disposition. The department shall develop an accounts~~
 58 ~~payable system to allocate costs that are payable by the~~
 59 ~~counties.~~

60 (b) For the 2015-2016 state fiscal year, and each state
 61 fiscal year thereafter, each nonfiscally constrained county is
 62 responsible for paying a set amount based on 50 percent of the
 63 total shared detention costs of providing detention care for the
 64 prior calendar year. The state is responsible for paying the
 65 remaining actual costs of detention care.

66 ~~(4) Notwithstanding subsection (3),~~ The state shall pay
 67 all actual costs of detention care for juveniles residing in a
 68 ~~for which a fiscally constrained county and for juveniles~~
 69 residing out of state would otherwise be billed.

70 ~~(a) By October 1, 2004, the department shall develop a~~
 71 ~~methodology for determining the amount of each fiscally~~
 72 ~~constrained county's costs of detention care for juveniles, for~~
 73 ~~the period of time prior to final court disposition, which must~~
 74 ~~be paid by the state. At a minimum, this methodology must~~
 75 ~~consider the difference between the amount appropriated to the~~
 76 ~~department for offsetting the costs associated with the~~
 77 ~~assignment of juvenile pretrial detention expenses to the~~
 78 ~~fiscally constrained county and the total estimated costs to the~~

BILL PCB JUAS 14-02

ORIGINAL

2014

79 ~~fiscally constrained county, for the fiscal year, of detention~~
80 ~~care for juveniles for the period of time prior to final court~~
81 ~~disposition.~~

82 ~~(b) Subject to legislative appropriation and based on the~~
83 ~~methodology developed under paragraph (a), the department shall~~
84 ~~provide funding to offset the costs to fiscally constrained~~
85 ~~counties of detention care for juveniles for the period of time~~
86 ~~prior to final court disposition. If county matching funds are~~
87 ~~required by the department to eliminate the difference~~
88 ~~calculated under paragraph (a) or the difference between the~~
89 ~~actual costs of the fiscally constrained counties and the amount~~
90 ~~appropriated in small county grants for use in mitigating such~~
91 ~~costs, that match amount must be allocated proportionately among~~
92 ~~all fiscally constrained counties.~~

93 (5) Each nonfiscally constrained county shall incorporate
94 into its annual county budget sufficient funds to pay its costs
95 of detention care for juveniles who reside in that county for
96 the prior fiscal year ~~period of time prior to final court~~
97 ~~disposition. This amount shall be based upon the prior use of~~
98 ~~secure detention for juveniles who are residents of that county,~~
99 ~~as calculated by the department. Each county shall pay the~~
100 ~~estimated costs at the beginning of each month. Any difference~~
101 ~~between the estimated costs and actual costs shall be reconciled~~
102 ~~at the end of the state fiscal year.~~

103 (a) By February 1 of each year, the department shall
104 calculate and provide to each county that county's annual

BILL PCB JUAS 14-02

ORIGINAL

2014

105 percentage of total shared detention costs for the prior
 106 calendar year. Beginning July 1 of the following year, each
 107 county shall pay to the department its portion of total shared
 108 detention costs based on the prior calendar year by the first
 109 day of each month in 12 equal payments.

110 (b) The department shall calculate a county's percentage
 111 share by taking the total number of detention days for juveniles
 112 residing in that county for the prior calendar year and dividing
 113 by the total number of detention days for all juveniles
 114 statewide for the prior calendar year.

115 (c)1. For the 2014-2015 state fiscal year, each county's
 116 percentage shall be multiplied by the total contribution amount
 117 in subsection (3). This subparagraph expires June 30, 2015.

118 2. For the 2015-2016 state fiscal year, and each state
 119 fiscal year thereafter, each county's percentage shall be
 120 multiplied by 50 percent of the total shared detention cost for
 121 the prior calendar year.

122 (6) Funds paid by the counties to the department pursuant
 123 to this section shall be deposited into ~~Each county shall pay to~~
 124 ~~the department for deposit into~~ the Shared County/State Juvenile
 125 Detention Trust Fund ~~its share of the county's total costs for~~
 126 ~~juvenile detention, based upon calculations published by the~~
 127 ~~department with input from the counties.~~

128 (7) The department of Juvenile Justice shall determine
 129 each quarter whether the counties of this state are remitting to
 130 ~~the department~~ their share of the costs of detention as required

131 by this section.

132 ~~(8) The Department of Revenue and the counties shall~~
 133 ~~provide technical assistance as necessary to the Department of~~
 134 ~~Juvenile Justice in order to develop the most cost-effective~~
 135 ~~means of collection.~~

136 (8)~~(9)~~ Funds received from counties pursuant to this
 137 section are not subject to the service charges provided in s.
 138 215.20.

139 (9)~~(10)~~ This section does not apply to any county that
 140 provides detention care for preadjudicated juveniles or that
 141 contracts with another county to provide detention care for
 142 preadjudicated juveniles.

143 (10) In order to address disputed billing methodologies
 144 used between fiscal year 2008-2009 and fiscal year 2012-2013,
 145 the state shall distribute to the listed counties the following
 146 annual payments on July 1 each fiscal year beginning on July 1,
 147 2014 through July 1, 2036. This subsection expires June 30,
 148 2037.

149	<u>(a) Alachua</u>	<u>\$102,601</u>
150	<u>(b) Bay</u>	<u>\$84,781</u>
151	<u>(c) Brevard</u>	<u>\$196,242</u>
152	<u>(d) Broward</u>	<u>\$406,357</u>
153	<u>(e) Charlotte</u>	<u>\$47,309</u>
154	<u>(f) Citrus</u>	<u>\$14,575</u>
155	<u>(g) Clay</u>	<u>\$93,145</u>
156	<u>(h) Collier</u>	<u>\$250,336</u>

BILL PCB JUAS 14-02

ORIGINAL

2014

157	<u>(i) Duval</u>	\$223,900
158	<u>(j) Escambia</u>	\$236,079
159	<u>(k) Flagler</u>	\$32,844
160	<u>(l) Hernando</u>	\$45,452
161	<u>(m) Hillsborough</u>	\$488,022
162	<u>(n) Indian River</u>	\$37,216
163	<u>(o) Lake</u>	\$54,753
164	<u>(p) Lee</u>	\$307,633
165	<u>(q) Leon</u>	\$84,446
166	<u>(r) Manatee</u>	\$171,928
167	<u>(s) Marion</u>	\$23,633
168	<u>(t) Martin</u>	\$31,170
169	<u>(u) Miami-Dade</u>	\$507,285
170	<u>(v) Monroe</u>	\$16,415
171	<u>(w) Nassau</u>	\$8,120
172	<u>(x) Okaloosa</u>	\$109,792
173	<u>(y) Orange</u>	\$559,962
174	<u>(z) Osceola</u>	\$77,419
175	<u>(aa) Palm Beach</u>	\$329,318
176	<u>(bb) Pasco</u>	\$159,911
177	<u>(cc) Pinellas</u>	\$351,783
178	<u>(dd) Polk</u>	\$169,487
179	<u>(ee) St. Johns</u>	\$32,038
180	<u>(ff) St. Lucie</u>	\$138,821
181	<u>(gg) Santa Rosa</u>	\$34,130
182	<u>(hh) Sarasota</u>	\$80,682

BILL PCB JUAS 14-02

ORIGINAL

2014

183 (ii) Seminole \$144,200

184 (jj) Sumter \$7,928

185 (kk) Volusia \$375,990

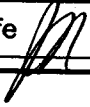

186 (ll) Walton \$19,597

187 (11) The department may adopt rules to administer this
188 section.

189 Section 2. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB JUAS 14-03 Counsel in Proceedings for Executive Clemency
SPONSOR(S): Justice Appropriations Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Justice Appropriations Subcommittee		McAuliffe 	Lloyd 

SUMMARY ANALYSIS

Currently, ss. 27.40, 27.51, 27.511, 27.5303, and 27.5304, F.S., authorize the trial court to appoint a public defender, private attorney, or a registry attorney to represent a person who has been convicted and sentenced to death in clemency proceedings.

PCB JUAS 14-03 conforms to the House of Representatives proposed Fiscal Year 2014-15 General Appropriations Act by removing the authority of the trial courts to appoint a public defender, criminal conflict and civil regional counsel or other attorneys to represent an indigent defendant in death penalty executive clemency proceedings and giving the Board of Executive Clemency the authority to appoint private counsel in such cases.

The Board of Executive Clemency may appoint private counsel to represent a person sentenced to death for relief by executive clemency at such time as the Board deems appropriate for clemency consideration. The bill requires the Board to maintain a list of private counsel available for appointment and provides that attorney compensation may not exceed \$10,000.

The bill specifies that the provision of counsel for executive clemency does not create a statutory right to counsel in such proceedings.

The Board of Executive Clemency projects that approximately 12 people will be provided counsel for executive clemency in Fiscal Year 2014-15. At \$10,000 per case, this would have a fiscal impact of \$120,000 on the Board of Executive Clemency's agent, the Parole Commission. The House of Representatives proposed FY 2014-15 GAA appropriates \$125,000 to the Parole Commission to compensate attorneys representing persons seeking executive clemency, and makes an equal reduction to the public defenders budget as the public defenders will no longer be performing this function.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Death Row Statistics

Florida is currently one of 33 states that impose the death penalty.¹ As of March 3, 2013, there were 404 people on death row in Florida – more than any other state aside from California.² On average, Florida death row inmates spend 13.22 years on death row prior to execution.³ Of the 404 inmates on death row, 155 have been in custody for more than 20 years, and ten have been on death row for more than 35 years.⁴ Between 1976-2012, Florida executed 74 inmates.⁵ During the same period, Texas executed 492 inmates, Virginia executed 109 inmates, and Oklahoma executed 102 inmates.⁶ Florida executed 2 death row inmates in 2011, and 3 in 2012.⁷

Capital Cases – Direct Appeal

A defendant who is convicted of a crime and sentenced to death automatically receives a direct appeal of his or her conviction and sentence to the Florida Supreme Court.⁸ During the direct appeal, the defendant is represented by the public defender's office, if the defendant is indigent, or by a private attorney. Matters which are raised on direct appeal include evidentiary rulings made by the trial court during the course of the defendant's trial, and other matters objected to during the course of the trial such as the jury instructions, prosecutorial misconduct, and procedural rulings made by the trial court.

The Florida Supreme Court must render a judgment within two years of the filing of the notice of appeal.⁹ If the Florida Supreme Court affirms the appellant's conviction and sentence, the appellant has 90 days after the decision is entered to file a petition for a writ of certiorari with the United States Supreme Court seeking discretionary review of the Florida Supreme Court's decision.¹⁰ If the United States Supreme Court denies the case, the direct appeal has concluded, and the defendant may begin state postconviction proceedings.

State Postconviction Proceedings

Rules 3.811, 3.812, 3.850, 3.851, and 3.852 of the Florida Rules of Criminal Procedure, and Rule 9.142 of the Florida Rules of Appellate Procedure govern all state postconviction proceedings initiated by death row inmates challenging a conviction and/or death sentence. Unlike a direct appeal, which challenges the legal errors apparent from the trial transcripts or record on appeal, state postconviction proceedings are designed to address claims which are "collateral" to what transpired in the trial court

¹ The other states are California, Texas, Pennsylvania, Alabama, North Carolina, Ohio, Arizona, Georgia, Louisiana, Tennessee, Nevada, Oklahoma, South Carolina, Mississippi, Missouri, Arkansas, Oregon, Kentucky, Delaware, Idaho, Indiana, Virginia, Nebraska, Kansas, Utah, Washington, Maryland, South Dakota, Colorado, Montana, New Hampshire, and Wyoming. *Facts About the Death Penalty* (updated December 28, 2012), Death Penalty Information Center, www.deathpenaltyinfo.org/FactSheet.pdf (last visited on March 3, 2013).

² California has 724 inmates on death row. *Facts About the Death Penalty* (updated December 28, 2012), Death Penalty Information Center, www.deathpenaltyinfo.org/FactSheet.pdf (last visited on March 3, 2013). *Also see*, <http://www.dc.state.fl.us/activeinmates/deathrowroster.asp> (last visited on March 3, 2013).

³ <http://www.dc.state.fl.us/oth/deathrow/index.html#Statistics> (last visited on March 3, 2013).

⁴ <http://www.dc.state.fl.us/activeinmates/deathrowroster.asp> (last visited on March 3, 2013).

⁵ <http://www.dc.state.fl.us/oth/deathrow/index.html#Statistics> (last visited on March 3, 2013).

⁶ *Facts About the Death Penalty* (updated December 28, 2012), Death Penalty Information Center, www.deathpenaltyinfo.org/FactSheet.pdf (last visited on March 3, 2013).

⁷ *Id.*

⁸ Section 921.141(4), F.S.; Art. 5, Sec. 3, FLA. CONST.; Fla. R. App. Proc. 9.030(a)(1)(A)(i).

⁹ Section 921.141(4), F.S.

¹⁰ 28 U.S.C. s. 1257; Sup. Ct. R. 13.

(e.g., claims that the defendant's trial counsel was ineffective, claims of newly discovered evidence, or claims that the prosecution failed to disclose exculpatory evidence). Since the consideration of these claims often require new fact finding, postconviction motions are filed in the trial court which sentenced the defendant to death. Appeals from the grant or denial of postconviction relief are to the Florida Supreme Court.

Appointment of Counsel, Judge, and other Preliminary Matters

When the Florida Supreme Court affirms a judgment and sentence of death on direct appeal, the court must simultaneously appoint the appropriate office of the Capital Collateral Regional Counsel (CCRC)¹¹ to represent the inmate during postconviction proceedings.¹² If the regional counsel has a conflict of interest and the postconviction judge accepts their motion to withdraw the chief judge of the circuit court must appoint an attorney from the statewide registry¹³ to represent the inmate in postconviction proceedings.¹⁴

Within 45 days of appointment of postconviction counsel, the inmate's trial counsel must provide postconviction counsel with all information pertaining to the inmate's capital case and postconviction counsel must maintain the confidentiality of all confidential information received.¹⁵

Within 30 days of the judgment of conviction and sentence of death being affirmed on direct appeal, the chief judge must assign the case to a judge qualified to conduct capital proceedings.¹⁶ Within 90 days of the assignment, the judge must hold a status hearing and thereafter hold status conferences at least every 90 days until:

- An evidentiary hearing, if ordered, has been completed; or
- The motion has been ruled on without a hearing.¹⁷

At the status hearing and conferences, the judge will entertain pending motions, disputes involving public records, or any other matters ordered by the court.¹⁸

Clemency

Clemency is an act of mercy that absolves the individual upon whom it is bestowed from all or any part of the punishment that the law imposed.¹⁹ Types of clemency include pardons, commutation of sentence, remission of fines or forfeitures, restoration of the authority to possess a firearm, and restoration of civil rights.²⁰

The Governor and members of the Cabinet collectively are the Board of Executive Clemency. Pursuant to the Florida Constitution, the Governor has the power to grant clemency with the consent of at least two Cabinet members.²¹ The Florida Parole Commission acts as the agent of the Board of

¹¹ The CCRC represents persons convicted and sentenced to death for the sole purpose of instituting and prosecuting collateral actions challenging the legality of the judgment and sentence imposed against such person in the state courts, federal courts in this state, the United States Court of Appeals for the Eleventh Circuit, and the United States Supreme Court. Each regional office is administered by a regional counsel. Section 27.701(1), F.S.

¹² Fla. R. Crim. Proc. 3.851(b)(1).

¹³ Section 27.701(2), F.S., requires the responsibilities of the northern region CCRC office to be met through a pilot program using only attorneys from the registry of attorneys maintained pursuant to s. 27.710, F.S.

¹⁴ Fla. R. Crim. Proc. 3.851(b)(1); sections. 27.701(2), 27.703(1), and 27.710(5), F.S.

¹⁵ Fla. R. Crim. Proc. 3.851(c)(4).

¹⁶ Fla. R. Crim. Proc. 3.851(c)(1).

¹⁷ Fla. R. Crim. Proc. 3.851(c)(2).

¹⁸ *Id.*

¹⁹ Rule 1, Rules of Executive Clemency. March 9, 2011.

²⁰ Section 940.01, F.S. Also see Rule 4 I., Rules of Executive Clemency. March 9, 2011.

²¹ Article IV, Section 8(a), FLA. CONST.

Executive Clemency in determining whether offenders are eligible for clemency, investigating clemency applications, conducting hearings when required, and making recommendations to the Board.²²

Currently, ss. 27.40, 27.51, 27.511, 27.5303, and 27.5304, F.S., authorize the trial court to appoint a public defender, private attorney, or a registry attorney to represent a person who has been convicted and sentenced to death in clemency proceedings.

Effect of the Bill

The bill removes the authority of the trial courts to appoint a public defender, criminal conflict and civil regional counsel or other attorneys to represent an indigent defendant in death penalty executive clemency proceedings.

The bill authorizes the Board of Executive Clemency to appoint private counsel to represent a person sentenced to death for relief by executive clemency at such time as the Board deems appropriate for clemency consideration. The bill requires the Board to maintain a list of private counsel available for appointment and provides that attorney compensation may not exceed \$10,000.

The bill specifies that the provision of counsel for executive clemency does not create a statutory right to counsel in such proceedings.

B. SECTION DIRECTORY:

Section 1. Amends s. 27.51, F.S., to remove the authority of the trial courts to appoint a public defender other attorneys to represent an indigent defendant in death penalty executive clemency proceedings.

Section 2. Amends s. 27.511, F.S., to remove the authority of the trial courts to appoint a criminal conflict and civil regional counsel to represent an indigent defendant in death penalty executive clemency proceedings.

Section 3. Amends s. 27.5303, F.S., to conform to the bill.

Section 4. Amends s. 27.5304, F.S., to conform to the bill.

Section 5. Creates s. 940.031, F.S., authorizing the Board of Executive Clemency to appoint private counsel to represent an indigent defendant in death penalty executive clemency proceedings.

Section 6. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Board of Executive Clemency projects that approximately 12 people will be provided counsel for executive clemency in Fiscal Year 2014-2015. At \$10,000 per case, this would have a fiscal impact of \$120,000 on the Board of Executive Clemency's agent, the Parole Commission. The sum of \$125,000 for executive clemency counsel for the public defenders and criminal conflict and civil regional counsel would be transferred to the Parole Commission.

²² Annual Report 2009-2010. Florida Parole Commission, p. 23.

The House of Representatives proposed Fiscal Year 2014-15 GAA transfers \$125,000 of executive clemency counsel funding from the public defenders and appropriates those funds to the Parole Commission to compensate attorneys representing persons seeking executive clemency.

The exact number of persons that will be appointed council and total payment to counsel is unknown therefore \$5,000 above the projected amount is appropriated.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to counsel in proceedings for
3 executive clemency; amending ss. 27.51 and 27.511,
4 F.S.; deleting provisions concerning the power of a
5 trial court to appoint the public defender, office of
6 criminal conflict and civil regional counsel, or other
7 attorney in proceedings for relief by executive
8 clemency; amending s. 27.5303, F.S.; deleting
9 provisions concerning the appointment of a public
10 defender or attorney by the court to represent an
11 indigent defendant in death penalty executive clemency
12 proceedings; amending s. 27.5304, F.S.; deleting
13 provisions concerning compensation of an appointed
14 attorney representing a defendant in executive
15 clemency proceedings; creating s. 940.031, F.S.;
16 providing for clemency counsel representation of
17 defendants in executive clemency proceedings;
18 providing for compensation; amending s. 27.40, F.S.;
19 conforming a cross-reference; providing an effective
20 date.

21
22 Be It Enacted by the Legislature of the State of Florida:
23

24 Section 1. Paragraph (a) of subsection (5) of section
25 27.51, Florida Statutes, is amended to read:

26 27.51 Duties of public defender.—

27 (5) (a) When direct appellate proceedings prosecuted by a
 28 public defender on behalf of an accused and challenging a
 29 judgment of conviction and sentence of death terminate in an
 30 affirmance of such conviction and sentence, whether by the
 31 Florida Supreme Court or by the United States Supreme Court or
 32 by expiration of any deadline for filing such appeal in a state
 33 or federal court, the public defender shall notify the accused
 34 of his or her rights pursuant to Rule 3.850, Florida Rules of
 35 Criminal Procedure, including any time limits pertinent thereto,
 36 and shall advise such person that representation in any
 37 collateral proceedings is the responsibility of the capital
 38 collateral regional counsel. The public defender shall then
 39 forward all original files on the matter to the capital
 40 collateral regional counsel, retaining such copies for his or
 41 her files as may be desired. ~~However, the trial court shall~~
 42 ~~retain the power to appoint the public defender or other~~
 43 ~~attorney not employed by the capital collateral regional counsel~~
 44 ~~to represent such person in proceedings for relief by executive~~
 45 ~~clemency pursuant to ss. 27.40 and 27.5303.~~

46 Section 2. Subsection (9) of section 27.511, Florida
 47 Statutes, is amended to read:

48 27.511 Offices of criminal conflict and civil regional
 49 counsel; legislative intent; qualifications; appointment;
 50 duties.—

51 (9) When direct appellate proceedings prosecuted by the
 52 office of criminal conflict and civil regional counsel on behalf

53 of an accused and challenging a judgment of conviction and
 54 sentence of death terminate in an affirmance of such conviction
 55 and sentence, whether by the Supreme Court or by the United
 56 States Supreme Court or by expiration of any deadline for filing
 57 such appeal in a state or federal court, the office of criminal
 58 conflict and civil regional counsel shall notify the accused of
 59 his or her rights pursuant to Rule 3.850, Florida Rules of
 60 Criminal Procedure, including any time limits pertinent thereto,
 61 and shall advise such person that representation in any
 62 collateral proceedings is the responsibility of the capital
 63 collateral regional counsel. The office of criminal conflict and
 64 civil regional counsel shall forward all original files on the
 65 matter to the capital collateral regional counsel, retaining
 66 such copies for his or her files as may be desired or required
 67 by law. ~~However, the trial court shall retain the power to~~
 68 ~~appoint the office of criminal conflict and civil regional~~
 69 ~~counsel or other attorney not employed by the capital collateral~~
 70 ~~regional counsel to represent such person in proceedings for~~
 71 ~~relief by executive clemency pursuant to ss. 27.40 and 27.5303.~~

72 Section 3. Subsection (4) of section 27.5303, Florida
 73 Statutes, is amended to read:

74 27.5303 Public defenders; criminal conflict and civil
 75 regional counsel; conflict of interest.—

76 (4) (a) If a defendant is convicted and the death sentence
 77 is imposed, the appointed attorney shall continue representation
 78 through appeal to the Supreme Court. The attorney shall be

79 compensated as provided in s. 27.5304. If the attorney first
 80 appointed is unable to handle the appeal, the court shall
 81 appoint another attorney and that attorney shall be compensated
 82 as provided in s. 27.5304.

83 ~~(b) The public defender or an attorney appointed pursuant~~
 84 ~~to this section may be appointed by the court rendering the~~
 85 ~~judgment imposing the death penalty to represent an indigent~~
 86 ~~defendant who has applied for executive clemency as relief from~~
 87 ~~the execution of the judgment imposing the death penalty.~~

88 (b) ~~(e)~~ When the appointed attorney in a capital case has
 89 completed the duties imposed by this section, the attorney shall
 90 file a written report in the trial court stating the duties
 91 performed by the attorney and apply for discharge.

92 Section 4. Subsection (5) of section 27.5304, Florida
 93 Statutes, is amended to read:

94 27.5304 Private court-appointed counsel; compensation;
 95 notice.—

96 (5) The compensation for representation in a criminal
 97 proceeding shall not exceed the following:

98 ~~(a)1-~~ For misdemeanors and juveniles represented at the
 99 trial level: \$1,000.

100 (b)2- For noncapital, nonlife felonies represented at the
 101 trial level: \$2,500.

102 (c)3- For life felonies represented at the trial level:
 103 \$3,000.

104 (d)4- For capital cases represented at the trial level:

105 \$15,000. For purposes of this subparagraph, a "capital case" is
 106 any offense for which the potential sentence is death and the
 107 state has not waived seeking the death penalty.

108 (e)5- For representation on appeal: \$2,000.

109 ~~(b) If a death sentence is imposed and affirmed on appeal~~
 110 ~~to the Supreme Court, the appointed attorney shall be allowed~~
 111 ~~compensation, not to exceed \$1,000, for attorney fees and costs~~
 112 ~~incurred in representing the defendant as to an application for~~
 113 ~~executive clemency, with compensation to be paid out of general~~
 114 ~~revenue from funds budgeted to the Justice Administrative~~
 115 ~~Commission.~~

116 Section 5. Section 940.031, Florida Statutes, is created
 117 to read:

118 940.031 Clemency counsel when sentence of death imposed.-

119 (1) The Board of Executive Clemency may appoint private
 120 counsel to represent a person sentenced to death for relief by
 121 executive clemency at such time as the board deems appropriate
 122 for clemency consideration. The board shall maintain a list of
 123 private counsel available for appointment under this section.

124 (2) The appointed attorney shall be compensated by the
 125 board, not to exceed \$10,000, for attorney fees and costs
 126 incurred in representing the person for relief by executive
 127 clemency, with compensation to be paid out of the General
 128 Revenue Fund from funds budgeted to the Parole Commission.

129 (3) It is the intent of the Legislature that the fee
 130 prescribed under this section comprises the full and complete

131 compensation for appointed private counsel. It is further the
 132 intent of the Legislature that the fee in this section is
 133 prescribed for the purpose of providing counsel with notice of
 134 the limit on the amount of compensation for representation under
 135 this section. Appointment of counsel for executive clemency
 136 under this section shall be at the board's sole discretion. The
 137 provision of counsel for executive clemency under this section
 138 does not create a statutory right to counsel in such
 139 proceedings.

140 Section 6. Paragraph (a) of subsection (3) of section
 141 27.40, Florida Statutes, is amended to read:

142 27.40 Court-appointed counsel; circuit registries; minimum
 143 requirements; appointment by court.-

144 (3) In utilizing a registry:

145 (a) The chief judge of the circuit shall compile a list of
 146 attorneys in private practice, by county and by category of
 147 cases, and provide the list to the clerk of court in each
 148 county. The chief judge of the circuit may restrict the number
 149 of attorneys on the general registry list. To be included on a
 150 registry, attorneys shall certify:

151 1. That they meet any minimum requirements established by
 152 the chief judge and by general law for court appointment;

153 2. That they are available to represent indigent
 154 defendants in cases requiring court appointment of private
 155 counsel;

156 3. That they are willing to abide by the terms of the

157 contract for services; and

158 4. Whether they are willing to accept as full payment the
 159 flat fees prescribed in s. 27.5304, notwithstanding the
 160 provisions of s. 27.5304(12), except for cases brought under the
 161 Racketeer Influenced and Corrupt Organizations Act and capital
 162 cases as defined in s. 27.5304(5)(d) ~~27.5304(5)(a)4~~.

163
 164 To be included on a registry, an attorney also must enter into a
 165 contract for services with the Justice Administrative
 166 Commission. Failure to comply with the terms of the contract for
 167 services may result in termination of the contract and removal
 168 from the registry. Each attorney on the registry shall be
 169 responsible for notifying the clerk of the court and the Justice
 170 Administrative Commission of any change in his or her status.
 171 Failure to comply with this requirement shall be cause for
 172 termination of the contract for services and removal from the
 173 registry until the requirement is fulfilled. In addition to
 174 general registries, the chief judge may establish limited
 175 registries that include only those attorneys willing to waive
 176 compensation in excess of the flat fee prescribed in s. 27.5304,
 177 notwithstanding the provisions of s. 27.5304(12).

178 Section 7. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 183 Drivers Leaving the Scene of a Crash
SPONSOR(S): Transportation & Highway Safety Subcommittee; Nelson and others
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 102

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	13 Y, 0 N, As CS	Thompson	Miller
2) Criminal Justice Subcommittee	12 Y, 0 N	Cunningham	Cunningham
3) Justice Appropriations Subcommittee		McAuliffe	Lloyd
4) Economic Affairs Committee			

SUMMARY ANALYSIS

Section 316.027, F.S., requires the driver of any vehicle involved in a crash that results in injury or death to immediately stop the vehicle, remain at the scene until the driver provides specified information, and render aid to the injured person. A violation is:

- A third degree felony, ranking in Level 5 of the ranking chart, if the crash results in injury;
- A first degree felony, ranked in Level 7 of the ranking chart, when the crash results in death; and
- A first degree felony, ranked in Level 7 of the ranking chart and punishable by a 2-year mandatory minimum term of imprisonment, when the crash results in death and the person was driving under the influence.

The bill creates the "Aaron Cohen Life Protection Act," to create and increases penalties for leaving the scene of an accident. Specifically, the bill:

- Creates a third "leaving the scene of an accident offense" that makes it second degree felony, ranked in Level 6 of the ranking chart, for a person to leave the scene of an accident involving serious bodily injury;
- Ranks leaving the scene of an accident involving injury, serious bodily injury, and death one level higher in the ranking chart if the victim of the offense is a "vulnerable road user;"
- Creates a new 4-year mandatory minimum term of imprisonment applicable to persons who leave the scene of an accident involving death;
- Increases the mandatory minimum term of imprisonment applicable to persons who are driving under the influence and who leave the scene of an accident involving death from 2 to 4 years;
- Allows a defendant to move to depart from the four-year mandatory minimum sentence for leaving the scene of an accident involving death, unless the defendant was driving under the influence at the time of the violation;
- Requires a driver who leaves the scene of a crash involving injury, serious bodily injury, or death to:
 - Have his or her driver license revoked for at least three years; and
 - Complete a victim's impact panel session, if one exists, or a driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway; and
- Requires the Department of Highway Safety and Motor Vehicles (DHSMV) to include in its approved driver improvement course curriculum instruction specifically addressing the rights of vulnerable road users relative to vehicles on the roadway.

The Criminal Justice Impact Conference met on January 30, 2014 and found that CS/SB 102, which is similar to this bill, will have an indeterminate impact on prison beds. The bill may also have an indeterminate negative fiscal impact on DHSMV. See Fiscal Impact on State Government.

The bill provides an effective date of July 1, 2014.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0183c.JUAS.DOCX

DATE: 3/13/2014

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Aaron Cohen

On February 15, 2012, at approximately 5:40 A.M., Aaron Cohen and Enda Walsh were cycling in the bike lane eastbound across the Rickenbacker Causeway in Miami-Dade County when they were both struck from behind by a 2010 Honda Civic. According to an independent witness, the vehicle fled the scene. Aaron Cohen expired on February 16, 2012 at approximately 1 P.M., from injuries sustained in the crash.¹

According to reports, the driver turned himself in 17 hours later and admitted to being the driver of the vehicle at the time of the crash.² Police found evidence that the driver, who was on probation for cocaine charges,³ had been drinking, but they could not test him because of the amount of time that had elapsed since the accident.⁴ On February 1, 2013, the driver was sentenced to 364 days in jail⁵ and released to two years of probation after serving 264 days.⁶

Section 316.027, F.S. - Leaving the Scene of an Accident

Section 316.027, F.S., requires that the driver of any vehicle involved in a crash that results in death or injury of any person must immediately stop the vehicle and remain at the scene until the driver has complied with section 316.062, F.S. That statute requires the driver of any vehicle involved in a crash resulting in injury to or death of any person or damage to any vehicle or other property driven or attended by any person to:

- Give his or her name, address, and vehicle registration number;
- Provide a driver's license, upon request and if available, to any person injured in the crash or to the driver or occupant of or person attending any vehicle or other property damaged in the crash;
- Provide a driver's license, upon request, to any police officer at the scene or who is investigating the crash;
- Render to any injured person reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person; and

¹ Information received from the Department of Highway Safety and Motor Vehicles, Florida Long Form Traffic Crash Report number 83005647, on file with the Transportation and Highway Safety Subcommittee.

² See additional information on the Aaron Cohen incident from the Miami Herald news article, at <http://www.miamiherald.com/2014/02/04/3913086/attorney-general-pam-bondi-legislators.html>. (Last viewed 2/5/14).

³ According to the Florida Department of Corrections Offender Network, the driver's criminal history record lists a cocaine-possession charge offense date of 05/13/2011. On file with the Transportation and Highway Safety Subcommittee.

⁴ According to the American Prosecutors Research Institute (APRI), a non-profit research, training and technical assistance affiliate of the National District Attorneys Association, APRI Special Topics Series (2003), alcohol is eliminated from the body at an average rate of about one standard drink per hour. However, there are other factors that affect intoxication (food consumption, gender, medications, illness). Retrograde extrapolation is the process of estimating an alcohol concentration at an earlier time from a measurement taken at a later time; however, a delay between the time of the crash and the test can hinder an accurate determination. On file with the Transportation and Highway Safety Subcommittee.

⁵ Miami-Dade Clerk of the Courts Criminal Sentence Document, Docket Image Book/Page: 028479/03416, case number F12-003845, *The State Of Florida VS. Michele Traverso*, on file with the Transportation and Highway Safety Subcommittee. Miami-Dade court documents can be viewed at <https://www2.miami-dadeclerk.com/CJIS/CaseSearch.aspx>.

⁶ According to the Florida Department of Corrections Offender Network, at <http://www.dc.state.fl.us/InmateInfo/InmateInfoMenu.asp> the driver's criminal history record provides a sentence date of 01/16/2013 for the offense of leaving the scene of a crash with death, a supervision (probation) begin date of 10/06/13, and a scheduled termination date of 10/08/15. On file with the Transportation and Highway Safety Subcommittee.

- Having stopped and remained at the scene to provide the required information, if none of the persons identified are able to receive the information, report the crash to the nearest police authority and submit the required information.

All violations of section 316.027, F.S., require that the driver violating the statute make restitution to the victim unless the court finds clear and compelling reasons not to order restitution. Restitution is required to be made a condition of probation.⁷ The Department of Highway Safety and Motor Vehicles (DHSMV) is required to revoke the driver license of a person who violates section 316.027, F.S.⁸

Injury

A driver who leaves the scene of a crash involving injury, commits a third degree felony.⁹ A third degree felony is punishable by up to five years in prison and a fine of up to \$5,000.¹⁰ The violation does not include a mandatory minimum prison sentence. Proof that the driver caused or contributed to causing injury to a person is not required for a conviction.¹¹

Death

A driver who leaves the scene of a crash involving death, commits a first degree felony.¹² A first degree felony is punishable by up to 30 years in prison and a fine of up to \$10,000.¹³ If the person was driving under the influence, the court must sentence the person to a minimum mandatory prison sentence of two years.¹⁴ Again, proof that the driver caused or contributed to causing the death of a person is not required for a conviction, and current law reflects no mandatory minimum sentence for these violations.

According to Florida Uniform Traffic Citation Statistics, there were 15,642 leaving the scene of an accident violations during calendar year 2012.¹⁵

Minimum Mandatory Prison Sentences

Currently, there are discrepancies in the mandatory minimum penalties that apply to crashes involving death. For example, a driver convicted of DUI manslaughter is required to serve a mandatory minimum prison sentence of four years.¹⁶ In contrast, a person driving under the influence who leaves the scene of a crash involving death is only required to receive a minimum prison sentence of two years.

Additionally, the current penalties for leaving the scene of an accident involving death and leaving the scene of an accident involving death while driving under the influence may have unintended consequences. The former is a first degree misdemeanor, while the latter is a first degree misdemeanor punishable by a two-year mandatory minimum sentence. This could incentivize drivers who are under the influence and involved in an accident resulting in death to leave the scene (i.e., law enforcement will be less likely to determine the driver was drunk).

Driver Improvement Courses

Section 322.0261(2), F.S., provides that in addition to any other applicable penalties, DHSMV must require operators convicted of, or who have plead nolo contendere to, the following traffic offenses to attend a department-approved driver improvement course in order to maintain his or her driving privileges:

⁷ s. 316.027(1)(c), F.S.

⁸ s. 316.027(2), F.S.

⁹ s. 316.027(1)(a), F.S.

¹⁰ ss. 775.082, 775.083, and 775.084, F.S.

¹¹ See *Lawrence v. State*, 801 So.2d 293, 295 (Fla. 2d DCA 2001) and *Kelly v. State*, 987 So.2d 1237, 1239 (Fla. 2d DCA 2008).

¹² s. 316.027(1)(b), F.S.

¹³ ss. 775.082, 775.083, and 775.084, F.S.

¹⁴ s. 316.027(1)(b), F.S.

¹⁵ See the Department of Highway Safety and Motor Vehicles website, Statistics, Studies, and Publications at <http://www.flhsmv.gov/html/safety.html>, (Last viewed 2/6/14).

¹⁶ s. 316.193(3), F.S., flush left.

- A crash involving death or bodily injury requiring transport to a medical facility;¹⁷ or
- A second crash by the same operator within the previous two-year period involving property damage in an apparent amount of at least \$500.¹⁸

If the operator fails to complete the course within ninety days after receiving notice from DHSMV, then DHSMV is required to cancel the operator's driver's license until the course is successfully completed. Currently, the course curriculum does not address the rights of vulnerable road users.

Driver License - Periods of Suspension or Revocation

Section 322.28, F.S., provides for certain driver license suspension and revocation periods and, unless otherwise provided, limits the authority of DHSMV to suspend or revoke a driver's license to one year. Consequently, the revocation period for violations of leaving the scene of a crash resulting in injury or death (in the absence of DUI), is one year.

Section 322.28(4), F.S., currently requires a court to revoke for a minimum of three years the driver license of a person convicted of DUI involving serious bodily injury, vehicular manslaughter, or vehicular homicide. Section 322.28(2)(d), F.S., requires the court to permanently revoke the driver license or driving privilege of any person who has been convicted of DUI manslaughter in violation of s. 316.193, F.S.

Thus, under current law, in cases involving DUI and leaving the scene of a crash resulting in death, revocation of the driver license is permanent.¹⁹ A person driving DUI may view an attempt to leave the scene as advantageous because, if successful, a DUI charge is avoided. The period of license revocation in such event would be not less than one year nor more than five,²⁰ as opposed to permanent.

Criminal Punishment Code, Offense Severity Ranking Chart

The Criminal Punishment Code applies to sentencing for felony offenses committed on or after October 1, 1998.²¹ Criminal offenses are ranked in the "offense severity ranking chart" from level one (least severe) to level ten (most severe) and are assigned points based on the severity of the offense as determined by the Legislature.²² If an offense is not listed in the ranking chart, it defaults to a ranking based on the degree of the felony.²³ A defendant's sentence is calculated based on points assigned for factors including the offense for which the defendant is being sentenced, injury to the victim, additional offenses that the defendant committed at the time of the primary offense, the defendant's prior record, and other aggravating factors.²⁴ The points are added in order to determine the "lowest permissible sentence" for the offense.²⁵

If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence. If the lowest permissible sentence exceeds the mandatory sentence, the requirements of the Code and any mandatory minimum penalties apply.²⁶

Currently, leaving the scene of a crash involving injury is a third degree felony ranked in Level 5 of the offense severity ranking chart.²⁷ Leaving the scene of a crash involving death is a first degree felony ranked in Level 7 of the offense severity ranking chart.²⁸

¹⁷ s. 322.0261(1)(a), F.S.

¹⁸ s. 322.0261(1)(b), F.S.

¹⁹ s. 322.28(2)(d), F.S.

²⁰ 316.1935(5), F.S.

²¹ s. 921.002, F.S.

²² ss 921.0022 and 921.0024, F.S.

²³ s. 921.0023, F.S.

²⁴ s. 921.0024, F.S.

²⁵ *Id.*

²⁶ Rule 3.704(d)(26) ("The Criminal Punishment Code"), Florida Rules of Criminal Procedure.

²⁷ s. 921.0022(3)(e), F.S.

Proposed Changes

The bill creates the "Aaron Cohen Life Protection Act," to create and increase penalties for leaving the scene of an accident.

As noted above, s. 316.027, F.S., makes it a third degree felony, ranked in Level 5 of the offense severity ranking chart, for a person to leave the scene of an accident involving injury. It is a first degree felony, ranking in Level 7, for a person to leave the scene of an accident involving death. The bill creates a middle category by making it second degree felony,²⁹ ranked in Level 6, for a person to leave the scene of an accident involving serious bodily injury. The bill defines "serious bodily injury" as an injury to a person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or organ.³⁰

The bill ranks each of the above-described offenses one level higher in the offense severity ranking chart if the victim of the offense is a "vulnerable road user." This term is defined as a:

- Pedestrian, including a person actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way;
- Person operating a bicycle, motorcycle, scooter, or moped lawfully on the roadway;
- Person riding an animal; or
- Person lawfully operating the following on a public right-of-way, crosswalk, or shoulder of the roadway:
 - Farm tractor or similar vehicle designed primarily for farm use;
 - Skateboard, roller skates, in-line skates;
 - Horse-drawn carriage;
 - Electric personal assistive mobility device; or
 - Wheelchair.

This will have the effect of increasing the offender's lowest permissible sentence.

The bill also creates a new 4-year mandatory minimum term of imprisonment applicable to persons who leave the scene of an accident involving death. The bill also increases the mandatory minimum term of imprisonment applicable to persons who are driving under the influence and who leave the scene of an accident involving death from 2 to 4 years.

The bill allows a defendant to move to depart from the four-year mandatory minimum sentence for leaving the scene of an accident involving death, unless the defendant was driving under the influence at the time of the violation. The bill allows the state attorney to object to the motion, and prohibits the court from granting the motion unless it finds that a factor, consideration, or circumstance clearly demonstrates that imposing the mandatory minimum term would constitute or result in an injustice. The court must state the basis for granting a departure in open court.

The bill requires a driver in violation of leaving the scene of a crash involving injury, serious bodily injury, or death to:

- Have his or her driver license revoked for at least three years as provided in s. 322.28(4), F.S., and
- Complete a victim's impact panel session, if one exists, or a driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway.

DHSMV may reinstate an offender's driving privilege after verifying that the above-described criteria have been satisfied.

²⁸ s. 921.0022(3)(g), F.S.

²⁹ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

³⁰ The definition is the same as used in the driving under the influence statute. See s. 316.1933(1)(b), F.S.

The bill amends s. 322.0261(2), F.S., to require DHSMV to include in its approved driver improvement course curriculum instruction specifically addressing the rights of vulnerable road users relative to vehicles on the roadway.

The bill amends s. 322.28(4), F.S., to require a court to revoke the driver license of a person convicted of leaving the scene of a crash involving injury, serious bodily injury, or death, for a minimum of three years. In the event the period of revocation was not specified by the court at the time of imposing sentence or within thirty days thereafter, DHSMV is required to revoke the driver license for the same period for a conviction of leaving the scene of a crash involving serious bodily injury.

The bill reenacts s. 322.34(6), F.S., relating to driving while a driver license is suspended, revoked, canceled, or disqualified, to incorporate the amendment to s. 322.28, F.S., and makes a technical change.

The bill also makes technical and conforming changes to s. 316.027, F.S.

B. SECTION DIRECTORY:

- Section 1. Cites the act as the "Aaron Cohen Life Protection Act."
- Section 2. Amends s. 316.027, F.S., relating to crashes involving death or personal injuries.
- Section 3. Amends s. 316.0261, F.S., relating to driver improvement course curriculum.
- Section 4. Amends s. 322.28, F.S., relating to period of suspension or revocation.
- Section 5. Reenacts s. 322.34, F.S., relating to driving while license suspended, revoked, canceled, or disqualified.
- Section 6. Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.
- Section 7. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DHSMV expects the bill to require approximately thirty non-recurring system programming hours to make system adjustments for the new driver license revocation and driver improvement course requirements provided in the bill, the cost of which will be absorbed within existing resources.³¹

The bill requires a driver in violation of leaving the scene of a crash involving injury, serious bodily injury, or death to participate in either a victim's impact panel session or a driver education course relating to the rights of vulnerable road users. The bill does not specify penalties for not completing these requirements or whether the court or an agency will administer the requirements, therefore the fiscal impact and to what entity is unknown.³²

³¹ See the DHSMV 2014 Agency Legislative Bill Analysis for HB 183, page 4. On file with the Transportation and Highway Safety Subcommittee.

³² *Id.*

The Criminal Justice Impact Conference met on January 30, 2014 and found that CS/SB 102, which is similar to this bill, will have an indeterminate impact on prison beds.

The Office of Economic and Demographic Research (EDR) stated that the proposed changes to s. 316.027, F.S., will increase both the felony degree and the offense severity level for leaving the scene of an accident involving serious bodily injury, but the percentage of cases that currently involve "serious" bodily injury is indeterminable.

The EDR states that the proposed changes involving serious injury may result in additional prison admissions and in longer sentences for some offenders currently being sentenced to prison, but the lack of data to estimate these changes is what results in an indeterminate impact.

In addition, offenders currently sentenced under s. 316.027(1)(b), F.S., leaving the scene of an accident involving death, will be subject to a 4-year mandatory minimum sentence under the bill. However, the EDR said it is not possible to determine the percentage of current offenders who receive the 2-year mandatory minimum sentence for leaving the scene while DUI. The current average sentence length for all of the offenders in this offense is 91.9 months. Nearly 75% of these sentences are 48 months or longer suggesting that the impact from the bill will be limited, but the lack of data to estimate these changes also results in an indeterminate impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 18, 2014, the Transportation & Highway Safety Subcommittee adopted one amendment to PCS/HB 183 before reporting it favorably as a committee substitute. The amendment:

- Revised the requirement for an offender to participate in either a victim's impact panel session or a driver improvement course;
- Specified that DHSMV will verify completion of the victim's impact panel session or driver improvement course;
- Specified the driver license cannot be reinstated until the three year revocation and the victim's impact panel session or driver improvement course have been completed; and
- Corrected a reference to driver "education" to driver "improvement" course.

The analysis is drafted to the committee substitute.

1 A bill to be entitled
2 An act relating to drivers leaving the scene of a
3 crash; creating the "Aaron Cohen Life Protection Act";
4 amending s. 316.027, F.S.; redefining the term
5 "serious bodily injury" and defining the term
6 "vulnerable road user"; requiring the driver of a
7 vehicle involved in a crash that results in serious
8 bodily injury to a person to immediately stop the
9 vehicle and remain at the scene of the crash;
10 providing that a person commits a felony of the second
11 degree if he or she fails to stop the vehicle and
12 remain at the scene of the crash until specified
13 requirements are fulfilled; requiring the court to
14 impose a mandatory minimum term of imprisonment under
15 certain circumstances; requiring the revocation of the
16 driver's driver license; requiring the driver to
17 participate in specified programs; providing for
18 ranking of an offense committed if the victim of the
19 offense was a vulnerable road user; authorizing the
20 defendant to move to depart from the mandatory minimum
21 term of imprisonment under certain circumstances;
22 providing requirements and procedures for such
23 departure; amending s. 322.0261, F.S.; requiring the
24 Department of Highway Safety and Motor Vehicles to
25 include in the curriculum of a certain driver
26 improvement course instruction addressing the rights

27 of vulnerable road users; amending s. 322.28, F.S.;
 28 requiring the court to revoke for at least 3 years the
 29 driver license of a person convicted of leaving the
 30 scene of a crash involving injury, serious bodily
 31 injury, or death; reenacting and amending s.
 32 322.34(6), F.S., relating to driving while a driver
 33 license is suspended, revoked, canceled, or
 34 disqualified, to incorporate the amendment to s.
 35 322.28, F.S., in a reference thereto; amending s.
 36 921.0022, F.S.; revising the offense severity ranking
 37 chart; conforming a cross-reference; providing an
 38 effective date.

39

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

41

42 Section 1. This act may be cited as the "Aaron Cohen Life
 43 Protection Act."

44 Section 2. Section 316.027, Florida Statutes, is amended
 45 to read:

46 316.027 Crash involving death or personal injuries.—

47 (1) As used in this section, the term:

48 (a) "Serious bodily injury" means an injury to a person,
 49 including the driver, which consists of a physical condition
 50 that creates a substantial risk of death, serious personal
 51 disfigurement, or protracted loss or impairment of the function
 52 of a bodily member or organ.

53 (b) "Vulnerable road user" means:
 54 1. A pedestrian, including a person actually engaged in
 55 work upon a highway, or in work upon utility facilities along a
 56 highway, or engaged in the provision of emergency services
 57 within the right-of-way;
 58 2. A person operating a bicycle, motorcycle, scooter, or
 59 moped lawfully on the roadway;
 60 3. A person riding an animal; or
 61 4. A person lawfully operating on a public right-of-way,
 62 crosswalk, or shoulder of the roadway:
 63 a. A farm tractor or similar vehicle designed primarily
 64 for farm use;
 65 b. A skateboard, roller skates, or in-line skates;
 66 c. A horse-drawn carriage;
 67 d. An electric personal assistive mobility device; or
 68 e. A wheelchair.
 69 (2)(1)(a) The driver of a ~~any~~ vehicle involved in a crash
 70 occurring on public or private property ~~which that~~ results in
 71 injury to a ~~of any~~ person other than serious bodily injury shall
 72 ~~must~~ immediately stop the vehicle at the scene of the crash, or
 73 as close thereto as possible, and shall ~~must~~ remain at the scene
 74 of the crash until he or she has fulfilled the requirements of
 75 s. 316.062. A ~~Any~~ person who willfully violates this paragraph
 76 commits a felony of the third degree, punishable as provided in
 77 s. 775.082, s. 775.083, or s. 775.084.
 78 (b) The driver of a vehicle involved in a crash occurring

79 on public or private property which results in serious bodily
 80 injury to a person shall immediately stop the vehicle at the
 81 scene of the crash, or as close thereto as possible, and shall
 82 remain at the scene of the crash until he or she has fulfilled
 83 the requirements of s. 316.062. A person who willfully violates
 84 this paragraph commits a felony of the second degree, punishable
 85 as provided in s. 775.082, s. 775.083, or s. 775.084.

86 (c)~~(b)~~ The driver of a a ~~any~~ vehicle involved in a crash
 87 occurring on public or private property which ~~that~~ results in
 88 the death of a a ~~any~~ person shall ~~must~~ immediately stop the
 89 vehicle at the scene of the crash, or as close thereto as
 90 possible, and shall ~~must~~ remain at the scene of the crash until
 91 he or she has fulfilled the requirements of s. 316.062. A person
 92 who is arrested for a violation of this paragraph and who has
 93 previously been convicted of a violation of this section, s.
 94 316.061, s. 316.191, or s. 316.193, or a felony violation of s.
 95 322.34, shall be held in custody until brought before the court
 96 for admittance to bail in accordance with chapter 903. A ~~Any~~
 97 person who willfully violates this paragraph commits a felony of
 98 the first degree, punishable as provided in s. 775.082, s.
 99 775.083, or s. 775.084, and shall be sentenced to a mandatory
 100 minimum term of imprisonment of 4 years. A ~~Any~~ person who
 101 willfully commits such a violation while driving under the
 102 influence as set forth in s. 316.193(1) shall be sentenced to a
 103 mandatory minimum term of imprisonment of 4 ~~2~~ years.

104 (d)~~(e)~~ Notwithstanding s. 775.089(1)(a), if the driver of

105 | a vehicle violates paragraph (a), ~~or~~ paragraph (b), or paragraph
 106 | (c), the court shall order the driver to make restitution to the
 107 | victim for any damage or loss unless the court finds clear and
 108 | compelling reasons not to order the restitution. Restitution may
 109 | be monetary or nonmonetary restitution. The court shall make the
 110 | payment of restitution a condition of probation in accordance
 111 | with s. 948.03. An order requiring the defendant to make
 112 | restitution to a victim does not remove or diminish the
 113 | requirement that the court order payment to the Crimes
 114 | Compensation Trust Fund under chapter 960. Payment of an award
 115 | by the Crimes Compensation Trust Fund creates an order of
 116 | restitution to the Crimes Compensation Trust Fund unless
 117 | specifically waived in accordance with s. 775.089(1)(b).

118 | (e) A driver who violates paragraph (a), paragraph (b), or
 119 | paragraph (c) shall have his or her driver license revoked for
 120 | at least 3 years as provided in s. 322.28(4).

121 | 1. A person convicted of violating paragraph (a),
 122 | paragraph (b), or paragraph (c) shall, before his or her driving
 123 | privilege may be reinstated, present to the department proof of
 124 | completion of a victim's impact panel session in a judicial
 125 | circuit if such a panel exists, or if such a panel does not
 126 | exist, a department-approved driver improvement course relating
 127 | to the rights of vulnerable road users relative to vehicles on
 128 | the roadway as provided in s. 322.0261(2).

129 | 2. The department may reinstate an offender's driving
 130 | privilege after he or she satisfies the 3-year revocation period

131 as provided in s. 322.28(4) and successfully completes either a
 132 victim's impact panel session or a department-approved driver
 133 improvement course relating to the rights of vulnerable road
 134 users relative to vehicles on the roadway as provided in s.
 135 322.0261(2).

136 3. For purposes of this paragraph, an offender's driving
 137 privilege may be reinstated only after the department verifies
 138 that the offender participated in and successfully completed a
 139 victim's impact panel session or a department-approved driver
 140 improvement course.

141 (f) For purposes of sentencing under chapter 921 and
 142 determining incentive gain-time eligibility under chapter 944,
 143 an offense listed in this subsection is ranked one level above
 144 the ranking specified in s. 921.0022 or s. 921.0023 for the
 145 offense committed if the victim of the offense was a vulnerable
 146 road user.

147 (g) The defendant may move to depart from the mandatory
 148 minimum term of imprisonment prescribed in paragraph (c) unless
 149 the violation was committed while the defendant was driving
 150 under the influence. The state may object to this departure. The
 151 court may grant the motion only if it finds that a factor,
 152 consideration, or circumstance clearly demonstrates that
 153 imposing a mandatory minimum term of imprisonment would
 154 constitute or result in an injustice. The court shall state in
 155 open court the basis for granting the motion.

156 ~~(2) The department shall revoke the driver's license of~~

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157 ~~the person so convicted.~~

158 (3) The stops shall ~~Every stop must~~ be made without
 159 unnecessarily obstructing traffic ~~more than is necessary~~, and,
 160 if a damaged vehicle is obstructing traffic, the driver of the
 161 vehicle shall ~~must~~ make every reasonable effort to move the
 162 vehicle or have it moved so as not to obstruct the regular flow
 163 of traffic. A ~~Any~~ person who fails to comply with this
 164 subsection shall be cited for a nonmoving violation, punishable
 165 as provided in chapter 318.

166 (4) In addition to any other civil, criminal, or
 167 administrative penalty imposed, a person whose commission of a
 168 noncriminal traffic infraction or a ~~any~~ violation of this
 169 chapter or s. 1006.66 causes or results in the death of another
 170 person may, ~~in addition to any other civil, criminal, or~~
 171 ~~administrative penalty imposed~~, be required by the court to
 172 serve 120 community service hours in a trauma center or hospital
 173 that regularly receives victims of vehicle accidents, under the
 174 supervision of a registered nurse, an emergency room physician,
 175 or an emergency medical technician pursuant to a voluntary
 176 community service program operated by the trauma center or
 177 hospital.

178 (5) This section does not apply to crashes occurring
 179 during a motorsports event, as defined in s. 549.10(1), or at a
 180 closed-course motorsport facility, as defined in s. 549.09(1).

181 Section 3. Subsection (2) of section 322.0261, Florida
 182 Statutes, is amended to read:

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183 322.0261 Driver improvement course; requirement to
 184 maintain driving privileges; failure to complete; department
 185 approval of course.-

186 (2) With respect to an operator convicted of, or who
 187 pleaded nolo contendere to, a traffic offense giving rise to a
 188 crash identified in paragraph (1)(a) or paragraph (1)(b), the
 189 department shall require that the operator, in addition to other
 190 applicable penalties, attend a department-approved driver
 191 improvement course in order to maintain his or her driving
 192 privileges. The department shall include in the course
 193 curriculum instruction specifically addressing the rights of
 194 vulnerable road users as defined in s. 316.027 relative to
 195 vehicles on the roadway. If the operator fails to complete the
 196 course within 90 days after receiving notice from the
 197 department, the operator's driver ~~driver's~~ license shall be
 198 canceled by the department until the course is successfully
 199 completed.

200 Section 4. Subsection (4) of section 322.28, Florida
 201 Statutes, is amended to read:

202 322.28 Period of suspension or revocation.-

203 (4)(a) Upon a conviction for a violation of s.
 204 316.193(3)(c)2., involving serious bodily injury, a conviction
 205 of manslaughter resulting from the operation of a motor vehicle,
 206 or a conviction of vehicular homicide, the court shall revoke
 207 the driver license of the person convicted for a minimum period
 208 of 3 years. If a conviction under s. 316.193(3)(c)2., involving

209 serious bodily injury, is also a subsequent conviction as
 210 described under paragraph (2)(a), the court shall revoke the
 211 driver license or driving privilege of the person convicted for
 212 the period applicable as provided in paragraph (2)(a) or
 213 paragraph (2)(d).

214 (b) Upon a conviction for a violation of s. 316.027(2)(a),
 215 s. 316.027(2)(b), or s. 316.027(2)(c) involving injury, serious
 216 bodily injury, or death, the court shall revoke the driver
 217 license of the person convicted for a minimum period of 3 years.

218 (c)~~(b)~~ If the period of revocation was not specified by
 219 the court at the time of imposing sentence or within 30 days
 220 thereafter, the department shall revoke the driver license for
 221 the minimum period applicable under paragraph (a) or paragraph
 222 (b) or, for a subsequent conviction, for the minimum period
 223 applicable under paragraph (2)(a) or paragraph (2)(d).

224 Section 5. For the purpose of incorporating the amendment
 225 made by this act to section 322.28, Florida Statutes, in a
 226 reference thereto, subsection (6) of section 322.34, Florida
 227 Statutes, is reenacted and amended to read:

228 322.34 Driving while license suspended, revoked, canceled,
 229 or disqualified.—

230 (6) Any person who operates a motor vehicle:

231 (a) Without having a driver's license as required under s.
 232 322.03; or

233 (b) While his or her driver's license or driving privilege
 234 is canceled, suspended, or revoked pursuant to s. 316.655, s.

235 322.26(8), s. 322.27(2), or s. 322.28(2) or (4),

236

237 and who by careless or negligent operation of the motor vehicle
 238 causes the death of or serious bodily injury to another human
 239 being commits ~~is guilty of~~ a felony of the third degree,
 240 punishable as provided in s. 775.082 or s. 775.083.

241 Section 6. Paragraphs (e) through (g) of subsection (3) of
 242 section 921.0022, Florida Statutes, are amended to read:

243 921.0022 Criminal Punishment Code; offense severity
 244 ranking chart.—

245 (3) OFFENSE SEVERITY RANKING CHART

246 (e) LEVEL 5

247

Florida	Felony	Description
Statute	Degree	
316.027(2)(a) (1)(a)	3rd	Accidents involving personal injuries <u>other than serious bodily injury</u> , failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or

248

249

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eluding.

250

322.34 (6)

3rd

Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.

251

327.30 (5)

3rd

Vessel accidents involving personal injury; leaving scene.

252

379.367 (4)

3rd

Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

253

379.3671
(2) (c) 3.

3rd

Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.

254

381.0041 (11) (b)

3rd

Donate blood, plasma, or organs

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knowing HIV
positive.

255

440.10(1)(g)

2nd

Failure to obtain workers'
compensation coverage.

256

440.105(5)

2nd

Unlawful solicitation for
the purpose of making
workers' compensation
claims.

257

440.381(2)

2nd

Submission of false,
misleading, or incomplete
information with the purpose
of avoiding or reducing
workers' compensation
premiums.

258

624.401(4)(b)2.

2nd

Transacting insurance
without a certificate
or authority; premium
collected \$20,000 or
more but less than
\$100,000.

259

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260	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
261	790.01 (2)	3rd	Carrying a concealed firearm.
262	790.162	2nd	Threat to throw or discharge destructive device.
263	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
264	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
265	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
266	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years <u>of age</u> .

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267	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years <u>of age</u> or older.
268	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
269	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
270	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
271	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
272	812.131 (2) (b)	3rd	Robbery by sudden snatching.

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273	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
274	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
275	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
276	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
	817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use

277			of personal identification information of 10 or more individuals.
277	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
278			
278	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
279			
279	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
280			
280	827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
281			

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282	839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
283	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
284	847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
285	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
286	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
286	874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or

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287	874.05(2)(a)	2nd	<p>subsequent offense.</p> <p>Encouraging or recruiting person under 13 <u>years of age</u> to join a criminal gang.</p>
288	893.13(1)(a)1.	2nd	<p>Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).</p>
289	893.13(1)(c)2.	2nd	<p>Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned</p>

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290	893.13(1)(d)1.	1st	recreational facility or community center.
291	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.
292	893.13(1)(f)1.	1st	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
			Sell, manufacture, or deliver cocaine (or other

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293	893.13(4)(b)	2nd	<p>s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.</p>
294	893.1351(1)	3rd	<p>Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).</p>
295			
296			
297	(f) LEVEL 6		
298			
299	Florida Statute	Felony Degree	Description

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300	<u>316.027(2)(b)</u>	<u>2nd</u>	<u>Leaving the scene of a crash involving serious bodily injury.</u>
301	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
302	499.0051(3)	2nd	Knowing forgery of pedigree papers.
303	499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
304	499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
305	775.0875(1)	3rd	Taking firearm from law enforcement officer.
	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.

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306	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
307	784.041	3rd	Felony battery; domestic battery by strangulation.
308	784.048(3)	3rd	Aggravated stalking; credible threat.
309	784.048(5)	3rd	Aggravated stalking of person under 16.
310	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
311	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
312	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.

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313	784.081(2)	2nd	Aggravated assault on specified official or employee.
314	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
315	784.083(2)	2nd	Aggravated assault on code inspector.
316	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
317	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
318	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm

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319			or damage property.
	790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
320			
	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
321			
	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
322			
	794.05(1)	2nd	Unlawful sexual activity with specified minor.
323			
	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years

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324	800.04 (6) (b)	2nd	<u>of age</u> ; offender less than 18 years.
325	806.031 (2)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
326	810.02 (3) (c)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
327	810.145 (8) (b)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
328	812.014 (2) (b) 1.	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
329			Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.

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330	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
331	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
332	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
333	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
334	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.

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335	825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
336	825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
337	825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.
338	827.03(2)(c)	3rd	Abuse of a child.
339	827.03(2)(d)	3rd	Neglect of a child.
340	827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
341	836.05	2nd	Threats; extortion.

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342	836.10	2nd	Written threats to kill or do bodily injury.
343	843.12	3rd	Aids or assists person to escape.
344	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
345	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
346	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
347			

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348	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
349	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
350	944.40	2nd	Escapes.
351	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.

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352	951.22 (1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
353			
354			
355	(g) LEVEL 7		
356			
	Florida	Felony	
	Statute	Degree	Description
357	316.027 <u>(2) (c)</u> (1) (b)	1st	Accident involving death, failure to stop; leaving scene.
358			
	316.193(3) (c) 2.	3rd	DUI resulting in serious bodily injury.
359			
	316.1935(3) (b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with

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wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

360

327.35(3)(c)2.

3rd Vessel BUI resulting in serious bodily injury.

361

402.319(2)

2nd Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.

362

409.920
(2)(b)1.a.

3rd Medicaid provider fraud; \$10,000 or less.

363

409.920
(2)(b)1.b.

2nd Medicaid provider fraud; more than \$10,000, but less than \$50,000.

364

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365	456.065 (2)	3rd	Practicing a health care profession without a license.
366	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
367	458.327 (1)	3rd	Practicing medicine without a license.
368	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
369	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
370	461.012 (1)	3rd	Practicing podiatric medicine without a license.
371	462.17	3rd	Practicing naturopathy without a license.

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372	463.015(1)	3rd	Practicing optometry without a license.
373	464.016(1)	3rd	Practicing nursing without a license.
374	465.015(2)	3rd	Practicing pharmacy without a license.
375	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
376	467.201	3rd	Practicing midwifery without a license.
377	468.366	3rd	Delivering respiratory care services without a license.
378	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
379	483.901(9)	3rd	Practicing medical physics without a license.

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380	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
381	484.053	3rd	Dispensing hearing aids without a license.
382	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
383	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
	560.125(5)(a)	3rd	Money services business by unauthorized person,

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384	655.50 (10) (b) 1.	3rd	<p>currency or payment instruments exceeding \$300 but less than \$20,000.</p> <p>Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.</p>
385	775.21 (10) (a)	3rd	<p>Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.</p>
386	775.21 (10) (b)	3rd	<p>Sexual predator working where children regularly congregate.</p>
387	775.21 (10) (g)	3rd	<p>Failure to report or providing false information about a sexual predator; harbor or conceal a sexual</p>

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predator.

388

782.051(3)

2nd

Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

389

782.07(1)

2nd

Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

390

782.071

2nd

Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).

391

782.072

2nd

Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).

392

784.045(1)(a)1.

2nd

Aggravated battery;

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			intentionally causing great bodily harm or disfigurement.
393	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
394	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
395	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
396	784.048(7)	3rd	Aggravated stalking; violation of court order.
397	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
398	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
399			

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400	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
401	784.081 (1)	1st	Aggravated battery on specified official or employee.
402	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
403	784.083 (1)	1st	Aggravated battery on code inspector.
404	787.06 (3) (a)	1st	Human trafficking using coercion for labor and services.
	787.06 (3) (e)	1st	Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the

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405			state.
	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
406			
	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
407			
	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
408			
	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
409			
	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
410			
	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax

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411	790.23	1st, PBL	weapon of mass destruction while committing or attempting to commit a felony.
412	794.08 (4)	3rd	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
413	796.03	2nd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
414	800.04 (5) (c) 1.	2nd	Procuring any person under 16 years <u>of age</u> for prostitution.
415			Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years <u>of age</u> .

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416	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years <u>of age</u> ; offender 18 years <u>of age</u> or older.
417	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
418	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
419	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
420	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
421	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.

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422	812.014(2)(a)1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
423	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
424	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
425	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.

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426	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
427	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
428	812.131(2)(a)	2nd	Robbery by sudden snatching.
429	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
430	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
431	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.

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432	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
433	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
434	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
435	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or

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436			disfigurement.
	825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
437			
	827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
438			
	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
439			
	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
440			
	838.015	2nd	Bribery.
441			
	838.016	2nd	Unlawful compensation or reward

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			for official behavior.
442	838.021(3)(a)	2nd	Unlawful harm to a public servant.
443	838.22	2nd	Bid tampering.
444	843.0855(2)	3rd	Impersonation of a public officer or employee.
445	843.0855(3)	3rd	Unlawful simulation of legal process.
446	843.0855(4)	3rd	Intimidation of a public officer or employee.
447	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
448	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
449	872.06	2nd	Abuse of a dead human

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450	874.05(2)(b)	1st	body. Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
451	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
452	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational

453	893.13(1)(e)1.	1st	<p>facility or community center.</p> <p>Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.</p>
454	893.13(4)(a)	1st	<p>Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).</p>
455	893.135(1)(a)1.	1st	<p>Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.</p>
456	893.135 (1)(b)1.a.	1st	<p>Trafficking in cocaine, more than 28 grams, less</p>

457			than 200 grams.
	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
458			
	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
459			
	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
460			
	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
461			
	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
462			

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463	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
464	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
465	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
466	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
467	896.101(5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
	896.104(4) (a) 1.	3rd	Structuring transactions

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			to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
468	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
469	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
470	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
471	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor

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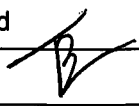
2014

472	943.0435(14)	3rd	or conceal a sexual offender.
473	944.607(9)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
474	944.607(10)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
475	944.607(12)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
476	944.607(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
			Sexual offender; failure to report and reregister;

			failure to respond to address verification.
477	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
478	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
479	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
480			
481	Section 7. This act shall take effect July 1, 2014.		

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 517 Fraudulent Controlled Substance Prescriptions
SPONSOR(S): Criminal Justice Subcommittee; Hooper
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 1208

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	11 Y, 1 N, As CS	Cox	Cunningham
2) Justice Appropriations Subcommittee		McAuliffe 	Lloyd 
3) Judiciary Committee			

SUMMARY ANALYSIS

Florida's drug control laws are contained in ch. 893, F.S., entitled the Florida Comprehensive Drug Abuse Prevention and Control Act (Drug Control Act). The Drug Control Act classifies controlled substances into five categories, ranging from Schedule I to Schedule V, which are used to regulate the manufacture, distribution, preparation and dispensing of the substances listed therein.

The Drug Control Act permits a practitioner, in good faith and in the course of his or her professional practice only, to prescribe a controlled substance to a patient. Written prescriptions must meet certain requirements (e.g., they must have the quantity of the drug prescribed in both textual and numerical formats and be written on a standardized counterfeit-proof prescription pad).

Currently, it is a first degree misdemeanor for a person to possess a prescription form that has not been:

- Completed; and
- Signed by the practitioner whose name appears printed thereon.

When prosecuting this offense, the State is required to prove that a prescription form is not signed and not completed. A person may not be prosecuted for possession of prescription forms that are signed or completed.

The bill prohibits a person from possessing a prescription form unless the form has been:

- Signed by the practitioner whose name appears printed thereon; and
- Completed.

This has the effect of expanding the types of prescription forms that a person is prohibited from possessing, and may make it easier to prosecute the unauthorized possession of prescription forms.

Additionally, the bill makes first violations of the offense a third degree felony (rather than a first degree misdemeanor).

On January 30, 2014, the Criminal Justice Impact Conference determined the bill will have an insignificant prison bed impact.

The bill is effective on October 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida's drug control laws are contained in ch. 893, F.S., entitled the Florida Comprehensive Drug Abuse Prevention and Control Act (Drug Control Act). The Drug Control Act classifies controlled substances into five categories, ranging from Schedule I to Schedule V. These schedules are used to regulate the manufacture, distribution, preparation and dispensing of the substances listed therein. The distinguishing factors between the different drug schedules are the "potential for abuse"¹ of the substance listed therein and whether there is a currently accepted medical use for the substance in the United States. For example, Schedule I substances have a high potential for abuse and have no currently accepted medical use,² while Schedule II substances have a high potential for abuse and have a currently accepted, but severely restricted medical use in treatment.³

Prescriptions of Controlled Substances

The Drug Control Act permits a practitioner,⁴ in good faith and in the course of his or her professional practice only, to prescribe a controlled substance to a patient.⁵ Additionally, controlled substances may only be dispensed by a pharmacist upon a written or oral prescription⁶ of a practitioner in accordance with specified conditions.⁷

A written prescription for a controlled substance listed in ch. 893, F.S., must:

- Have the quantity of the drug prescribed in both textual and numerical formats;⁸
- Be dated with the abbreviated month written out on the face of the prescription;⁹
- Be either written on a standardized counterfeit-proof prescription pad¹⁰ produced by a Department of Health-approved vendor¹¹ or electronically prescribed;¹² and
- Not be issued on the same prescription blank with another prescription order for a:
 - Controlled substance that is described in a different schedule; or
 - Medicinal drug.^{13,14}

¹ Section 893.035(3)(a), F.S., defines "potential for abuse" as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of its being: used in amounts that create a hazard to the user's health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user's own initiative rather than on the basis of professional medical advice.

² Section 893.03(1), F.S.

³ Section 893.03(2), F.S.

⁴ Section 893.02(21), F.S., defines "practitioner" to mean a physician licensed pursuant to chapter 458, F.S., a dentist licensed pursuant to chapter 466, F.S., a veterinarian licensed pursuant to chapter 474, F.S., an osteopathic physician licensed pursuant to chapter 459, F.S., a naturopath licensed pursuant to chapter 462, F.S., a certified optometrist licensed pursuant to chapter 463, F.S., or a podiatric physician licensed pursuant to chapter 461, F.S., provided such practitioner holds a valid federal controlled substance registry number.

⁵ Section 893.05, F.S.

⁶ Section 893.02(22), F.S., defines "prescription," in part, as an order for drugs or medicinal supplies written, signed, or transmitted by word of mouth, telephone, telegram, or other means of communication by a duly licensed practitioner licensed by the laws of the state to prescribe such drugs or medicinal supplies.

⁷ Section 893.04, F.S.

⁸ Section 456.42, F.S.

⁹ *Id.*

¹⁰ The Department of Health is required to develop the form and content for a counterfeit-resistant prescription blank. Practitioners must use the counterfeit-resistant prescription blank when prescribing a controlled substance listed in Schedule II, III, IV, or V. Section 893.065, F.S.

¹¹ An approved vendor is required to submit a monthly report to the Department of Health which, at a minimum, documents the number of prescription pads sold and identifies the purchasers of such prescription pads. Section 456.42, F.S.

¹² Section 456.42, F.S.

¹³ Section 893.02(22), F.S.

There are a number of controlled substances contained in Schedules II through V that are prescribed by practitioners via a prescription form. Examples of such controlled substances include codeine, morphine, oxycodone, methadone, barbiturates, benzodiazepines, amphetamine, and anabolic steroids.

Prohibited Acts Related to Prescriptions of Controlled Substances

Chapter 893, F.S., contains a variety of provisions criminalizing behavior related to controlled substances. Currently, s. 893.13(7)(a)7., F.S., makes it a first degree misdemeanor¹⁵ for a person to possess a prescription form that has not been:

- Completed; and
- Signed by the practitioner whose name appears printed thereon.

The offense is a third degree felony¹⁶ if committed a second or subsequent time.¹⁷

The offense does not apply to the issuing practitioner, an agent or employee of that practitioner, suppliers of prescription forms who are authorized by that practitioner to possess such forms, or pharmacists.¹⁸

When prosecuting this offense, the State is required to prove that a prescription form is not signed and not completed. A person may not be prosecuted for possession of prescription forms that are signed or completed.

Effect of the Bill

The bill prohibits a person from possessing a prescription form unless the form has been:

- Signed by the practitioner whose name appears printed thereon; and
- Completed.

This has the effect of expanding the types of prescription forms that a person is prohibited from possessing, and may make it easier to prosecute the unauthorized possession of prescription forms.

Additionally, the bill makes first violations of the offense a third degree felony (rather than a first degree misdemeanor).

B. SECTION DIRECTORY:

Section 1. Amends s. 893.13, F.S., relating to prohibited acts; penalties.

Section 2. Provides an effective date of October 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

¹⁴ Section 465.003(8), F.S., defines the term "medicinal drug" to mean those substances or preparations commonly known as "prescription" or "legend" drugs which are required by federal or state law to be dispensed only on a prescription, but shall not include patents or proprietary preparations as hereafter defined.

¹⁵ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

¹⁶ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

¹⁷ Section 893.13(7)(c), F.S.

¹⁸ Section 893.13(7)(a)7., F.S.

2. Expenditures:

On January 30, 2014, the Criminal Justice Impact Conference determined the bill will have an insignificant prison bed impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill reclassifies a first degree misdemeanor to a third degree felony. To the extent that this reduces the number of persons subject to misdemeanor penalties, the bill may result in a negative fiscal impact on county jails.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not define what constitutes a prescription form being completed "in its entirety."

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 10, 2014, the Criminal Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarifies language and does not make any substantive changes to the bill.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.

1 A bill to be entitled
2 An act relating to fraudulent controlled substance
3 prescriptions; amending s. 893.13, F.S.; revising
4 provisions prohibiting possession of incomplete
5 prescription forms; providing enhanced criminal
6 penalties for violations involving incomplete
7 prescription forms; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Paragraphs (a), (c), and (d) of subsection (7)
12 of section 893.13, Florida Statutes, are amended to read:

13 893.13 Prohibited acts; penalties.—

14 (7)(a) A person may not:

15 1. Distribute or dispense a controlled substance in
16 violation of this chapter.

17 2. Refuse or fail to make, keep, or furnish any record,
18 notification, order form, statement, invoice, or information
19 required under this chapter.

20 3. Refuse entry into any premises for any inspection or
21 refuse to allow any inspection authorized by this chapter.

22 4. Distribute a controlled substance named or described in
23 s. 893.03(1) or (2) except pursuant to an order form as required
24 by s. 893.06.

25 5. Keep or maintain any store, shop, warehouse, dwelling,
26 building, vehicle, boat, aircraft, or other structure or place

27 which is resorted to by persons using controlled substances in
 28 violation of this chapter for the purpose of using these
 29 substances, or which is used for keeping or selling them in
 30 violation of this chapter.

31 6. Use to his or her own personal advantage, or reveal,
 32 any information obtained in enforcement of this chapter except
 33 in a prosecution or administrative hearing for a violation of
 34 this chapter.

35 7. Possess a prescription form unless it ~~which~~ has ~~not~~
 36 been ~~completed and~~ signed by the practitioner whose name appears
 37 printed thereon and completed. This subparagraph does not apply
 38 if, unless the person in possession of the form is the ~~that~~
 39 practitioner whose name appears printed thereon, ~~is~~ an agent or
 40 employee of that practitioner, ~~is~~ a pharmacist, or ~~is~~ a supplier
 41 of prescription forms who is authorized by that practitioner to
 42 possess those forms.

43 8. Withhold information from a practitioner from whom the
 44 person seeks to obtain a controlled substance or a prescription
 45 for a controlled substance that the person making the request
 46 has received a controlled substance or a prescription for a
 47 controlled substance of like therapeutic use from another
 48 practitioner within the previous 30 days.

49 9. Acquire or obtain, or attempt to acquire or obtain,
 50 possession of a controlled substance by misrepresentation,
 51 fraud, forgery, deception, or subterfuge.

52 10. Affix any false or forged label to a package or

53 receptacle containing a controlled substance.

54 11. Furnish false or fraudulent material information in,
 55 or omit any material information from, any report or other
 56 document required to be kept or filed under this chapter or any
 57 record required to be kept by this chapter.

58 12. Store anhydrous ammonia in a container that is not
 59 approved by the United States Department of Transportation to
 60 hold anhydrous ammonia or is not constructed in accordance with
 61 sound engineering, agricultural, or commercial practices.

62 13. With the intent to obtain a controlled substance or
 63 combination of controlled substances that are not medically
 64 necessary for the person or an amount of a controlled substance
 65 or substances that is not medically necessary for the person,
 66 obtain or attempt to obtain from a practitioner a controlled
 67 substance or a prescription for a controlled substance by
 68 misrepresentation, fraud, forgery, deception, subterfuge, or
 69 concealment of a material fact. For purposes of this
 70 subparagraph, a material fact includes whether the person has an
 71 existing prescription for a controlled substance issued for the
 72 same period of time by another practitioner or as described in
 73 subparagraph 8.

74 (c) A ~~Any~~ person who violates ~~the provisions of~~
 75 subparagraphs (a)1.-6. ~~(a)1.-7.~~ commits a misdemeanor of the
 76 first degree, punishable as provided in s. 775.082 or s.
 77 775.083, + except that, upon a second or subsequent violation,
 78 the person commits a felony of the third degree, punishable as

CS/HB 517

2014

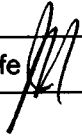
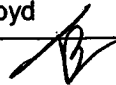
79 | provided in s. 775.082, s. 775.083, or s. 775.084.

80 | (d) A Any person who violates ~~the provisions of~~
81 | subparagraphs (a)7.-12. ~~(a)8.-12.~~ commits a felony of the third
82 | degree, punishable as provided in s. 775.082, s. 775.083, or s.
83 | 775.084.

84 | Section 2. This act shall take effect October 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 659 Protective Orders
SPONSOR(S): Criminal Justice Subcommittee; Mayfield
TIED BILLS: IDEN./SIM. BILLS: SB 920

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	11 Y, 0 N, As CS	Cox	Cunningham
2) Justice Appropriations Subcommittee		McAuliffe 	Lloyd 
3) Judiciary Committee			

SUMMARY ANALYSIS

Victims of domestic, repeat, dating, or sexual violence, or stalking or cyberstalking (specified acts of violence) may obtain an injunction for protection if certain requirements are met. An injunction is either temporary, lasting a maximum of 15 days, or final, lasting until dissolved by the court. The court can enforce a violation of an injunction against specified acts of violence through a civil or criminal contempt proceeding, or the state attorney may prosecute it as a first degree misdemeanor.

The bill amends various provisions relating to injunctions for protection against domestic, repeat, dating, or sexual violence, or stalking or cyberstalking. Specifically, the bill:

- Requires the effectiveness of a temporary injunction to extend until a final injunction is served upon the respondent;
- Provides that a respondent violates the terms of the injunction if the respondent willfully goes to, or is within 500 feet of a specified place frequented regularly by the petitioner or any named family or household member; and
- Provides that a respondent violates the terms of the final injunction against stalking or cyberstalking by possessing a firearm or ammunition.

The bill expands when an officer may arrest a person without a warrant to include cases that involve acts of domestic, repeat, dating, or sexual violence, stalking or cyberstalking, and injunction violations.

The bill may have a negative jail bed impact on local governments because it increases the number of defendants subject to misdemeanor penalties.

The bill is effective October 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Injunctions for Protection against Specified Acts of Violence

Domestic Violence

Any person who is the victim of domestic violence¹ or who reasonably believes that he or she is in imminent danger of becoming the victim of domestic violence may file a petition for an injunction for protection against domestic violence.² The sworn petition must allege the existence of domestic violence and include specific facts and circumstances upon which relief is sought.³ A hearing must be set at the earliest possible time after a petition is filed,⁴ and the respondent must be personally served with a copy of the petition.⁵ At the hearing, specified injunctive relief may be granted if the court finds that the petitioner is:

- The victim of domestic violence; or
- Has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence.⁶

If it appears to the court that an immediate and present danger of domestic violence exists when the petition is filed, the court may grant a temporary injunction *ex parte*.^{7,8} Temporary injunctions are only effective for a fixed period that cannot exceed 15 days.⁹ The hearing on the petition must be set for a date on or before the date when the temporary injunction expires.¹⁰

Repeat, Dating, and Sexual Violence

Section 784.046, F.S., governs the issuance of injunctions against repeat violence,¹¹ dating violence,¹² and sexual violence.¹³ This statute largely parallels the provisions discussed above regarding domestic violence injunctions.

¹ Section 741.28, F.S., defines "domestic violence" as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

² Section 741.30, F.S.

³ Section 741.30(3), F.S.

⁴ Section 741.30(4), F.S.

⁵ *Id.*

⁶ Section 741.30(6), F.S. Either party may move the court to modify or dissolve an injunction at any time. Section 741.30(6)(c) and (10), F.S.

⁷ The court may grant such relief as it deems proper, including an injunction restraining the respondent from committing any acts of domestic violence, awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner, and providing the petitioner a temporary parenting plan. Section 741.30(5), F.S.

⁸ The only evidence admissible in the *ex parte* hearing is verified pleadings or affidavits, unless the respondent appears at the hearing or has received reasonable notice of the hearing. Section 741.30(5)(b), F.S.

⁹ Section 741.30(5)(c), F.S.

¹⁰ The court may grant a continuance of the hearing for good cause, which may include obtaining service of process. A temporary injunction must be extended, if necessary, during any period of continuance. Section 741.30(5)(c), F.S.

¹¹ Section 784.046(1)(b), F.S., defines "repeat violence" to mean two incidents of violence or stalking committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner's immediate family member. Section 784.046(1)(a), F.S., defines "violence" to mean any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, or false imprisonment, or any criminal offense resulting in physical injury or death, by a person against any other person.

¹² Section 784.046(1)(d), F.S., defines "dating violence" to mean violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The following factors come into play when determining the existence of such a relationship: 1. a dating relationship must have existed within the past six months; 2. the nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and 3. the persons involved in the relationship must have been involved over time and on a continuous basis during the course of the relationship. Dating violence does not include violence in a casual acquaintanceship or between individuals who have only engaged in ordinary fraternization.

Stalking and Cyberstalking

Section 784.0485, F.S., governs the issuance of injunctions against stalking and cyberstalking. This statute largely parallels the provisions discussed above regarding domestic violence injunctions.

All three statutes are silent as to whether a temporary injunction may remain in effect past the 15 day time limit to allow a final injunction that is issued by the court to be served on the respondent.

Effect of the Bill

The bill amends ss. 741.30 (domestic violence), 784.046 (repeat, dating, or sexual violence), and 784.0485, F.S. (stalking and cyberstalking), to require the effectiveness of an ex parte temporary injunction against domestic, repeat, dating, or sexual violence, or stalking or cyberstalking to extend until a final injunction is served upon the respondent.

Violation of an Injunction against Specified Acts of Violence

A respondent violates the terms of an injunction against domestic, repeat, dating, or sexual violence, or stalking if the respondent willfully:

- Refuses to vacate the dwelling that the parties share;¹⁴
- Goes to, or is within 500 feet of, the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;
- Commits an act of domestic, repeat, dating, or sexual violence, or stalking against the petitioner;
- Commits any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner;
- Telephones, contacts, or otherwise communicates with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party;
- Knowingly and intentionally comes within 100 feet of the petitioner's motor vehicle, whether or not that vehicle is occupied;
- Defaces or destroys the petitioner's personal property, including the petitioner's car; or
- Refuses to surrender firearms or ammunition if ordered to do so by the court.¹⁵

A court can enforce a violation of an injunction through civil or criminal contempt proceedings, or the state attorney may prosecute the violation as a first degree misdemeanor.^{16,17}

Effect of the Bill

The bill amends ss. 741.31 (domestic violence), 784.047 (repeat, dating, or sexual violence), and 784.0487 (stalking and cyberstalking), F.S., providing a respondent violates the terms of an injunction if the respondent willfully goes to, or is within 500 feet of a specified place frequented regularly by the petitioner or any named family or household member, rather than a place frequented by both the petitioner and a family or household member.

The bill amends ss. 784.047 and 784.0487, F.S., to make it a first degree misdemeanor for a person to violate a repeat, dating, or sexual violence injunction, or a stalking or cyberstalking injunction by having

¹³ Section 784.046(1)(c), F.S., defines "sexual violence" to mean any one incident of: 1. Sexual battery; 2. A lewd or lascivious act committed upon or in the presence of a person younger than 16 years of age; 3. Luring or enticing a child; 4. Sexual performance by a child; or 5. Any other forcible felony wherein a sexual act is committed or attempted. For purposes of this definition, it does not matter whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney.

¹⁴ The terms of an injunction against stalking or cyberstalking cannot be violated by a respondent refusing to vacate the parties' shared dwelling. Section 784.0487(4), F.S.

¹⁵ Sections 741.31(4)(a), 784.047, and 784.0487, F.S.

¹⁶ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

¹⁷ Sections 741.30(9), 784.046(9), and 784.0485(9), F.S.

in his or her care, custody, possession, or control any firearm or ammunition.¹⁸ This mirrors language currently found in s. 741.31, F.S., which addresses violations of domestic violence injunctions.

Lawful Arrest by an Officer without a Warrant

Section 901.15, F.S., sets forth the instances in which a law enforcement officer (LEO) can arrest a person without a warrant. For misdemeanor offenses, the general rule is that LEOs must witness the occurrence of the offense in order to make an arrest without a warrant. LEOs that do not witness the offense must obtain an arrest warrant.¹⁹

In certain instances the Legislature has deemed particular misdemeanor offenses to be of such a nature that they should be exceptions to the above rule. Those crimes include instances in which there is probable cause to believe that a person:

- Possessed a firearm or ammunition when such person is subject to a final injunction against domestic violence, stalking, or cyberstalking;²⁰
- Committed a criminal act that violates the terms of an injunction against domestic, repeat, dating, or sexual violence;²¹ or
- Committed an act of domestic or dating violence.²²

Section 901.15, F.S., also provides LEOs civil immunity from any actions taken when effectuating a good faith arrest of a person believed to have:

- Committed an act of domestic or dating violence; or
- Violated the terms of an injunction against domestic, repeat, dating, or sexual violence.

Effect of the Bill

The bill amends s. 901.15, F.S., to permit a LEO to arrest a person without a warrant when there is probable cause to believe that a person has committed:

- A criminal act that violates the terms of an injunction against:
 - An act of child abuse occurring after a protective investigation is initiated;²³ or
 - Stalking or cyberstalking; or
- An act of repeat or sexual violence, stalking or cyberstalking, or child abuse.²⁴

The bill expands the civil immunity provision to apply to a LEO who effectuates a good faith arrest of a person believed to have:

- Committed an act of repeat or sexual violence, stalking or cyberstalking, or child abuse; or
- Violated the terms of an injunction against:
 - An act of child abuse occurring after a protective investigation is initiated; or
 - Stalking or cyberstalking.

B. SECTION DIRECTORY:

Section 1. Amends s. 741.30, F.S., relating to domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement; public records exemption.

¹⁸ This is also a violation of s. 790.233, F.S., which prohibits a person from having in his or her care, custody, possession, or control any firearm or ammunition if the person has been issued a final injunction that is currently in force and effect, restraining that person from committing acts of domestic violence, or from committing acts of stalking or cyberstalking.

¹⁹ Section 901.15, F.S.

²⁰ Section 901.15(6), F.S., in accordance with s. 790.233, F.S.

²¹ This includes injunctions issued in accordance with ss. 741.30 or 784.046, F.S., or a foreign protection order accorded full faith and credit pursuant to s. 741.315, F.S. Additionally, the arrest may be made over the objection of the petitioner, if necessary. Section 901.15(6), F.S.

²² Section 901.15(7), F.S., further provides that the arrest may be made without consent of the victim.

²³ This injunction is governed by s. 39.504, F.S.

²⁴ As provided in s. 39.01, F.S.

Section 2. Amends s. 741.31, F.S., relating to violation of an injunction for protection against domestic violence.

Section 3. Amends s. 784.046, F.S., relating to action by victim of repeat violence, sexual violence, or dating violence for protective injunction; dating violence investigations, notice to victims, and reporting; pretrial release violations; public records exemption.

Section 4. Amends s. 784.047, F.S., relating to penalties for violating protective injunction against violators.

Section 5. Amends s. 784.0485, F.S., relating to stalking; injunction; powers and duties of court and clerk; notice and hearing; temporary injunction; issuance of injunctions; statewide verification system; enforcement.

Section 6. Amends s. 784.0487, F.S., relating to violation of an injunction for protection against stalking or cyberstalking.

Section 7. Amends s. 790.233, F.S., relating to possession of a firearm or ammunition prohibited when person is subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking; penalties.

Section 8. Amends s. 901.15, F.S., relating to when arrest by officer without warrant is lawful.

Section 9. Provides an effective date of October 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill may have a negative jail bed impact on local governments because it increases the number of defendants subject to misdemeanor penalties.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 5, 2014, the Criminal Justice Subcommittee adopted one strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Removes all sections amending ch. 493, F.S., related to private investigators conducting certain records searches;
- Removes all sections providing a respondent is subject to prosecution or contempt proceedings for violating an injunction if the respondent directs a third party to commit specified acts that result in a violation of the injunction;
- Provides a person violates a final injunction for protection against repeat, dating, or sexual violence by possessing any firearm or ammunition; and
- Provides consistency between sections that address injunctions for protection and violations of injunctions against domestic violence; repeat, dating, and sexual violence; and stalking and cyberstalking.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.

1 A bill to be entitled
 2 An act relating to protective orders; amending ss.
 3 741.30, 784.046, and 784.0485, F.S.; extending the
 4 effectiveness of certain temporary injunctions in
 5 domestic violence, repeat violence, sexual violence,
 6 dating violence, or stalking proceedings in certain
 7 circumstances; amending ss. 784.047 and 784.0487,
 8 F.S.; providing that it is unlawful for a person to
 9 violate a final injunction for protection against
 10 repeat violence, dating violence, sexual violence,
 11 stalking, or cyberstalking by having in his or her
 12 care, custody, possession, or control any firearm or
 13 ammunition; providing penalties; amending s. 790.233,
 14 F.S.; conforming provisions to changes made by the
 15 act; amending s. 901.15, F.S.; expanding situations in
 16 which an arrest without a warrant is lawful to include
 17 probable cause of repeat violence, sexual violence,
 18 stalking, cyberstalking, or child abuse; providing an
 19 effective date.

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

23 Section 1. Paragraph (c) of subsection (5) of section
 24 741.30, Florida Statutes, is amended to read:

25 741.30 Domestic violence; injunction; powers and duties of
 26 court and clerk; petition; notice and hearing; temporary

27 injunction; issuance of injunction; statewide verification
28 system; enforcement; public records exemption.-

29 (5)

30 (c) Any such ex parte temporary injunction is ~~shall be~~
31 effective for a fixed period not to exceed 15 days. However, if
32 a final injunction is issued for the same case, the
33 effectiveness of the ex parte temporary injunction extends until
34 the final injunction is served upon the respondent. A full
35 hearing, as provided by this section, shall be set for a date no
36 later than the date when the temporary injunction ceases to be
37 effective. The court may grant a continuance of the hearing
38 before or during a hearing for good cause shown by any party,
39 which must ~~shall~~ include a continuance to obtain service of
40 process. An ~~Any~~ injunction shall be extended, if necessary, so
41 that it remains ~~to remain~~ in full force and effect during any
42 period of continuance.

43 Section 2. Paragraph (c) of subsection (6) of section
44 784.046, Florida Statutes, is amended to read:

45 784.046 Action by victim of repeat violence, sexual
46 violence, or dating violence for protective injunction; dating
47 violence investigations, notice to victims, and reporting;
48 pretrial release violations; public records exemption.-

49 (6)

50 (c) Any such ex parte temporary injunction is ~~shall be~~
51 effective for a fixed period not to exceed 15 days. An ~~However,~~
52 ~~an~~ ex parte temporary injunction granted under subparagraph

53 (2)(c)2. is effective for 15 days following the date the
 54 respondent is released from incarceration. However, if a final
 55 injunction is issued for the same case, the effectiveness of the
 56 ex parte temporary injunction extends until the final injunction
 57 is served upon the respondent. A full hearing, as provided by
 58 this section, shall be set for a date no later than the date
 59 when the temporary injunction ceases to be effective. The court
 60 may grant a continuance of the ~~ex parte injunction and the full~~
 61 hearing before or during a hearing, for good cause shown by any
 62 party, which must include a continuance to obtain service of
 63 process. An injunction shall be extended, if necessary, so that
 64 it remains in full force and effect during any period of
 65 continuance.

66 Section 3. Paragraph (c) of subsection (5) of section
 67 784.0485, Florida Statutes, is amended to read:

68 784.0485 Stalking; injunction; powers and duties of court
 69 and clerk; petition; notice and hearing; temporary injunction;
 70 issuance of injunction; statewide verification system;
 71 enforcement.—

72 (5)

73 (c) Any such ex parte temporary injunction is effective
 74 for a fixed period not to exceed 15 days. However, if a final
 75 injunction is issued for the same case, the effectiveness of the
 76 ex parte temporary injunction extends until the final injunction
 77 is served upon the respondent. A full hearing, as provided in
 78 this section, shall be set for a date no later than the date

79 when the temporary injunction ceases to be effective. The court
 80 may grant a continuance of the hearing before or during a
 81 hearing for good cause shown by any party, which must ~~shall~~
 82 include a continuance to obtain service of process. An
 83 injunction shall be extended, if necessary, so that it remains
 84 ~~to remain~~ in full force and effect during any period of
 85 continuance.

86 Section 4. Section 784.047, Florida Statutes, is amended
 87 to read:

88 784.047 Penalties for violating protective injunction
 89 against violators.—

90 (1) A person who willfully violates an injunction for
 91 protection against repeat violence, sexual violence, or dating
 92 violence, issued pursuant to s. 784.046, or a foreign protection
 93 order accorded full faith and credit pursuant to s. 741.315, by:

94 (a) ~~(1)~~ Refusing to vacate the dwelling that the parties
 95 share;

96 (b) ~~(2)~~ Going to, or being within 500 feet of, the
 97 petitioner's residence, school, or place of employment, or a
 98 specified place frequented regularly by the petitioner or ~~and~~
 99 any named family or household member;

100 (c) ~~(3)~~ Committing an act of repeat violence, sexual
 101 violence, or dating violence against the petitioner;

102 (d) ~~(4)~~ Committing any other violation of the injunction
 103 through an intentional unlawful threat, word, or act to do
 104 violence to the petitioner;

105 ~~(e)(5)~~ Telephoning, contacting, or otherwise communicating
106 with the petitioner directly or indirectly, unless the
107 injunction specifically allows indirect contact through a third
108 party;

109 ~~(f)(6)~~ Knowingly and intentionally coming within 100 feet
110 of the petitioner's motor vehicle, whether or not that vehicle
111 is occupied;

112 ~~(g)(7)~~ Defacing or destroying the petitioner's personal
113 property, including the petitioner's motor vehicle; or

114 ~~(h)(8)~~ Refusing to surrender firearms or ammunition if
115 ordered to do so by the court,

116
117 commits a misdemeanor of the first degree, punishable as
118 provided in s. 775.082 or s. 775.083.

119 (2) A person who violates a final injunction for
120 protection against repeat violence, sexual violence, or dating
121 violence by having in his or her care, custody, possession, or
122 control any firearm or ammunition violates s. 790.233 and
123 commits a misdemeanor of the first degree, punishable as
124 provided in s. 775.082 or s. 775.083.

125 Section 5. Paragraph (a) of subsection (4) of section
126 784.0487, Florida Statutes, is amended, and subsection (6) is
127 added to that section, to read:

128 784.0487 Violation of an injunction for protection against
129 stalking or cyberstalking.—

130 (4) A person who willfully violates an injunction for

131 protection against stalking or cyberstalking issued pursuant to
 132 s. 784.0485, or a foreign protection order accorded full faith
 133 and credit pursuant to s. 741.315, by:

134 (a) Going to, or being within 500 feet of, the
 135 petitioner's residence, school, or place of employment, or a
 136 specified place frequented regularly by the petitioner, ~~and~~ any
 137 named family members, or individuals closely associated with the
 138 petitioner;

139
 140 commits a misdemeanor of the first degree, punishable as
 141 provided in s. 775.082 or s. 775.083.

142 (6) A person who violates a final injunction for
 143 protection against stalking or cyberstalking by having in his or
 144 her care, custody, possession, or control any firearm or
 145 ammunition violates s. 790.233 and commits a misdemeanor of the
 146 first degree, punishable as provided in s. 775.082 or s.
 147 775.083.

148 Section 6. Subsection (1) of section 790.233, Florida
 149 Statutes, is amended to read:

150 790.233 Possession of firearm or ammunition prohibited
 151 when person is subject to an injunction against committing acts
 152 of domestic violence, repeat violence, dating violence, sexual
 153 violence, stalking, or cyberstalking; penalties.-

154 (1) A person may not have in his or her care, custody,
 155 possession, or control any firearm or ammunition if the person
 156 has been issued a final injunction that is currently in force

157 and effect, restraining that person from committing acts of:
 158 (a) Domestic violence, as issued under s. 741.30;
 159 (b) Repeat violence, dating violence, or sexual violence,
 160 as issued under s. 784.046; or from committing acts of
 161 (c) Stalking or cyberstalking, as issued under s.
 162 784.0485.

163 Section 7. Subsections (6) and (7) of section 901.15,
 164 Florida Statutes, are amended to read:

165 901.15 When arrest by officer without warrant is lawful.—A
 166 law enforcement officer may arrest a person without a warrant
 167 when:

168 (6) There is probable cause to believe that the person has
 169 committed a criminal act according to s. 790.233 or according to
 170 s. 39.504, s. 741.31, ~~or~~ s. 784.047, or s. 784.0487 which
 171 violates an injunction for protection entered pursuant to s.
 172 39.504, s. 741.30, ~~or~~ s. 784.046, or s. 784.0485, or a foreign
 173 protection order accorded full faith and credit pursuant to s.
 174 741.315, over the objection of the petitioner, if necessary.

175 (7) There is probable cause to believe that the person has
 176 committed an act of child abuse as provided in s. 39.01; an act
 177 of domestic violence, as defined in s. 741.28; an act of, ~~or~~
 178 dating violence, repeat violence, or sexual violence as provided
 179 in s. 784.046; or an act of stalking or cyberstalking as
 180 provided in s. 784.0485. The decision to arrest does ~~shall~~ not
 181 require consent of the victim or consideration of the
 182 relationship of the parties. It is the public policy of this

CS/HB 659

2014

183 state to strongly discourage arrest and charges of both parties
184 for domestic violence or dating violence on each other and to
185 encourage training of law enforcement and prosecutors in these
186 areas. A law enforcement officer who acts in good faith and
187 exercises due care in making an arrest under this subsection,
188 under s. 39.504, s. 741.31(4), ~~or~~ s. 784.047, or s. 784.0487, or
189 pursuant to a foreign order of protection accorded full faith
190 and credit pursuant to s. 741.315, is immune from civil
191 liability that otherwise might result by reason of his or her
192 action.

193 Section 8. This act shall take effect October 1, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 659 (2014)

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: Justice Appropriations
2 Subcommittee

3 Representative Mayfield offered the following:
4

5 **Amendment**

6 Remove lines 29-85 and insert:

7 (5)

8 (c) Any such ex parte temporary injunction is shall be
9 effective for a fixed period not to exceed 15 days unless after
10 a full hearing, a final injunction is issued on the same case.
11 In that instance, the temporary injunction remains in full force
12 and effect until the final injunction is served upon the
13 respondent.

14 (d) A full hearing, as provided by this section, shall be
15 set for a date no later than the date when the ex parte
16 temporary injunction ceases to be effective. The court may grant
17 a continuance of the hearing before or during a hearing for good

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 659 (2014)

Amendment No.1

18 cause shown by any party. The need to obtain service of process
19 constitutes good cause. A temporary, which shall include a
20 continuance to obtain service of process. Any injunction that is
21 already served must shall be extended, if necessary, so that it
22 remains to remain in full force and effect during any period of
23 continuance.

24 Section 2. Paragraph (c) of subsection (6) of section
25 784.046, Florida Statutes, is amended to read:

26 784.046 Action by victim of repeat violence, sexual
27 violence, or dating violence for protective injunction; dating
28 violence investigations, notice to victims, and reporting;
29 pretrial release violations; public records exemption.-

30 (6)

31 (c) Any such ex parte temporary injunction is shall be
32 effective for a fixed period not to exceed 15 days, and-
33 However, an ex parte temporary injunction granted under
34 subparagraph (2)(c)2. is effective for 15 days following the
35 date the respondent is released from incarceration unless after
36 a full hearing, a final injunction is issued on the same case.
37 In that instance, the temporary injunction remains in full force
38 and effect until the final injunction is served upon the
39 respondent.

40 (d) A full hearing, as provided by this section, shall be
41 set for a date no later than the date when the ex parte
42 temporary injunction ceases to be effective. The court may grant
43 a continuance of the ex parte injunction and the full hearing

958059 - h0659 line 29 Mayfield (amendment #1).docx

Published On: 3/18/2014 7:16:01 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 659 (2014)

Amendment No.1

44 before or during the a hearing, for good cause shown by any
45 party. The need to obtain service of process constitutes good
46 cause. A temporary injunction that is already served must be
47 extended, if necessary, so that it remains in full force and
48 effect during any period of continuance.

49 Section 3. Paragraph (c) of subsection (5) of section
50 784.0485, Florida Statutes, is amended to read:

51 784.0485 Stalking; injunction; powers and duties of court
52 and clerk; petition; notice and hearing; temporary injunction;
53 issuance of injunction; statewide verification system;
54 enforcement.—

55 (5)

56 (c) Any such ex parte temporary injunction is effective
57 for a fixed period not to exceed 15 days unless after a full
58 hearing, a final injunction is issued on the same case. In that
59 instance, the temporary injunction remains in full force and
60 effect until the final injunction is served upon the respondent.

61 (d) A full hearing, as provided in this section, shall be
62 set for a date no later than the date when the ex parte
63 temporary injunction ceases to be effective. The court may grant
64 a continuance of the hearing before or during a hearing for good
65 cause shown by any party. The need to obtain service of process
66 constitutes good cause. A temporary, which must shall include a
67 continuance to obtain service of process. An injunction that is
68 already served must shall be extended, if necessary, so that it

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 659 (2014)



Amendment No.1

69 | remains ~~to remain~~ in full force and effect during any period of
70 | continuance.

71

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 841 Crime Stoppers Trust Fund
SPONSOR(S): Broxson and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 978

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	11 Y, 0 N	Jones	Cunningham
2) Justice Appropriations Subcommittee		McAuliffe 	Lloyd 
3) Judiciary Committee			

SUMMARY ANALYSIS

Crime Stoppers programs are citizen-run non-profit corporations that operate on the principle that "someone other than the criminal has information that can solve a crime." Crime Stoppers programs allow citizens to anonymously provide information to law enforcement about crimes. Typically, a cash reward is given if the information leads to an arrest.

In 1991, the Legislature created s. 16.555, F.S., which required the Department of Legal Affairs (Department) to establish a Crime Stoppers Trust Fund. At the time, the Crime Stoppers Trust Fund was solely funded through federal, state, private grants awarded to the Department.

In 1998, the Legislature added a funding source by imposing a \$20 court cost on persons convicted of any criminal offense. The proceeds from the \$20 court cost are deposited in a separate account within the Crime Stoppers Trust Fund and designated according to the judicial circuit from which they were collected. Counties may apply to the Department for a grant from the funds collected by their judicial circuit. However, grants may only be awarded to counties that are served by an official member of the Florida Association of Crime Stoppers, Inc. and used only to support Crime Stoppers and their crime fighting programs.

The bill permits a county which is awarded funds under s. 16.555, F.S., to use the funds to purchase and distribute promotional items to increase public awareness and educate the public about Crime Stoppers. The bill does not appear to have any impact on state or local government's revenues or expenditures.

The bill is effective July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Crime Stoppers Programs

Crime Stoppers programs are citizen run non-profit corporations that operate on the principle that "someone other than the criminal has information that can solve a crime."¹ Crime Stoppers allow citizens to anonymously provide information to law enforcement about crimes.² Typically, a cash reward is given if the information leads to an arrest.³

The Crime Stoppers concept originated in Albuquerque, New Mexico in 1976 when a detective asked local media to broadcast a reenactment of an unsolved murder he was investigating.⁴ Local media publicized the reenactment as the "Crime of the Week" and provided a phone number to call if anyone had information.⁵ The broadcast promised anonymity for anyone who called with information and a cash reward if the information led to persons involved in the crime.⁶

The first Crime Stoppers program in Florida formed in 1977. Subsequently, the Florida Association of Crime Stoppers, Inc. (Association) was established to facilitate the flow of information and spread the Crime Stoppers program throughout the state.⁷ The Association, which currently has 32 programs, also provides trainings for Crime Stoppers programs throughout Florida.⁸

Crime Stoppers Funding

In 1991, the Legislature created s. 16.555, F.S., which required the Department of Legal Affairs (Department) to establish a Crime Stoppers Trust Fund.⁹ At the time, the Crime Stoppers Trust Fund was solely funded through federal, state, private grants awarded to the Department.¹⁰

In 1998, the Legislature added a funding source by imposing a \$20 court cost on persons convicted of any criminal offense.¹¹ The proceeds from the \$20 court cost are deposited in a separate account within the Crime Stoppers Trust Fund and designated according to the judicial circuit from which they were collected.¹² Counties may apply to the Department for a grant from the funds collected by their judicial circuit. However, grants may only be awarded to counties that are served by an official member of the Association and used only to support Crime Stoppers and their crime fighting programs.¹³

Effect of the Bill

The bill amends s. 16.555, F.S., to allow a county which is awarded grant funds to use the funds to purchase and distribute promotional items to increase public awareness and educate the public about Crime Stoppers.

B. SECTION DIRECTORY:

¹ Big Bend Crime Stoppers, <http://www.bbcsi.org/about-2> (last visited on March 5, 2014).

² *Id.*

³ *Id.*

⁴ Florida Association of Crime Stoppers, <http://www.floridacrimestoppers.com/pages/where> (last visited on March 5, 2014).

⁵ Crime Stoppers USA, <http://www.crimestoppersusa.com/profile.htm> (last visited on March 5, 2014).

⁶ Florida Association of Crime Stoppers, <http://www.floridacrimestoppers.com/pages/where> (last visited on March 5, 2014).

⁷ *Id.* The association's original name was the "Florida Association of Crimelines Anonymous, Inc.," it was changed in September 1991.

⁸ *Id.*

⁹ Chapter 1991-205, L.O.F.

¹⁰ Section 16.555(4)(a), F.S., requires the department to apply for all federal and state or private grants which meet the purposes of advancing Crime Stoppers in the State of Florida. Upon securing such grants, the funds must be deposited in the "Crime Stoppers Trust Fund."

¹¹ Chapter 1998-319, L.O.F.; Section 938.06(2), F.S., requires the clerk of the court to collect the court costs, forward the costs to the Crime Stoppers Trust Fund and assess a \$3.00 service charge.

¹² Section 16.555(4)(b), F.S.

¹³ Section 16.555(5)(b), F.S.

Section 1. Amends s. 16.555, F.S., relating to Crime Stoppers Trust Fund; rulemaking.

Section 2. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Section 16.555(6), F.S., requires the Department to adopt and enforce rules to implement the provisions of s. 16.555, F.S., and specifies what such rules must include (e.g., criteria for local governments to apply for funding from the "Crime Stoppers Trust Fund" in order to aid in local law enforcement). The bill does not appear to create a need for additional rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 841

2014

1 A bill to be entitled
 2 An act relating to the Crime Stoppers Trust Fund;
 3 amending s. 16.555, F.S.; authorizing a county that is
 4 awarded funds from the trust fund to use the funds for
 5 promotional items; providing an effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:

8
 9 Section 1. Subsection (5) of section 16.555, Florida
 10 Statutes, is amended to read:

11 16.555 Crime Stoppers Trust Fund; rulemaking.—

12 (5) (a) The department shall be the disbursing authority
 13 for the distribution of funding to units of local government
 14 that apply, ~~upon their application~~ to the department for funding
 15 assistance.

16 (b) Funds deposited in the trust fund pursuant to
 17 paragraph (4) (b) shall be disbursed as provided in this
 18 paragraph. A ~~Any~~ county may apply to the department under s.
 19 938.06 for a grant from the funds collected in the judicial
 20 circuit in which the county is located ~~under s. 938.06~~. A grant
 21 may be awarded only to counties that ~~which~~ are served by an
 22 official member of the Florida Association of Crime Stoppers and
 23 may ~~only~~ be used only to support Crime Stoppers and its ~~their~~
 24 crime fighting programs. Only one such official member is ~~shall~~
 25 be eligible for support within any county. In order to aid the
 26 department in determining eligibility, the secretary of the

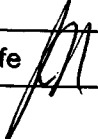
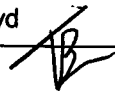
27 Florida Association of Crime Stoppers shall furnish the
 28 department with a schedule of authorized crime stoppers programs
 29 and shall update the schedule as necessary. The department shall
 30 award grants to eligible counties from available funds and shall
 31 distribute funds as equitably as possible, based on amounts
 32 collected within each county, if ~~when~~ more than one county is
 33 eligible within a judicial circuit.

34 (c) A county that is awarded funds under this section may
 35 use such funds to purchase and distribute promotional items to
 36 increase public awareness and educate the public about Crime
 37 Stoppers.

38 Section 2. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 989 Human Trafficking
SPONSOR(S): Criminal Justice Subcommittee; Trujillo and others
TIED BILLS: IDEN./SIM. BILLS: SB 768

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	12 Y, 0 N, As CS	Thomas	Cunningham
2) Justice Appropriations Subcommittee		McAuliffe 	Lloyd 
3) Judiciary Committee			

SUMMARY ANALYSIS

Section 787.06, F.S., Florida's human trafficking statute, defines human trafficking as the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining of another person for the purpose of exploitation of that person. The statute contains a variety of provisions prohibiting persons from knowingly engaging in human trafficking, using coercion for labor or services, or for commercial sexual activity. In addition to addressing the perpetrators of human trafficking, s. 787.06, F.S., addresses *victims* of human trafficking by providing legislative intent that "victims of trafficking be protected and assisted by this state and its agencies."

The bill amends a variety of statutes that currently provide protections to victims of sexual offenses, to extend those protections to victims of human trafficking. Specifically, the bill:

- Amends s. 39.01(67), F.S., to ensure that the definition of "sexual abuse of a child" used in dependency proceedings includes "allowing, encouraging, or forcing a child to participate in commercial sexual activity," as provided in the human trafficking statute;
- Amends s. 92.56, F.S., to protect court records involving human trafficking of a minor for labor or human trafficking for commercial sexual activity;
- Amends s. 960.065(2), F.S., to specify that compensation claims filed by persons engaged in an unlawful activity at the time of the crime upon which the claim is based are not eligible for an award, unless the victim was engaged in prostitution as a result of being a victim of human trafficking for commercial sexual activity; and
- Amends s. 960.199, F.S., specify that victims of human trafficking of a minor for labor or human trafficking for commercial sexual activity are eligible for victim relocation assistance.

The bill may result in more victims receiving victim compensation funds from the Department of Legal Affairs. To the extent these victims receive such funds, the bill will impact expenditures (see Fiscal Impact). The bill does not have a fiscal impact on local governments.

The bill is effective October 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Human Trafficking

Human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, teenagers, men, and women. Victims are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.¹ The International Labor Organization (ILO), the United Nations agency charged with addressing labor standards, employment, and social protection issues, estimates that as many as 27 million adults and children are in forced labor, bonded labor, and commercial sexual servitude at any given time.² The federal government has estimated that the number of persons trafficked into the United States each year ranges from 14,500-17,500.³

It is estimated that as many as 300,000 American youth are currently at risk of becoming victims of commercial sexual exploitation.⁴ The majority of American victims of commercial sexual exploitation tend to be runaway youth living on the streets, and generally come from homes where they have been abused, or from families that have abandoned them. These children often become involved in prostitution as a way to support themselves financially.⁵ The average age at which girls first become victims of prostitution is 12-14; for boys and transgender youth it is 11-13.⁶

Third party or pimp-controlled commercial sexual exploitation of children is linked to escort and massage services, private dancing, drinking and photographic clubs, major sporting and recreational events, major cultural events, conventions, and tourist destinations. About one-fifth of these children become involved in nationally organized crime networks and are trafficked nationally. They are transported around the United States by a variety of means - cars, buses, vans, trucks or planes - and are often provided counterfeit identification to use in the event of arrest.

Survivors of human trafficking often face both criminalization and stigmatization. Trafficked persons are not always recognized or treated as victims by law enforcement and prosecutors. Despite being victims, individuals who are trafficked are often arrested and convicted of prostitution and other related offenses, and may plead guilty not understanding the consequences. Multiple arrests, incarceration, police violence, deportation, employment, and housing discrimination may result.⁷

2012 Florida Legislation on Human Trafficking

Section 787.06, F.S., is Florida's human trafficking statute and defines "human trafficking" as the "transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining of another person for the purpose of exploitation of that person." The statute contains a variety of provisions

¹ U.S. Department of Health and Human Services, Administration for Children and Families, *About Human Trafficking*, available at <http://www.acf.hhs.gov/trafficking/about/index.html#> (last visited on March 6, 2014).

² See U.S. Department of State, *The 2013 Trafficking in Persons (TIP) Report*, June 2013, available at <http://www.state.gov/j/tip/rls/tiprpt/2013/index.htm> (last visited on March 6, 2014).

³ Sonide Simon, *Human Trafficking and Florida Law Enforcement*, Florida Criminal Justice Executive Institute, pg. 2, March 2008, available at <http://www.fdle.state.fl.us/Content/getdoc/e77c75b7-e66b-40cd-ad6e-c7f21953b67a/Human-Trafficking.aspx> (last visited on March 6, 2014).

⁴ *OJP Fact Sheet*, Office of Justice Programs, U.S. Department of Justice, December 2011, available at http://ojp.gov/newsroom/factsheets/ojpbs_humantrafficking.html (last visited on March 6, 2014).

⁵ Richard J. Estes and Neil Alan Weiner, *Commercial Sexual Exploitation of Children in the U.S., Canada and Mexico*, University of Pennsylvania, 2001, available at <http://www.sp2.upenn.edu/restes/CSEC.htm> (last visited March 6, 2012).

⁶ *Id.*

⁷ Melissa Broudo and Sienna Baskin, *Vacating Criminal Convictions For Trafficked Persons: A Legal Memorandum for Advocates and Legislators*. Urban Justice Center. The Sex Workers Project, April 3, 2012, available at <http://www.sexworkersproject.org/downloads/2012/20120422-memo-vacating-convictions.pdf> (last visited on March 6, 2014).

prohibiting persons from knowingly engaging in human trafficking using coercion for labor or services, or for commercial sexual activity.⁸ In 2012, Florida passed comprehensive legislation that updated and enhanced Florida's human trafficking statutes.⁹ The 2012 law:

- Combined Florida's three existing human trafficking statutes into one statute making it more user-friendly for law enforcement;
- Increased penalties for the crime of human smuggling from a first-degree misdemeanor to a third degree felony;
- Provided that those convicted of human sex trafficking may be designated as sex offenders and sex predators;
- Provided that any property used for human trafficking is subject to forfeiture;
- Required massage establishments and employees to present valid photo identification upon request; and
- Gave jurisdiction for human trafficking offenses to the Statewide Prosecutor and the Statewide Grand Jury.

Effect of the Bill

The bill amends a variety of statutes that currently provide protections to victims of sexual offenses, to extend those protections to victims of human trafficking. A description of these statutes and the protections they provide follows.

Dependency Proceedings

Chapter 39, F.S., establishes Florida child dependency process, and provides the process and procedures for the following:

- Reporting child abuse and neglect;
- Protective investigations;
- Taking children into custody and shelter hearings;
- Petition, arraignment, and adjudication of dependency;
- Disposition of the dependent child;
- Post-disposition change of custody;
- Case plans;
- Permanency;
- Judicial reviews; and
- Termination of parental rights.

Currently, the definition of "sexual abuse of a child," for purposes of finding a child to be dependent, includes numerous sexual acts, as well as "the sexual exploitation of a child, which includes the act of a child offering to engage in or engaging in prostitution...." or participating in "the trade of sex trafficking as provided in s. 796.035."¹⁰ Such abused children may be considered dependent¹¹ by the courts and delivered to the Department of Children and Families for shelter and services in or out of their caregiver's home.¹²

Effect of the Bill

The bill amends the definition of "sexual abuse of a child" in s. 39.01(67), F.S., to replace the reference to "participate in the trade of sex trafficking" with the phrase "participate in commercial sexual activity as provided in s. 787.06(3)(g) or (h)¹³ or s. 796.035."¹⁴

⁸ Section 787.06(3), F.S.

⁹ Chapter 2012-97, L.O.F. This legislation took effect July 1, 2012.

¹⁰ Section 39.01(67), F.S.

¹¹ Section 39.01(15), F.S.

¹² See generally s. 39.013(2), F.S., which gives the circuit court exclusive original jurisdiction over a child found to be dependent.

¹³ Section 787.06(3)(g) and (h), F.S., relate to human trafficking for commercial sexual activity of a child under the age of 18.

¹⁴ Section 796.035, F.S., relates to the selling or buying of minors into prostitution.

Confidentiality - Identity and Images of Victims of Sexual Offenses

Section 119.071(2)(h), F.S., provides, in part, that the following criminal intelligence information¹⁵ or criminal investigative information¹⁶ is confidential and exempt from s. 119.07(1), F.S., and Article I, Section 24(a), of the Florida Constitution:¹⁷

- Any information which may reveal the identity of a person who is a victim of sexual abuse;¹⁸
- A photograph, videotape, or image of any part of the body of the victim of a sexual offense, regardless of whether the photograph, videotape, or image identifies the victim.¹⁹

Section 92.56(1)(a), F.S., provides that the confidential and exempt status of the above-described criminal intelligence information or criminal investigative information must be maintained in court records and in court proceedings.

Currently, a defendant charged with a crime described in ch. 794, F.S. (sexual battery), or ch. 800, F.S. (lewdness and indecent exposure), or with child abuse, aggravated child abuse, or sexual performance by a child as described in ch. 827, F.S., may request a court order allowing the defendant access to the confidential and exempt information in order to prepare his or her defense.²⁰ Additionally, trial testimony is permitted to be published or broadcast in such cases, so long as it does not include an identifying photograph, identifiable voice, or the name or address of the victim (unless consented to).²¹

The state may also use a pseudonym instead of a victim's name in cases relating to violations of

- Chapter 794, F.S. (sexual battery);
- Chapter 827, F.S. (child abuse, aggravated child abuse, or sexual performance by a child);
- Chapter 800, F.S. (lewdness and indecent exposure); or
- Any crime involving the production, possession, or promotion of child pornography.²²

Effect of the Bill

The bill amends s. 92.56, F.S., to permit a defendant charged with human trafficking of a minor for labor or human trafficking for commercial sexual activity (regardless of victim age) to request a court order allowing the defendant access to the confidential and exempt information in order to prepare his or her defense. The bill also:

- Permits trial testimony to be published or broadcast in such cases, so long as it does not include an identifying photograph, identifiable voice, or the name or address of the victim; and

¹⁵ "Criminal intelligence information" is information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity. Section 119.011(3)(a), F.S.

¹⁶ "Criminal investigative information" is information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance. Section 119.011(3)(b), F.S.

¹⁷ Criminal intelligence information and criminal investigative information do not include: (1) time, date, location, and nature of a reported crime; (2) name, sex, age, and address of a person arrested or of the victim of a crime except as provided in s. 119.071(2)(h), F.S.; (3) time, date, and location of the incident and of the arrest; (4) crime charged; (5) documents given or required by law or agency rule to be given to the person arrested, except as provided in s. 119.071(2)(h), F.S., and, except that the court in a criminal case may order that certain information required by law or agency rule to be given to the person arrested be maintained in a confidential manner and exempt from the provisions of s. 119.07(1), F.S., until released at trial if it is found that the release of such information would be defamatory to the good name of a victim or witness or would jeopardize the safety of such victim or witness and impair the ability of a state attorney to locate or prosecute a codefendant; and (6) informations and indictments except as provided in s. 905.26, F.S. Section 119.011(3)(c), F.S.

¹⁸ Section 119.071(2)(h)1.b., F.S.

¹⁹ Section 119.071(2)(h)1.c., F.S.

²⁰ The confidential and exempt status of the records may not be used to prevent the disclosure of the victim's identity to the defendant; however, the defendant may not disclose the victim's identity to any person other than the defendant's attorney or any other person directly involved in the preparation of the defense. Section 92.56(2), F.S.

²¹ Section 92.56(5), F.S.

²² Section 92.56(3), F.S.

- Allows the state to use a pseudonym instead of a victim's name in such cases.

Victim Compensation

The Florida Crimes Compensation Act (the Act),²³ authorizes the Florida Attorney General's Division of Victim Services to administer a compensation program to ensure financial assistance for victims of crime. Injured crime victims may be eligible for financial assistance for medical care, lost income, mental health services, funeral expenses and other out-of-pocket expenses directly related to the injury.²⁴ Currently, s. 906.065(2), F.S., provides that compensation claims filed by persons engaged in an unlawful activity at the time of the crime upon which the claim is based are not eligible for an award.

Section 960.199, F.S., provides relocation assistance to victims of sexual battery. The Department of Legal Affairs (DLA) administers the assistance program. Under the program, a victim of sexual battery²⁵ who needs relocation assistance and meets the statutory criteria²⁶ may receive:

- A one-time payment not exceeding \$1,500 on any one claim; and
- A lifetime maximum of \$3,000.

Effect of the Bill

The bill amend s. 960.065(2), F.S., to specify that compensation claims filed by persons engaged in an unlawful activity at the time of the crime upon which the claim is based are not eligible for an award, unless the victim was engaged in prostitution as a result of being a victim of human trafficking for commercial sexual activity.

The bill amends s. 960.199, F.S., to specify that victims of human trafficking of a minor for labor or human trafficking for commercial sexual activity (regardless of victim age) are eligible for victim relocation assistance.

B. SECTION DIRECTORY:

Section 1. Amends s. 39.01, F.S., relating to definitions.

Section 2. Amends s. 92.56, F.S., relating to judicial proceedings and court records involving sexual offenses.

Section 3. Amends s. 787.06, F.S., relating human trafficking.

Section 4. Amends s. 960.065, F.S., relating to eligibility for awards.

Section 5. Amends s. 960.199, F.S., relating to relocation assistance for victims of sexual battery.

Section 6. Provides an effective date.

²³ Sections 960.01-960.28, F.S.

²⁴ <http://myfloridalegal.com/pages.nsf/main/1c7376f380d0704c85256cc6004b8ed3!OpenDocument> (last visited on March 7, 2014).

²⁵ As defined in s. 794.011, F.S.

²⁶ The statutory criteria for eligibility is:

- There must be proof that a sexual battery offense was committed.
- The sexual battery offense must be reported to the proper authorities.
- The victim's need for assistance must be certified by a certified rape crisis center in this state.
- The center certification must assert that the victim is cooperating with law enforcement officials, if applicable, and must include documentation that the victim has developed a safety plan.
- The act of sexual battery must be committed in the victim's place of residence or in a location that would lead the victim to reasonably fear for his or her continued safety in the place of residence.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill includes certain victims of human trafficking within those persons eligible for victim relocation assistance by the Department of Legal Affairs. In 2012, HB 1355 appropriated \$1.5 million in nonrecurring general revenue to the Department of Legal Affairs to assist in the relocation of victims of sexual assault. The funds were reappropriated in 2013, and to date, \$1.3 million of those funds remain. These funds, if reappropriated, would be the source of payment. If the funds are not reappropriated then the funding would be provided by the Crimes Compensation Trust Fund which could absorb those expenditures. The Crimes Compensation Trust Fund was appropriated \$30.3 million in Fiscal Year 2012-13 and had a balance of \$14.4 million at the end of that fiscal year.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not have any impact on local government revenues.

2. Expenditures:

The bill does not have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 10, 2014, the Criminal Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removed the criminal penalty in the bill for a public employee to disclose information relating to a victim of human trafficking.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.

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A bill to be entitled
 An act relating to human trafficking; amending s.
 39.01, F.S.; including human trafficking in the
 definition of the term "sexual abuse of a child";
 amending s. 92.56, F.S.; including human trafficking
 within provisions providing for confidentiality of
 court records concerning certain offenses involving
 children; amending s. 787.06, F.S.; clarifying the
 offense of human trafficking; amending s. 960.065,
 F.S.; providing that victims of human trafficking are
 eligible for crime victim compensation awards under
 certain circumstances; amending s. 960.199, F.S.;
 allowing victims of human trafficking to be eligible
 for financial relocation assistance; providing an
 effective date.

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

Section 1. Paragraph (g) of subsection (67) of section
 39.01, Florida Statutes, is amended to read:

39.01 Definitions.—When used in this chapter, unless the
 context otherwise requires:

(67) "Sexual abuse of a child" for purposes of finding a
 child to be dependent means one or more of the following acts:

(g) The sexual exploitation of a child, which includes the
 act of a child offering to engage in or engaging in

27 | prostitution, provided that the child is not under arrest or is
 28 | not being prosecuted in a delinquency or criminal proceeding for
 29 | a violation of any offense in chapter 796 based on such
 30 | behavior; or allowing, encouraging, or forcing a child to:

- 31 | 1. Solicit for or engage in prostitution;
- 32 | 2. Engage in a sexual performance, as defined by chapter
 33 | 827; or
- 34 | 3. Participate in commercial sexual activity ~~the trade of~~
 35 | ~~sex trafficking~~ as provided in s. 787.06(3)(g) or (h) or s.
 36 | 796.035.

37 | Section 2. Subsections (2), (3), and (5) of section 92.56,
 38 | Florida Statutes, are amended to read:

39 | 92.56 Judicial proceedings and court records involving
 40 | sexual offenses and human trafficking.-

41 | (2) A defendant charged with a crime described in s.
 42 | 787.06(3)(a) in which the victim is under the age of 18, s.
 43 | 787.06(3)(b), (d), (f), (g), or (h), chapter 794, or chapter
 44 | 800, or with child abuse, aggravated child abuse, or sexual
 45 | performance by a child as described in chapter 827, may apply to
 46 | the trial court for an order of disclosure of information in
 47 | court records held confidential and exempt pursuant to s.
 48 | 119.0714(1)(h) or maintained as confidential and exempt pursuant
 49 | to court order under this section. Such identifying information
 50 | concerning the victim may be released to the defendant or his or
 51 | her attorney in order to prepare the defense. The confidential
 52 | and exempt status of this information may not be construed to

53 | prevent the disclosure of the victim's identity to the
 54 | defendant; however, the defendant may not disclose the victim's
 55 | identity to any person other than the defendant's attorney or
 56 | any other person directly involved in the preparation of the
 57 | defense. A willful and knowing disclosure of the identity of the
 58 | victim to any other person by the defendant constitutes
 59 | contempt.

60 | (3) The state may use a pseudonym instead of the victim's
 61 | name to designate the victim of a crime described in s.
 62 | 787.06(3)(a) in which the victim is under the age of 18, in s.
 63 | 787.06(3)(b), (d), (f), (g), or (h), or in chapter 794 or
 64 | chapter 800, or of child abuse, aggravated child abuse, or
 65 | sexual performance by a child as described in chapter 827, or
 66 | any crime involving the production, possession, or promotion of
 67 | child pornography as described in chapter 847, in all court
 68 | records and records of court proceedings, both civil and
 69 | criminal.

70 | (5) This section does not prohibit the publication or
 71 | broadcast of the substance of trial testimony in a prosecution
 72 | for an offense described in s. 787.06(3)(a) in which the victim
 73 | is under the age of 18, s. 787.06(3)(b), (d), (f), (g), or (h),
 74 | chapter 794, or chapter 800, or a crime of child abuse,
 75 | aggravated child abuse, or sexual performance by a child, as
 76 | described in chapter 827, but the publication or broadcast may
 77 | not include an identifying photograph, an identifiable voice, or
 78 | the name or address of the victim, unless the victim has

79 consented in writing to the publication and filed such consent
 80 with the court or unless the court has declared such records not
 81 confidential and exempt as provided for in subsection (1).

82 Section 3. Subsection (3) of section 787.06, Florida
 83 Statutes, is amended to read:

84 787.06 Human trafficking.—

85 (3) Any person who knowingly, or in reckless disregard of
 86 the facts, engages in human trafficking, or attempts to engage
 87 in human trafficking, or benefits financially by receiving
 88 anything of value from participation in a venture that has
 89 subjected a person to human trafficking:

90 (a) Using coercion for labor or services commits a felony
 91 of the first degree, punishable as provided in s. 775.082, s.
 92 775.083, or s. 775.084.

93 (b) Using coercion for commercial sexual activity commits
 94 a felony of the first degree, punishable as provided in s.
 95 775.082, s. 775.083, or s. 775.084.

96 (c) Using coercion for labor or services of any individual
 97 who is an unauthorized alien commits a felony of the first
 98 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 99 775.084.

100 (d) Using coercion for commercial sexual activity of any
 101 individual who is an unauthorized alien commits a felony of the
 102 first degree, punishable as provided in s. 775.082, s. 775.083,
 103 or s. 775.084.

104 (e) Using coercion for labor or services who does so by

105 | the transfer or transport of any individual from outside this
 106 | state to within the state commits a felony of the first degree,
 107 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

108 | (f) Using coercion for commercial sexual activity who does
 109 | so by the transfer or transport of any individual from outside
 110 | this state to within the state commits a felony of the first
 111 | degree, punishable as provided in s. 775.082, s. 775.083, or s.
 112 | 775.084.

113 | (g) For commercial sexual activity in which any child
 114 | under the age of 18 is involved commits a felony of the first
 115 | degree, punishable by imprisonment for a term of years not
 116 | exceeding life, or as provided in s. 775.082, s. 775.083, or s.
 117 | 775.084. In a prosecution under this paragraph in which the
 118 | defendant had a reasonable opportunity to observe the person who
 119 | was subject to human trafficking, the state need not prove that
 120 | the defendant knew that the person had not attained the age of
 121 | 18 years.

122 | (h) For commercial sexual activity in which any child
 123 | under the age of 15 is involved commits a life felony,
 124 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 125 | In a prosecution under this paragraph in which the defendant had
 126 | a reasonable opportunity to observe the person who was subject
 127 | to human trafficking, the state need not prove that the
 128 | defendant knew that the person had not attained the age of 15
 129 | years.

130

131 For each instance of human trafficking of any individual under
 132 this subsection, a separate crime is committed and a separate
 133 punishment is authorized.

134 Section 4. Paragraph (b) of subsection (2) of section
 135 960.065, Florida Statutes, is amended to read:

136 960.065 Eligibility for awards.—

137 (2) Any claim filed by or on behalf of a person who:

138 (b) Was engaged in an unlawful activity at the time of the
 139 crime upon which the claim for compensation is based, unless the
 140 victim was engaged in prostitution as a result of being a victim
 141 of human trafficking as described in s. 787.06(3)(b), (d), (f),
 142 (g), or (h);

143
 144 is ineligible for an award.

145 Section 5. Section 960.199, Florida Statutes, is amended
 146 to read:

147 960.199 Relocation assistance for victims of sexual
 148 battery or human trafficking.—

149 (1) The department may award a one-time payment of up to
 150 \$1,500 on any one claim and a lifetime maximum of \$3,000 to a
 151 victim of sexual battery, as defined in s. 794.011, or a victim
 152 of human trafficking, as described in s. 787.06(3)(b), (d), (f),
 153 (g), or (h), who needs relocation assistance.

154 (2) In order for an award to be granted to a victim for
 155 relocation assistance:

156 (a) There must be proof that a sexual battery offense or

157 human trafficking offense, as defined in s. 787.06(3)(b), (d),
 158 (f), (g), or (h), was committed.

159 (b) The sexual battery offense or human trafficking
 160 offense, as defined in s. 787.06(3)(b), (d), (f), (g), or (h),
 161 must be reported to the proper authorities.

162 (c) The victim's need for assistance must be certified by
 163 a certified rape crisis center in this state or by the state
 164 attorney or statewide prosecutor having jurisdiction over the
 165 offense.

166 (d) The center's ~~center~~ certification must assert that the
 167 victim is cooperating with law enforcement officials, if
 168 applicable, which assertion must be approved by the state
 169 attorney or statewide prosecutor, as appropriate, and must
 170 include documentation that the victim has developed a safety
 171 plan.

172 (e) The act of sexual battery or human trafficking, as
 173 described in s. 787.06(3)(b), (d), (f), (g), or (h), must be
 174 committed in the victim's place of residence or in a location
 175 that would lead the victim to reasonably fear for his or her
 176 continued safety in the place of residence.

177 (3) Relocation payments for a sexual battery or human
 178 trafficking claim under this section shall be denied if the
 179 department has previously approved or paid out a domestic
 180 violence relocation claim under s. 960.198 to the same victim
 181 regarding the same incident.

182 Section 6. This act shall take effect October 1, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 989 (2014)

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: Justice Appropriations
2 Subcommittee

3 Representative Trujillo offered the following:
4



5 **Amendment**

6 Remove lines 162-165 and insert:

7 (c) The victim's need for assistance must be certified by
8 a ~~certified~~ rape crisis center or domestic violence center
9 certified in this state or by the state attorney or statewide
10 prosecutor having jurisdiction over the offense.
11
12

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7055 PCB CRJS 14-01 Juvenile Justice
SPONSOR(S): Criminal Justice Subcommittee, Pilon
TIED BILLS: **IDEN./SIM. BILLS:** SB 700

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Criminal Justice Subcommittee	12 Y, 0 N	Cox	Cunningham
1) Justice Appropriations Subcommittee		deNagy 	Lloyd 
2) Judiciary Committee			

SUMMARY ANALYSIS

Chapter 985, F.S., provides the framework for the juvenile justice system in Florida and authorizes the Department of Juvenile Justice (DJJ) to administer services and provide care to the state's delinquent children. The bill amends a variety of statutes in ch. 985, F.S., relating to DJJ, its duties, and its programs. Specifically, the bill:

- Updates legislative intent language and definitions applicable to ch. 985, F.S.;
- Modifies procedures relating to jurisdiction, contempt of court, fingerprinting and photographing, and intake assessments;
- Revises and expands the detention care system;
- Provides authority to the department to develop, within existing resources, evening reporting centers and community re-entry teams;
- Expands the department's notification requirements to a school or victim when the custody status of a youth has changed;
- Allows technical violations to be resolved through alternative consequence programs;
- Broadens the application of transition-to-adulthood services to youth of all ages;
- Expands when a misdemeanor youth may be committed to a residential program;
- Creates a new offense relating to "willful and malicious neglect" of juvenile offenders;
- Enhances the performance accountability system for service providers; and
- Limits the amount paid to hospitals and health care providers who are not under contract with the department for health care services provided to juveniles.

The bill also amends a variety of statutes in ch. 985, F.S., to make conforming changes, correct statutory cross-references, update terminology, and to delete obsolete provisions.

The bill does not appear to have a fiscal impact on local governments, but is expected to have a minimal fiscal impact on DJJ. DJJ has stated that they will be able to handle the increased costs within their existing resources. See FISCAL COMMENTS.

The bill is effective on July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

DJJ / HRS

In years past, all "proceedings relating to children" were under the auspices of the Department of Health and Rehabilitative Services (HRS). These proceedings included dependency and delinquency cases.¹ In 1994, the Legislature created the Department of Juvenile Justice (DJJ), which was assigned responsibility for juvenile delinquency cases and children and families in need of services (CINS/FINS) cases. HRS retained jurisdiction of dependency cases. Despite this bifurcation, the statutes relating to delinquency and dependency remained together in ch. 39, F.S.²

In 1997, the Legislature transferred the juvenile justice provisions of ch. 39, F.S., into ch. 984, F.S., (relating to CINS/FINS) and ch. 985, F.S., (relating to juvenile delinquency cases).³ However, a handful of provisions relating to dependency were inadvertently included in the transfer.

Effect of the Bill

The bill removes obsolete provisions throughout ch. 985, F.S., relating to dependency proceedings. Dependency proceedings are currently addressed in ch. 39, F.S.

Legislative Intent (Sections 1 and 2)

Sections 985.01 and 985.02, F.S., contain legislative intent for ch. 985, F.S. Section 985.01, F.S., addresses the purposes of ch. 985, F.S., as a whole, while s. 985.02, F.S., provides more detailed legislative intent language specific to certain juvenile justice topics.

Effect of the Bill

The bill amends existing portions of s. 985.01, F.S., to specify that it is the purpose of ch. 985, F.S., to:

- Provide *victims* due process while involved in the juvenile justice system (current law only addresses due process for children and "other interested parties");
- Provide an environment that fosters *educational* development (current law only refers to social, emotional, intellectual, and physical development); and
- Provide children committed to DJJ technical education, when appropriate (current law only refers to training in life skills, including career education).

The bill creates new provisions in s. 985.01, F.S., specifying that the purpose of ch. 985, F.S., is to:

- Increase public safety by reducing juvenile delinquency through effective prevention, intervention, and treatment services that strengthen and reform the lives of children;
- Care for children in the least restrictive and most appropriate service environments; and
- Allocate resources for the most effective programs, services, and treatments to ensure that children, their families, and their community support systems are connected with these programs at the points along the juvenile justice continuum where they will have the most impact.

The bill amends existing portions of s. 985.02, F.S., to:

- Remove duplicative legislative intent language relating to detention care (similar language is found in s. 985.01, F.S.);
- Specify that the Legislature finds that secure detention is appropriate to provide punishment *for children who pose a threat to public safety* (current law specifies secure detention is appropriate to discourage further delinquent behavior);

¹ *History of the Juvenile Justice System in Florida*, <http://www.djj.state.fl.us/about-us/history> (last visited on February 13, 2014).

² *Id.*

³ *Id.*

- Specify that the Legislature finds the placement of facilities close to the home communities of the children they house is intended to facilitate family involvement in the treatment process;
- Specify that the Legislature finds that residential facilities must have no more than 90 (rather than 165) beds each;
- Remove language specifying that “the Legislature finds that the detention services should exceed the primary goal of providing safe and secure custody pending adjudication and disposition;” and
- Explain what gender-specific programming should entail and why gender-specific programming is important for reducing juvenile delinquency.

The bill also adds new legislative findings to s. 985.02, F.S., relating to two specific topic areas - “trauma-informed care” and “family and community engagement.”

- The section addressing trauma-informed care provides that the DJJ should use trauma-informed care⁴ as an approach to treating children with histories of trauma and explains that this method of care is preferred for such children because it assists with preventing retraumatization of the child.
- The section addressing family and community engagement provides that families and community support systems are critical to ensuring children are not delinquent; specifies that children should be served and treated in their homes and diverted from restrictive placements, when appropriate; and provides that DJJ should develop customized plans which “recognize the child’s individual strengths, reduce their risks, and prepare them for a successful transition to, and unification with, their family and community support system.”

Definitions (Section 3)

Section 985.03, F.S., provides definitions that apply to the chapter.

Effect of the Bill

The bill amends s. 985.03, F.S., to define the following terms:

- “Abscond” is defined to mean to hide, conceal, or absent oneself from the jurisdiction of the court or supervision of the department to avoid prosecution or supervision;
- “Prevention” is defined to mean programs, strategies, initiatives, and networks designed to keep children from making initial or further contact with the juvenile justice system; and
- “Trauma-informed care” is defined to mean services that are provided to children with a history of trauma, recognizing the symptoms of trauma and acknowledging the role the trauma has played in the child’s life. Trauma may include, but is not limited to, community and school violence, physical or sexual abuse, neglect, medical difficulties, and domestic violence.

The bill amends the existing definitions of the following terms:

- “Child,” “juvenile,” and “youth” are amended to mean any person under the age of 18 or any person who is alleged to have committed a violation of law occurring prior to the time that person reached the age of 18 years;
- “Comprehensive Assessment,” “assessment,” and “day treatment” are amended to refer to “career and technical education,” rather than “vocational” services;
- “Conditional release” is amended to include transition-to-adulthood services;
- “Intake” is amended to allow juvenile assessment center personnel (rather than just DJJ personnel) to accept and screen a report of delinquency;
- “Temporary release” is amended to no longer apply to periods of time when the child is supervised pursuant to conditional release program or supervised by DJJ staff.

⁴ The bill defines “trauma-informed care” in s. 985.03, F.S., to mean providing services to children with a history of trauma, which recognizes the symptoms of trauma and acknowledges the role the trauma has played in the child’s life. Trauma may include, but is not limited to, community and school violence, physical or sexual abuse, neglect, medical difficulties, and domestic violence.

The bill deletes definitions for the following terms, which refer to the dependency system: "child support," "foster care," "habitually truant," "halfway house," "shelter hearing," and "staff-secure shelter."

The bill also deletes definitions for the following terms, as they have been replaced by "prevention services:" "delinquency prevention programs" and "preventative services."

The terms "detention care" and "restrictiveness levels" are also amended in this bill. However, both have a significant effect on the substantive areas of the juvenile justice system and thus are addressed in the appropriate substantive portions of this analysis.

Jurisdiction (Section 4)

Section 985.0301, F.S., specifies that Florida's circuit courts have exclusive original jurisdiction of proceedings in which a child is alleged to have committed a violation of law. Jurisdiction attaches to the child by service of the summons upon the child and a parent or when the child is taken into custody, whichever first occurs.⁵

Currently, the circuit court where the violation occurred may transfer a case to the circuit court in which the child resides or will reside at the time of detention or placement.⁶ A child who has been detained must be transferred to the appropriate detention center or facility or other placement directed by the court receiving the case.⁷

The court retains jurisdiction over a child until the child:

- Reaches 19 years of age, if the child's case has not been resolved;
- Reaches 19 years of age, if the child is ordered to participate in a probation program, which includes participation in transition-to-adulthood services;
- Reaches 21 years of age, if the child is committed to DJJ;
- Reaches 22 years of age, if the child is committed to DJJ for placement in a juvenile prison or in a high-risk or maximum-risk residential commitment program;⁸
- Reaches 21 years of age, if the child is committed to DJJ for placement in an intensive residential treatment program for 10-13 year-old offenders, in the residential commitment program in a juvenile prison or in a residential sex offender program;
- Reaches 21 years of age, if the child is committed to a juvenile correctional facility or a juvenile prison, specifically for the purpose of allowing the child to complete such program;
- Reaches 21 years of age, if the child is a juvenile sexual offender who has been placed in a program or facility for juvenile sexual offenders, specifically to complete the program; or
- Satisfies any restitution ordered in the case.⁹

Effect of the Bill

The bill amends s. 985.0301, F.S., to authorize, rather than require, the court to transfer a detained child to a detention center in the circuit in which the child resides or will reside at the time of detention. The bill restricts such transfers to only these two circumstances, which means the receiving court will no longer be able to direct where the detained child may be placed when a case is being transferred.

The bill simplifies the above-described age-based jurisdictional criteria. As a result, the court will retain jurisdiction over a child until the child:

- Reaches 19 years of age, generally, or if the child is in a probation program;
- Reaches 21 years of age, if the child is committed to DJJ in any type of commitment program, specifically for the purpose of allowing the child to complete the commitment program, including conditional release supervision;

⁵ Section 985.0301(2), F.S.

⁶ Section 985.0301(4)(a), F.S.

⁷ *Id.*

⁸ This is solely for the child to complete a conditional release program. Section 985.0301(5)(d), F.S.

⁹ Section 985.0301(5), F.S.

- Reaches 21 years of age, if the child is a juvenile sexual offender who has been placed on community-based treatment alternative with supervision, or in a program or facility for juvenile sexual offenders, specifically for purpose of completing the program;
- Satisfies any restitution ordered in the case.

Prevention (Section 13)

Currently, ch. 985, F.S., does not include statutes specifically relating to prevention services.

Effect of the Bill

The bill creates s. 985.17, F.S., relating to prevention services. This section specifies that the Legislature finds that:

- Prevention services decrease recidivism by addressing the needs of at-risk youth and their families, preventing further involvement of such youth in the juvenile justice system, protecting public safety, and facilitating successful reentry into the community; and
- To assist with decreasing recidivism, prevention services must strengthen protective factors and reduce risk factors using tested and effective approaches.

The bill requires DJJ to:

- Engage faith and community-based organizations to provide a full range of voluntary programs and services to prevent and reduce juvenile delinquency;¹⁰
- Establish volunteer coordinators in each circuit and encourage mentor recruitment;
- Encourage the recruitment of volunteers to serve as mentors for youth in DJJ services;
- Promote the "Invest in Children" license plate to help fund programs and services to prevent juvenile delinquency;¹¹
- Focus prevention services on preventing initial or further involvement with the juvenile justice system by including certain services (e.g., literacy and gender-specific programs) and included targets services to troubled, truant, ungovernable, abused, trafficked, and runaway youth;
- Ensure their prevention services address the multiple needs of youth at risk of becoming delinquent in order to decrease the prevalence of disproportionate minority representation in the juvenile justice system; and
- Expend prevention-related funds in a manner that maximizes accountability and ensures documentation of outcomes.

The bill incorporates language into s. 985.17, F.S., that is currently found in two sections that are being repealed by the bill (ss. 985.605 and 985.606, F.S.). This language requires DJJ to expend prevention-related funds in a manner that maximizes accountability to the public and ensures the documentation of outcomes. The bill provides that as a condition of receipt of state funds, entities that receive or use state moneys to fund prevention services through contracts with DJJ or grants from any entity must:

- Design programs providing services to further one or more of the following strategies:
 - Encouraging youth to attend and succeed in school;
 - Engaging youth in productive and wholesome activities during non-school hours that build positive character, instill positive values, and enhance educational experiences;
 - Encouraging youth to avoid the use of violence; and
 - Assisting youth in acquiring the skills needed to find meaningful employment, including assistance in finding a suitable employer for the child; and
- Provide the department with demographic information, dates of services, and the type of interventions received by each youth.

¹⁰ The bill further provides that the voluntary programs and services include, but are not limited to, chaplaincy services, crisis intervention counseling, mentoring, and tutoring.

¹¹ The bill further requires DJJ to allocate moneys for programs and services within each county based on that county's proportionate share of the license plate annual use fee collected by the county, which is identical to how s. 320.08058(11), F.S., specifies the money should be allocated.

The bill requires DJJ to monitor the output and outcome measures for each program strategy and annually report this data in the Comprehensive Accountability Report. The bill also requires DJJ monitor all state-funded programs that receive or use state moneys to fund the juvenile delinquency prevention services through contracts or grants for compliance with all provisions in the contracts and grants.

Intake Process (Sections 11 and 12)

Every child under the age of 18 charged with a crime in Florida is referred to DJJ.¹² Intake and screening services for youth referred to DJJ are performed at a Juvenile Assessment Center (JAC),¹³ but must be performed by a DJJ employee.¹⁴ Once brought into intake, DJJ assigns the child a juvenile probation officer (JPO), conducts an assessment, and recommends to the state attorney and the court the most appropriate sanctions and services.¹⁵ The JPO serves as the primary case manager responsible for managing, coordinating, and monitoring services provided to the child.¹⁶

Effect of the Bill

The bill amends s. 985.14, F.S., to allow both DJJ and JAC personnel to perform the intake process, which will provide a more efficient intake process in counties that operate their own JACs. The bill also:

- Clarifies that the intake assessment process consists of an initial assessment that may be followed by a full mental health, substance abuse, and/or psychosexual evaluation; and
- Requires youth to be screened to determine career or technical education problems (rather than vocational problems).

The bill replaces the term “juvenile probation officer” with “department” throughout s. 985.145, F.S., which will allow DJJ to use employees other than JPOs to serve as a child’s primary case manager.

Detention Care System (Sections 14 through 21)

Detention is the temporary custody status of children who are held pursuant to a court order or following arrest.¹⁷ Currently, children may be detained in one of three types of detention care: secure,¹⁸ nonsecure,¹⁹ and home detention,²⁰ but only when specific statutory criteria are met. Section 985.24, F.S., provides broad findings upon which all determinations and court orders regarding detention care shall be based, including that the child:

- Presents a substantial risk of not appearing at a subsequent hearing;
- Presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior;
- Presents a history of committing a property offense prior to adjudication, disposition, or placement;
- Has committed contempt of court; or
- Requests protection from imminent bodily harm.

¹² A referral is similar to an arrest in the adult criminal justice system.

¹³ Section 985.135(4), F.S.

¹⁴ Section 985.14(2), F.S.

¹⁵ Section 985.14(1) and (2), F.S.

¹⁶ Section 985.145(1), F.S.

¹⁷ Section 985.03(18), F.S.

¹⁸ Section 985.03(18)(a), F.S., defines “secure detention” as temporary custody of the child while the child is under the physical restriction of a detention center or facility pending adjudication, disposition, or placement.

¹⁹ Section 985.03(18)(b), F.S., defines “nonsecure detention” as temporary custody of the child while the child is in a residential home in the community in a physically nonrestrictive environment under the supervision of the Department of Juvenile Justice pending adjudication, disposition, or placement. However, DJJ reports that its current practice for detention is to only utilize secure detention, home detention, or home detention with electronic monitoring. E-mail from Jon Menendez, DJJ Legislative Affairs Director, dated December 10, 2013 (on file with the Criminal Justice Subcommittee).

²⁰ Section 985.03(18)(c), F.S., defines “home detention” as temporary custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the department staff pending adjudication, disposition, or placement.

Upon a child being taken into custody by a law enforcement agency, the JPO must accept custody of the child and review the facts in the arrest report to determine what, if any, detention care is necessary.²¹ The JPO makes an initial decision regarding detention care placement using the "Detention Risk Assessment Instrument" (DRAI).²² In certain instance, the JPO does not have discretion and must place a child in secure detention (e.g., when a child is charged with possessing or discharging a firearm on school property).²³

A child may not be held in secure, nonsecure, or home detention for more than 24 hours without a detention hearing.²⁴ A detention hearing is conducted by a circuit judge who reviews the DRAI to determine whether there is probable cause to believe the child committed the offense and whether there is a need for continued detention.²⁵ If so, the court's detention order must include specific instructions that direct the release of the child from detention no later than 5 p.m. on the last day of the detention period (generally, there is a 21-day limit to secure, nonsecure, or home detention²⁶).²⁷

On occasion, a juvenile may be released from secure detention or transferred to nonsecure detention. In such instances, detention staff must notify the appropriate law enforcement agency and school personnel, but only if the child is a juvenile sexual offender.

Effect of the Bill

The bill makes numerous substantive changes to the statutes which govern the detention care system. First, the bill amends the definition of "detention care" found in s. 985.03, F.S., to remove "home detention," thereby limiting the definition to "secure" and "nonsecure" detention. The bill amends the definition of "nonsecure detention" to mean:

- Temporary, nonsecure custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive home environment under the supervision of DJJ staff pending adjudication, disposition, or placement. Forms of nonsecure detention may include, but are not limited to home detention, electronic monitoring, day reporting centers, evening reporting centers, and nonsecure shelters. Nonsecure detention may include other requirements imposed by the court.

The bill authorizes DJJ to develop evening reporting centers (centers), within existing resources, which are included in the definition of "nonsecure detention." These centers serve as an alternative to placing a child in secure detention and may be collocated with a JAC. Centers must serve children and families who are awaiting a child's court hearing, and must operate at a minimum during the afternoon and evening hours to provide a highly structured program of supervision. Centers may also provide academic tutoring, counseling, family engagement programs, and other activities.

The term "juvenile probation officer" is replaced by the term "department" throughout many of the detention-related statutes, which will allow DJJ to use employees other than JPOs to make initial detention placement decisions. The bill specifies that a child's "illegal possession of a firearm" can be considered as a basis for ordering detention or continued detention, and requires secure detention for any child who has been taken into custody on three or more separate occasions within a 60 day period.

If a court orders detention but does not include the release date in the order, DJJ must request the court to set one on the same date the child is placed into detention care.

²¹ Section 985.25, F.S.

²² Sections 985.25(1) and 985.245, F.S. Section 985.254, F.S., outlines with whom the Detention Risk Assessment Instrument (DRAI) shall be developed, when and how it shall be updated, and what factors the DRAI should be identifying when evaluating a child to determine whether detention placement is appropriate.

²³ Section 985.25(1)(b), F.S.

²⁴ Section 985.26(1), F.S. The child has the right to be represented at this hearing or can waive such right. Section 985.033, F.S.

²⁵ Section 985.255(3), F.S.

²⁶ Section 985.26(2), F.S. A child may be held up to 30 days if the child is charged with what would be, if committed by an adult, a capital felony, a life felony, a first degree felony, or a second degree felony offense.

²⁷ Section 985.255(3)(c), F.S.

The bill requires detention staff to notify the appropriate law enforcement agency, school personnel, and victim when a child charged with any of the following offenses is released from secure detention or transferred to nonsecure detention:

- Murder, under s. 782.04, F.S.;
- Sexual battery, under ch. 794, F.S.;
- Stalking, under s. 784.048, F.S.; or
- Domestic violence, as defined in s. 741.28, F.S.

In some respects, this expands the notification requirement by not limiting it to juvenile sex offenders. In other respects, this limits the notification requirement, because it only requires notification for sexual battery, and not all of the previously-included offenses that qualify a child as a juvenile sex offender.

In instances where a detained child is transferred to a jail or other facility used to detain adults,²⁸ the bill requires physical observation and documented checks of the child every 10 minutes, rather than every 15 minutes.

The court must place all children who are adjudicated and awaiting placement in a commitment program in detention care. In such instances, the bill requires, rather than permits, a child who has been committed to a high-risk or maximum risk residential facility to be held in secure detention until placement has been accomplished.

Disposition (Sections 22 through 27)

A child who is alleged to have committed a violation of law is formally charged by the filing of a petition for delinquency by the state attorney.²⁹ Because a child may be subject to deprivation of liberty if adjudicated delinquent, federal constitutional law requires that such child be afforded many of the same due process safeguards afforded to adult criminal defendants.³⁰ The case then proceeds to an adjudicatory hearing (trial)³¹ as quickly as practicable. If the court finds that the child committed the violation of law, it may either withhold adjudication of delinquency or adjudicate the child delinquent.³²

If a child is found to have committed an offense, either through an adjudicatory hearing or by entering into a plea, the court must hold a disposition hearing to determine the most appropriate penalty for that child. Before making a final disposition, the court must review a pre-disposition report (PDR),³³ which is prepared by DJJ.³⁴ The court must then determine whether it is appropriate for the child to be adjudicated and whether commitment to DJJ or probation and community-based sanctions are more appropriate.³⁵ Specific procedures are provided that must be adhered to during the disposition of the case to ensure the court makes the most appropriate disposition choice.³⁶

²⁸ Section 985.265, F.S., sets forth instances in which a child may be detained in a jail or other facility used to detain adults.

²⁹ Section 985.318, F.S.

³⁰ Section 985.35, F.S., provides that the child is entitled to present evidence, cross examine witnesses, protect himself or herself from self-incrimination, and to not have evidence illegally seized or obtained presented to the court in the case against them. Additionally, the facts must be established beyond a reasonable doubt and the rules of evidence apply to the proceedings. Additionally, s. 985.033, F.S., provides that a child is entitled to legal counsel at all stages of any delinquency court proceeding.

³¹ Section 985.03(2), F.S., states an "adjudicatory hearing" is equivalent to a trial in adult criminal court and is a hearing for the court to determine whether or not the facts support the allegations stated in the petition, as provided for under s. 985.35, F.S. One difference with adjudicatory hearings is that a judge decides both the questions of fact and law. Section 985.35(2), F.S.

³² Section 985.35, F.S. An adjudication of delinquency by a court is not considered a conviction.

³³ Section 985.433(6), F.S., provides that the pre-disposition report includes a summary of the juvenile's present offense, a statement by the youth, background information regarding the familial and community environment, a narrative explaining the juvenile's employment or school history, psychological data, restitution information, criminal history, risk assessment, and the recommendations of DJJ concerning the disposition of the case.

³⁴ Section 985.43, F.S.

³⁵ Section 985.433(6), F.S.

³⁶ Section 985.433, F.S.

Predisposition Reports

As noted above, the first determination to be made by the court at disposition is a determination of the suitability or unsuitability for adjudication and commitment of the child. This determination must include consideration of DJJ's recommendations, which may include a PDR. Currently, the PDR must identify appropriate educational and vocational goals, which include successful completion of vocational courses, and successful attendance and completion of the child's current grade.

Effect of the Bill

The bill requires the PDR to identify appropriate educational and career (rather than vocational) goals, which include:

- Successful completion of career and technical education courses (rather than vocational courses); and
- Successful completion of the child's current grade or recovery of credits or classes the child previously failed.

Probation or Postcommitment Probation (Probation)

The court that has jurisdiction over an adjudicated delinquent child may place the child in a probation program or a postcommitment probation program.³⁷ A child's probation program must include both a penalty component and a rehabilitative component.³⁸ Each child is assigned a JPO who monitors the child's compliance and helps the child connect with service providers.

If the child does not comply with the terms of probation, the child may be brought before the court on a violation of probation. There are two types of violations of probation - substantive violations (a new criminal offense) and technical violations (failure to comply with the conditions of probation).³⁹ If a child admits to the violation or is found by the court to have violated his or her probation, the court must enter an order revoking, modifying, or continuing probation.⁴⁰ Specifically, the court may:

- Place the child into a consequence unit⁴¹ for up to 15 days;
- Place the child on home detention with electronic monitoring;
- Modify or continue the child's probation; or
- Revoke probation and commit the child to DJJ.⁴²

Effect of the Bill

The bill amends s. 985.435, F.S., to add a new component that may be included as a part of the probation program. This component, called an alternative consequence component, is solely for instances when a child commits a technical violation of probation (not a substantive violation), and is intended to provide swift and appropriate consequences for any future technical violations. If the probation program includes the alternative consequence component, the judge must state in the disposition order the consequences that will apply to specific violations.

The bill amends s. 985.439, F.S., to authorize the court to place the child who has admitted, or been found to have committed, a violation of probation that is technical in nature in an alternative consequence program. If this occurs, the judge must approve specific consequences for specific future violations of the conditions of probation. Alternative consequence programs:

- Must to be established at the local level in coordination with law enforcement agencies, the Chief Judge of the circuit, the State Attorney, and the Public Defender and

³⁷ Section 985.435(1), F.S.

³⁸ Section 985.435(2) and (3), F.S., give examples of what these components include.

³⁹ See *Meeks v. State*, 754 So.2d 101, 103 (Fla.1st DCA 2000); *Johnson v. State*, 678 So.2d 934, 934 (Fla. 3d DCA 1996).

⁴⁰ Section 985.439(4), F.S.

⁴¹ Section 985.439(2), F.S., defines "consequence unit" as a secure facility specifically designated by the department for children who are taken into custody under s. 985.101, F.S., for violating probation or postcommitment probation, or who have been found by the court to have violated the conditions of probation or postcommitment probation.

⁴² Section 985.439(4), F.S.

- May be operated by a law enforcement agency, DJJ, a juvenile assessment center, or another entity selected by DJJ.

Commitment

The court that has jurisdiction over an adjudicated delinquent child may commit the child to a nonresidential or residential facility.⁴³ Commitment programs vary by “restrictiveness level,” which is defined in s. 985.03(46), F.S., to mean “the level of programming and security provided by programs that service the supervision, custody, care, and treatment needs of committed children.” There are currently five restrictiveness levels of commitment, including:

- Minimum-risk nonresidential, also known as a level 2 commitment program, where children remain in the community and participate in at least 5 days per week in a day treatment program;
- Low-risk residential, also known as a level 4 program, where children are in a residential program and are allowed to have unsupervised access to the community;
- Moderate-risk residential, also known as a level 6 program, where children are in a residential program and are allowed to have supervised access to the community;
- High-risk residential, also known as a level 8 program, where children are not allowed access to the community; and
- Maximum-risk residential, also known as a level 10 program, which are long-term residential programs, including juvenile correctional facilities or juvenile prisons that do not allow the children to have any access to the community.⁴⁴

Each residential restrictiveness level cannot have more than 165 beds.⁴⁵

If the court determines that the child should be adjudicated as having committed a delinquent act and should be committed to the department, such determination shall be in writing or on the record of the hearing.⁴⁶ DJJ must then recommend the restrictiveness level most appropriate for the child. The court must commit the child at the restrictiveness level identified, but may commit at a different restrictiveness level by stating for the record the reasons that establish by a preponderance of the evidence why the court is disregarding the restrictiveness level recommended by DJJ.⁴⁷

Once a commitment order is entered, DJJ is responsible for determining placement in a specific residential program based on the child’s identified risks and needs.⁴⁸ Currently, the court must order a child to be placed in a specific restrictiveness level from level 2 through level 10 and DJJ does not have the flexibility to move a child into a different restrictiveness level.

A child is committed to a residential program for an indeterminate length of time and must complete an individualized treatment plan.⁴⁹ The goals of the plan are based on the child’s rehabilitative needs and must include educational and vocational service goals.⁵⁰ In addition, all residential programs provide medical, mental health, substance abuse, and developmental disability services.⁵¹

Effect of the Bill

The bill replaces the term “juvenile probation officer” with the term “department” throughout many of the commitment-related statutes, which will allow DJJ to use employees other than JPOs to perform commitment-related duties.

⁴³ Section 985.441, F.S.

⁴⁴ Section 985.03(46), F.S.

⁴⁵ Section 985.03(46), F.S.

⁴⁶ Section 985.441(7), F.S.

⁴⁷ *Id.*

⁴⁸ *Residential Services, Comprehensive Accountability Report, Fiscal Year 2011-2012*, <http://www.djj.state.fl.us/research/reports/car> (last visited February 13, 2014).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

The bill amends the definition of "restrictiveness level" in s. 985.03(46), F.S., to combine low-risk residential (level 4) and moderate-risk residential (level 6) into one group called "nonsecure residential." This will allow DJJ to place a child whose risk is currently low into a program that caters to children with slightly higher risk levels to ensure that other needs or services the child requires may be fulfilled. The bill also limits residential restrictiveness levels to 90 beds (rather than 165).

The bill amends s. 985.441, F.S., to allow certain youth⁵² to be committed to nonsecure residential placement if the child has:

- Previously been adjudicated or *had an adjudication withheld* for a felony offense; or
- *Previously* been adjudicated or had adjudication withheld for three or more misdemeanor offenses *within the previous 18 months*.

The bill amends s. 985.275, F.S., to require DJJ to notify law enforcement and, if the offense requires victim notification under ch. 960, F.S., the victim, any time a child in the custody of DJJ:

- Escapes from a residential commitment program or from being carried thereto or therefrom; or
- Absconds from a nonresidential commitment facility.

The bill further requires that DJJ make every reasonable effort to locate the child within their existing resources.

Conditional Release and Transition-to-Adulthood Services

Conditional release is defined as the care, treatment, help, and supervision provided to a juvenile released from a residential commitment program. Its purpose is to protect the public, reduce recidivism, increase responsible productive behavior, and provide for a successful transition of the youth from the department to the family.⁵³

DJJ must assess each child placed into a residential commitment facility to determine the need for conditional release services upon release from the facility.⁵⁴ Children participating in conditional release services must participate in an educational program⁵⁵ if they are of compulsory school attendance age or noncompulsory school age and have not obtained a high school diploma or its equivalent.⁵⁶ A child who has received their diploma or equivalent, but is not employed, must attend college classes, other career education, or participate in workforce development.⁵⁷

DJJ must also provide to older⁵⁸ children with opportunities to participate in "transition-to-adulthood" services that assist with building life skills and increase the ability to live independently and be self-sufficient.⁵⁹ DJJ is authorized to engage in a variety of activities designed to support participation in transition-to-adulthood services.⁶⁰

Effect of the Bill

The bill amends s. 985.46, F.S., to clarify that conditional release includes the provision of transition-to-adulthood services. The bill also requires a child of noncompulsory school age who is on conditional release supervision to participate in the education program or *career and technical education courses*.

⁵² This includes youth whose offense is a misdemeanor as well as youth who are on probation for a misdemeanor who commit a technical violation. Section 985.441(2), F.S.

⁵³ Section 985.03(12), F.S.

⁵⁴ Section 985.46(3), F.S.

⁵⁵ Pursuant to s. 1003.21(1) and (2)(a), F.S.

⁵⁶ Section 985.46(5), F.S.

⁵⁷ *Id.*

⁵⁸ "Older" in s. 985.461, F.S., refers to children 17 years of age or older.

⁵⁹ Section 985.461(1), F.S.

⁶⁰ Section 985.461(4)(a)-(h), F.S.

The bill expands the application of transition-to-adulthood services by removing the limitation that these services only be provided to "older children." As a result, any child who is under the supervision of DJJ may be provided transition-to-adulthood services as part of their treatment plan.

The bill also expands the activities DJJ is authorizes to engage in to support participation in transition-to-adulthood services. Specifically, DJJ may:

- Use community re-entry teams to assist in the development of a list of age appropriate activities and responsibilities to be incorporated in the child's case plan. Community re-entry teams may include representatives from school districts, law enforcement, workforce development services, community based service providers, and the child's family.
- Assist the child in building a portfolio of educational and vocational accomplishments, necessary identification, and resumes and cover letters to enhance the child's employability; and
- Collaborate with school district contacts to facilitate appropriate educational services based on the child's identified needs.

Contempt of Court (Section 5)

Section 985.037, F.S., authorizes the court to punish a child for contempt for interfering with the court or court administration, or for violating any provision of ch. 985, F.S., or order of the court. There are two types of contempt of court - direct and indirect. Direct contempt results from conduct committed in the presence of the judge, while indirect contempt concerns conduct outside the judge's presence.⁶¹

A child charged with direct contempt may be sanctioned immediately.⁶² If a child is charged with indirect contempt, the court must hold a hearing within 24 hours to determine if the child committed indirect contempt.⁶³ In indirect contempt proceedings, the child is given specified due process rights.⁶⁴

If a court finds that a child committed contempt of court, the court may either take the child into custody for the child to serve an alternative sanction⁶⁵ or order the child be placed into a secure facility⁶⁶ for a specified time.⁶⁷ If a child is placed into a secure facility for contempt, the placement must be reviewed by the court every 72 hours to determine whether it is appropriate for the child to remain there.⁶⁸

Effect of the Bill

The bill requires the court to hold a hearing to determine if a child has committed direct contempt of court and affords the child specified due process rights at this hearing. The bill also clarifies that if a judge places a child into a secure facility for contempt, such facility must be a *detention* facility. In such instances, the court need only review the appropriateness of the placement upon motion by the defense attorney or state attorney (rather than every 72 hours).

Fingerprinting and Photographing (Section 10)

Section 985.11, F.S., requires a child who is charged with or found to have committed specified offenses to be fingerprinted, and requires the fingerprints to be submitted to the Florida Department of Law Enforcement (FDLE).

Effect of the Bill

⁶¹ *Kelley v. Rice*, 800 So.2d 247 (Fla. 2nd DCA 2001); *E.T. v. State*, 587 So.2d 615 (Fla. 1st DCA 1991).

⁶² Section 985.037(4)(a), F.S.

⁶³ Section 985.037(4)(b), F.S.

⁶⁴ *Id.*

⁶⁵ Section 985.037(3), F.S. Each judicial circuit is required to have an alternative sanctions coordinator who shall coordinate and maintain a spectrum of contempt sanction alternatives. The alternative sanctions coordinator serves under the chief judge of the circuit. The court may immediately request that the alternative sanctions coordinator recommend the most appropriate sanctions placement.

⁶⁶ A child may only be placed into a secure facility if alternative sanctions are unavailable or inappropriate Section 985.037(1), F.S.

⁶⁷ Five days for a first offense and 15 days for a second or subsequent offense of contempt. Section 985.037(2), F.S.

⁶⁸ Section 985.037(4), F.S.

The bill excludes a child from the fingerprint requirements if the child is issued a civil citation or is participating in a similar diversion program pursuant to s. 985.12, F.S.

Internal Agency Procedures (Sections 31, 33, 34, 36, 37, 38 39 and 40)

Administering the Juvenile Justice Continuum

Section 985.601, F.S., requires DJJ to develop or contract for diversified and innovative programs to provide rehabilitative treatment, and provides examples of such treatment.

Effect of the Bill

The bill adds the terms “trauma-informed care,” family engagement resources and programs,” and “gender-specific programming” to the examples of rehabilitative treatment. The bill also authorizes DJJ to pay expenses, within existing resources, in support of innovative programs and activities that address identified needs and the well-being of children in DJJ’s care or under its supervision.

Quality Assurance and Cost-Effectiveness

Section 985.632, F.S., requires DJJ to provide transparency to policy makers and the public about the costs and effectiveness of the programs that it operates. DJJ is also required to develop an accountability system which assists in ensuring that the children it serves are receiving the best services for his or her needs.

DJJ is required to annually collect cost data for every program that it operates or contracts for and submit this data to the Legislature and the Governor.⁶⁹ DJJ is also required to develop a cost-effectiveness model and apply the model to each commitment program. The cost-effectiveness model must compare program costs to client outcomes and program outputs, and include recidivism rates.⁷⁰ DJJ must rank each commitment program based on the cost-effectiveness model and may terminate a program if the program has failed to achieve a minimum threshold of program effectiveness.

Section 985.632, F.S., defines “client”⁷¹ and “program effectiveness.”⁷²

Effect of the Bill

The bill:

- Revises legislative intent language to accurately reflect the measures DJJ uses to quantify program outcomes;
- Requires the annual report to collect and analyze available statistical data for the purpose of ongoing evaluation of all programs;
- Deletes the terms “client” and “program effectiveness” and adds the following definitions:
 - “Program,” means any facility or service for youth that is operated by DJJ or by a provider under contract with DJJ; and
 - “Program group,” means a collection of programs with sufficient similarity of functions, services, and youth to permit appropriate comparison amongst programs within the group;
- Codifies the Comprehensive Accountability Report (CAR),⁷³ and requires DJJ to work with the Office of Economic and Demographic Research to develop a standard methodology for measuring and reporting program outputs and youth outcomes;

⁶⁹ Section 985.632(3), F.S.

⁷⁰ *Id.*

⁷¹ “Client” is defined to mean any person who is being provided treatment or services by DJJ or by a provider under contract with DJJ.

Section 985.632(2)(a), F.S.

⁷² “Program effectiveness” means the ability of the program to achieve desired client outcomes, goals, and objectives.

⁷³ The CAR, in its current form, has been published by DJJ since 2006. It includes all of the information required to be reported under s. 985.632, F.S., as well as additional information. *Comprehensive Accountability Reports*,

<http://www.djj.state.fl.us/research/reports/car> (last visited on February 13, 2014).

- Requires the standard methodology used in the CAR to include certain terminology for measuring performance, specify program outputs, and specify desired child outcomes and methods to measure child outcomes; and
- Revises components of the cost-effectiveness model by requiring:
 - The cost-effectiveness model to compare costs to expected and actual child recidivism rates, rather than client outcomes and program outputs; and
 - DJJ to rank commitment programs based on performance measures and adherence to quality improvement standards, in addition to the cost-effectiveness model.

The bill removes the terms “quality assurance” and “minimum threshold” and replaces them with the terms “quality improvement” and “minimum standard” throughout s. 985.632, F.S.

Departmental Contracting Powers: Personnel Standards and Screening

Section 985.644, F.S., requires DJJ employees and all personnel⁷⁴ of contract providers to complete a:

- Level 2 employment screening prior to employment (which requires fingerprinting);⁷⁵ and
- National criminal records check by the Federal Bureau of Investigation every 5 years following the date of the person’s employment.

DJJ must electronically submit the fingerprint information of DJJ employees and contract personnel (other than law enforcement, correctional, and correctional probation officers) to FDLE.

Effect of the Bill

The bill provides that law enforcement, correctional, or correctional probation officers who are certified pursuant to s. 943.13, F.S., are not required to submit to level 2 screenings, provided they are currently employed by a law enforcement agency or correctional facility.

Juvenile Justice Training Academies

DJJ is required to establish and oversee juvenile justice training academies to ensure that all parties involved with children in the juvenile justice system are able to meet the needs of such children while meeting specified accreditation requirements.⁷⁶ DJJ must develop, implement, and maintain the curriculum for the training academies, develop uniform minimum job-related training and establish a certifiable program for juvenile justice training.⁷⁷

Section 985.66(3), F.S., requires DJJ to provide specified components to the training programs for the juvenile justice program staff based upon a job-task analysis.⁷⁸ All department program staff and providers who deliver direct care services pursuant to contract with DJJ are required to participate in and successfully complete the approved training program relevant to their areas of employment.⁷⁹

⁷⁴ Section 985.644(3)(a), F.S., states that personnel includes all owners, operators, employees, persons who have access to confidential juvenile records, and volunteers of contract providers for any program for children.

⁷⁵ Section 435.04, F.S. Level 2 employment screenings require fingerprints to be processed through statewide criminal history records checks through FDLE, and national criminal history records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

⁷⁶ Section 985.66(1), F.S.

⁷⁷ Section 985.66(1), (2), and (3), F.S.

⁷⁸ These components include to design, implement, maintain, evaluate and revise a basic training program for: a. the purpose of providing specified minimum employment training qualifications for all juvenile justice personnel, including a competency-based examination; b. an advanced training program that is intended to enhance knowledge, skills, and abilities related to job performance with competency-based examinations for each training course; c. a career development training program intended to prepare personnel for promotion with competency-based examinations for each training course; and d. juvenile justice training courses, or to enter into contracts for such training courses, that are intended to provide for the safety and well-being of both citizens and juvenile offenders.

Section 985.66(3), F.S.

⁷⁹ Section 985.66(3), F.S.

Judges, state attorneys, public defenders, law enforcement officers, and school district personnel may participate in such a training program.

Effect of the Bill

The bill amends s. 985.66, F.S., to:

- Remove references to “academies” when referring to juvenile justice training programs;
- Revise legislative intent language to specify that the purpose of establishing staff development and training programs is to “provide employees of the department, any private or public entity, or contract providers who provide services or care for youth under the responsibility of the department with the knowledge and skills needed to appropriately interact with children and provide such care and services;”
- Requires DJJ to designate the *number* of (not just the location of) training programs and courses; and
- Authorize all employees of contract providers who provide services or care for youth under the responsibility of DJJ to participate in the certifiable training program.

Juvenile Justice Circuit Advisory Boards

Section 985.664, F.S., authorizes juvenile justice circuit advisory boards (advisory boards) to be established in each of the 20 judicial circuits. The purpose of the advisory boards is to advise DJJ in the development and implementation of juvenile justice programs and policies related to at-risk youth.⁸⁰ The duties of the advisory boards are enumerated in s. 985.664(2), F.S.

Section 985.664, F.S., requires the advisory board’s initial chair to be selected by October 1, 2013, and establishes a timeframe in which the initial chair must appoint other board members. This language is now obsolete.

Effect of the Bill

The bill removes the obsolete language and specifies that the chair of a board serves at the pleasure of DJJ’s Secretary.

Direct-Support Organizations

Section 985.672, F.S., defines a direct support organization (DSO) as a not-for-profit organization whose sole purpose is to support the juvenile justice system and which is:

- Organized and operated to conduct programs and activities; to raise funds; to request and receive grants, gifts, and bequests of moneys; to acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and to make expenditures to or for the direct or indirect benefit of DJJ or the juvenile justice system operated by a county commission or a circuit board; and
- Determined by DJJ to be consistent with the goals of the juvenile justice system, in the best interest of the state, and in accordance with DJJ’s adopted goals and mission.

DJJ may permit, without charge, appropriate use of fixed property and facilities of the juvenile justice system by a DSO.⁸¹ Unlike other agencies with DSOs, DJJ is not permitted to allow DSOs to use personnel services.⁸²

Effect of the Bill

The bill gives DJJ the authority to permit a DSO to use personnel services. Personnel services include full-time or part-time personnel, as well as payroll processing services.

Siting of Facilities

⁸⁰ Section 985.664(1), F.S.

⁸¹ Section 985.672(4), F.S.

⁸² These agencies include the Guardian ad Litem, Department of Veteran’s Affairs, Department of Elderly Affairs, and the Department of Agriculture and Consumer Services.

Section 985.682, F.S., establishes procedures that must be followed when proposing a site for a juvenile justice facility. Currently, DJJ is required to conduct a detailed statewide comprehensive study (Study) to determine current and future needs for all facility types for children committed to DJJ.⁸³ The Study must assess, rank, and designate appropriate sites based upon these needs.⁸⁴

Effect of the Bill

The bill amends s. 985.682, F.S., to delete the requirement that DJJ conduct the Study.

One-Time Startup Funding for Juvenile Justice Purposes

Section 985.69, F.S., authorizes funds from juvenile justice appropriations to be utilized as one-time startup funding for juvenile justice purposes that include, but are not limited to, remodeling or renovation of existing facilities, construction and leasing costs, purchase of equipment and furniture, site development, and other necessary and reasonable costs associated with the startup of facilities or programs. DJJ is currently funded for repair and maintenance of facilities through the General Appropriations Act.

Effect of the Bill

The bill changes the term “one-time startup” to “repair and maintenance” throughout the s. 985.69, F.S. This allows these funds to be used for the continuing repair and maintenance of DJJ facilities.

Payment of Medical Expenses for Detained Youth (Section 35)

Medicare Rates

Medicare is the federal health insurance program for people who are 65 or older, certain younger people with disabilities, and people with End-Stage Renal Disease (permanent kidney failure requiring dialysis or a transplant).⁸⁵

Medicare reimburses providers based on the type of service they provide. The Centers for Medicare and Medicaid Services (CMS) develops annual fee schedules for physicians, ambulance services, clinical laboratory services, and durable medical equipment, prosthetics, orthotics, and supplies.⁸⁶ Other Medicare providers are paid via a prospective payment system (PPS). The PPS is a method of reimbursement in which Medicare payment is made based on a predetermined, fixed amount. The payment amount for a particular service is derived based on the classification system of that service (for example, diagnosis-related groups for inpatient hospital services). CMS uses separate PPS's for reimbursement to acute inpatient hospitals, home health agencies, hospices, hospital outpatient departments, inpatient psychiatric facilities, inpatient rehabilitation facilities, long-term care hospitals, and skilled nursing facilities.⁸⁷

The Department of Corrections and Medical Payment Caps

In 2008, the General Appropriations Implementing Bill⁸⁸ capped medical payment rates that the Department of Corrections (DOC) could pay to a hospital or a health care provider (provider) providing services at a hospital. Payments to providers for services were capped at 110 percent of the Medicare allowable rate for inmate medical care when no contract existed between DOC and a hospital, or a provider providing services at a hospital. However, hospitals reporting an operating loss to the Agency for Health Care Administration (AHCA) were capped at 125 percent of the Medicare allowable rate. In 2009, s. 945.6041, F.S., codified the payment caps and made other medical service providers, defined in s. 766.105, F.S., and medical transportation services subject to the medical payment cap.⁸⁹

⁸³ Section 985.682(1), F.S.

⁸⁴ Section 985.682(2), F.S.

⁸⁵ *What is Medicare?* <http://www.medicare.gov/sign-up-change-plans/decide-how-to-get-medicare/whats-medicare/what-is-medicare.html> (last visited February 13, 2014).

⁸⁶ *Fee Schedules – General Information*, <http://www.cms.gov/FeeScheduleGenInfo/> (last visited on February 13, 2014)

⁸⁷ *Prospective Payment System – General Information*, <http://www.cms.gov/ProspMedicareFeeSvcPmtGen/> (last visited on February 13, 2014)

⁸⁸ Chapter 2008-153, L.O.F.

⁸⁹ Created by ch. 2009-63, L.O.F.

Similarly, the 2013 General Appropriations Implementing Bill capped medical payment rates that DJJ could pay to a hospital or provider providing any health care services.⁹⁰

Effect of the Bill

The bill codifies the language contained in the implementing bill for the 2013-2014 General Appropriations Act. Specifically, the bill provides that if there is no contract between DJJ and the hospital or provider providing health care services (services) at a hospital, payments to a provider may not exceed 110 percent of the Medicare allowable rate for any services provided. DJJ may continue to make payments for services to a provider at the contracted rates for contracts executed before July 1, 2014, through the term of an executed contract.⁹¹ However, once that contract expires, payments may not exceed 110 percent of the Medicare allowable rate.

If a contract is executed on or after July 1, 2014, payments to providers for services may not exceed 110% of the Medicare allowable rate, unless the services are performed at a hospital that reports a negative operating margin for the previous fiscal year to the AHCA through hospital-audited financial data. In that instance, DJJ may pay up to 125 percent of the Medicare allowable rate.

The bill defines the term "hospital" to mean a hospital licensed under ch. 395, F.S., and a "health care provider" to have the same meaning as provided in s. 766.105, F.S.

Offenses Committed Against Youth under the Jurisdiction of DJJ (Sections 42 and 43)

Sexual Misconduct by an Employee

Section 985.701, F.S., makes it a second degree felony⁹² for a DJJ employee⁹³ to engage in sexual misconduct⁹⁴ with juvenile offenders "detained or supervised by, or committed to the custody, of the department." The statute does not define the term "juvenile offender."

Neglect of Youth Committed to the Department of Juvenile Justice

Section 985.02, F.S., outlines the legislative intent for the juvenile justice system and provides that the children of the state shall be provided with protection from abuse, neglect and exploitation; as well as adequate nutrition, shelter and clothing. While uncommon, there have been instances in which a DJJ employee neglects a juvenile offender in DJJ's custody resulting in harm to the juvenile offender.⁹⁵

Currently, ch. 985, F.S., does not contain any provisions specifically addressing instances where a DJJ employee is alleged to have neglected a youth in DJJ's custody. As a result, prosecutors have looked to statutes outside of ch. 985, F.S., to prosecute such employees. One statute prosecutors have attempted to use for such prosecutions is s. 827.03, F.S., relating to criminal child neglect. However, the child neglect statute is not designed to prosecute neglect cases that arise within the unique

⁹⁰ Chapter 2013-41, L.O.F.

⁹¹ The bill allows for contracts to be renewed during the 2013-2014 fiscal year.

⁹² A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

⁹³ Section 985.701(1)(a)1.b., F.S., defines "employee" as paid staff members, volunteers, and interns who work in a DJJ program or a program operated by a provider under a contract.

⁹⁴ Section 985.701(1)(a)1.a., F.S., defines "sexual misconduct" as fondling the genital area, groin, inner thighs, buttocks, or breasts of a person; the oral, anal, or vaginal penetration by or union with the sexual organ of another; or the anal or vaginal penetration of another by any other object. The term does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of duty by an employee of DJJ or an employee of a provider under contract with DJJ.

⁹⁵ *DJJ supervisor thought Eric Perez was "faking" as he dies in juvie lockup, officer testifies,*

http://blogs.browardpalmbeach.com/pulp/2012/03/djj_eric_perez_death_grand_jury_report.php (last visited on February 13, 2014); *Parents of teen who died at Palm Beach County juvenile center say they'll sue DJJ,* <http://www.palmbeachpost.com/news/news/crime-law/parents-of-teen-who-died-at-palm-beach-county-ju-1/nLhcN/> (last visited on February 13, 2014).

framework of the juvenile justice environment, nor does it apply to youth in DJJ's custody who are 18 or older.⁹⁶

Effect of the Bill

The bill amends s. 985.701, F.S., to define "juvenile offender" as "any person of any age who is detained, or committed to the custody of, the department." This mirrors the definition used in s. 985.702, F.S., discussed below.

The bill creates s. 985.702, F.S., establishing a new criminal offense relating to willful and malicious neglect of a juvenile offender. The bill makes it a third degree felony⁹⁷ for a DJJ employee to willfully and maliciously neglect a juvenile offender *without* causing great bodily harm, permanent disability, or permanent disfigurement. If the neglect does cause great bodily harm, permanent disability, or permanent disfigurement to the juvenile offender, the employee commits a second degree felony.

The bill defines an "employee" as a paid staff member, volunteer, or intern who works in a DJJ program or a program operated by a provider under contract with DJJ; and defines a "juvenile offender" as "any person of any age who is detained by, or committed to the custody of, the department." "Neglect" is defined as an employee's:

- Failure or omission to provide a juvenile offender with the proper level of care, supervision, and services necessary to maintain the juvenile offender's physical and mental health, including, but not limited to, adequate food, nutrition, clothing, shelter, supervision, medicine, and medical services; or
- Failure to make a reasonable effort to protect a juvenile offender from abuse, neglect, or exploitation by another person.

If the Public Employees Relations Commission determines that a DJJ employee violates the newly created s. 985.702, F.S., such determination constitutes sufficient cause under s. 110.227, F.S.,⁹⁸ for dismissal from employment with DJJ, and prohibits the employee from being employed in any capacity in connection with the juvenile justice system.

The bill requires employees who witness the neglect of a juvenile offender to immediately report the incident to DJJ's incident hotline. The witness must also prepare an independent report specifically describing the nature of the incident, the location and time, and the persons involved. This report must be submitted to the witness's supervisor or program director, who in turn must provide copies of the report to the inspector general and the circuit juvenile justice manager. The inspector general must immediately conduct an appropriate administrative investigation and, if there is probable cause to believe that a violation occurred, notify the state attorney in the circuit in which the incident occurred.

Any person who is required to prepare a report under this section who knowingly or willfully fails to file a report, or prevents another person from filing a report commits a first degree misdemeanor. In addition, any person who knowingly or willfully:

- Submits inaccurate, incomplete, or untruthful information on a report commits a first degree misdemeanor.
- Coerces or threatens another person with the intent to alter testimony or a written report commits a third degree felony.

Repealers (Sections 9, 32, 41, and 46)

⁹⁶ Chapter 827, F.S., defines a child as "any person under the age of 18 years." While the majority of youth in DJJ's custody are under 18 years old, there are instances which DJJ has custody of a person who is 18 years old or older. For example, s. 985.0301(5)(a), F.S., states DJJ must retain jurisdiction over a child alleged to have committed a delinquent act until the child reaches 19 years old and may retain jurisdiction for an additional 365 days following the child's 19th birthday if the child is participating in transition-to-adulthood services.

⁹⁷ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

⁹⁸ Section 110.227, F.S., relates to the suspension and dismissal of career service employees.

Youth Custody Officers

Section 985.105, F.S., creates a position called "youth custody officer" (YCO) within DJJ. YCOs are responsible for taking a youth into custody if the officer has probable cause to believe that the youth has:

- Violated the conditions of probation, home detention, conditional release, or postcommitment probation; or
- Failed to appear in court after being properly noticed.⁹⁹

YCOs must meet the minimum qualifications for employment or appointment, be certified under ch. 943, F.S., and comply with the requirements for continued employment required by s. 943.135, F.S.¹⁰⁰ Additionally, s. 121.0515, F.S., designates YCOs as "special risk class" members for purposes of the Florida Retirement System.

DJJ reports that it eliminated YCO positions in July 2010, due to budget cuts.¹⁰¹ The duties of YCOs were either distributed among existing employees or were no longer performed by DJJ.¹⁰²

Effect of Bill

The bill repeals s. 985.105, F.S., to eliminate the YCO position, and amends s. 121.0515, F.S., to remove references to YCOs as a position that is designated as a special risk class member.

Prevention Services Programs and Providers

Section 985.605, F.S., requires DJJ to monitor all state-funded programs, grants, appropriations, or activities designed to prevent juvenile delinquency or a child from becoming eligible under the CINS program to inform the Governor and Legislature.¹⁰³ DJJ is authorized to expend funds to prevent juvenile delinquency as long as DJJ maximizes public accountability and documents outcomes. Each entity that receives money from the state must design their programs to provide one of four specified strategies¹⁰⁴ and submit demographic information of all their participants to DJJ for verification.¹⁰⁵ DJJ is required to develop a system to measure the effectiveness of programs that accept state funds.

Section 985.606, F.S., requires each state agency or entity that receives or uses state appropriations to fund programs, grants, appropriations, or activities that are designed to prevent juvenile delinquency and related issues to collect data relative to the performance of such activities and provide said data to the Governor and both houses of the Legislature no later than January 31st of each year for the preceding fiscal year.

Effect of the Bill

The bill repeals ss. 985.605 and 985.606, F.S. However, the policies found therein relating to design strategies for prevention programs, public accountability of such programs, documentation of program outcomes, the sharing of personal demographic information of program participants, and data collection for performance outcomes of the prevention services are moved to s. 985.17, F.S.

Early Delinquency Intervention Programs

Section 985.61, F.S., authorizes the establishment of an Early Delinquency Intervention Program (EDIP) and provides specified components that must be included in such program. The EDIP must be developed by DJJ in cooperation with specified local entities (e.g., law enforcement, judiciary, etc.) and must consist of intensive residential treatment in a secure facility for 7 days to 6 weeks (followed by

⁹⁹ Section 985.105(3), F.S.

¹⁰⁰ Section 985.105(2), F.S.

¹⁰¹ Department of Juvenile Justice, 2013 Agency Proposal for HB 4019 (on file with Criminal Justice Subcommittee staff).

¹⁰² *Id.*

¹⁰³ Section 985.605(1), F.S.

¹⁰⁴ Section 985.605(2)(a), F.S.

¹⁰⁵ Section 985.605(2)(c), F.S.

additional services for 6-9 months).¹⁰⁶ The court has the authority to make the EDIP a part of a child's dispositional placement.¹⁰⁷

DJJ reports the funding for the EDIP was eliminated from their budget in Fiscal Year 2006-07.¹⁰⁸

Effect of the Bill

The bill repeals s. 985.61, F.S.

Juvenile Maintenance Trust Fund

Section 985.694, F.S., creates the Juvenile Care and Maintenance Trust Fund, which must be credited with any money or other property received for personal use or the benefit of juveniles in the custody of DJJ. DJJ acts as a fiduciary of the money in the fund on behalf of juveniles who are committed to or detained in DJJ facilities or facilities operated by private vendors contracting with DJJ. DJJ reports that the trust fund is no longer utilized and has no funding stream. DJJ further reports that facilities have local welfare trust funds which serve the same purpose.¹⁰⁹

Effect of the Bill

The bill repeals s. 985.694, F.S.

Tours of state correctional facilities

Section 945.75, F.S., requires DOC to develop programs in which a judge may order juveniles who have committed delinquent acts to be allowed to tour state correctional facilities under terms and conditions established by DOC. The statute requires counties to develop similar programs involving county jails. These tour programs are commonly referred to as "scared straight programs."¹¹⁰ The goal of these programs is to modify the behavior of the juveniles by shocking, scaring, and thus deterring them from engaging in further delinquent activity.¹¹¹

DJJ reports that because they comply with the Federal Juvenile Justice and Delinquency Prevention Act of 2002. They receive between two million and eight million dollars in federal funding.¹¹² DJJ reports that it could lose two-thirds of its federal funding because the scared straight tours violate several portions of the Juvenile Justice and Delinquency Prevention Act.¹¹³

Effect of the Bill

The bill repeals s. 945.75, F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 985.01, F.S., relating to purposes and intent.

Section 2. Amends s. 985.02, F.S., relating to legislative intent for the juvenile justice system.

Section 3. Amends s. 985.03, F.S., relating to definitions.

Section 4. Amends s. 985.0301, F.S., relating to jurisdiction.

¹⁰⁶ Section 985.61, F.S.

¹⁰⁷ *Id.*

¹⁰⁸ Electronic mail from Jon Menendez dated December 12, 2013 (on file with the Criminal Justice Subcommittee).

¹⁰⁹ Electronic mail from Jon Menendez dated December 12, 2013 (on file with the Criminal Justice Subcommittee).

¹¹⁰ *Scared Straight Programs*, www.dcjs.virginia.gov/juvenile/compliance (last visited on February 13, 2014); *See also Scared Straight Programs: Jail and Detention Tours*, DJJ, www.djj.state.fl.us/docs/research2/scared_straight_booklet_version (last visited on February 13, 2014)

¹¹¹ *Id.*

¹¹² Department of Juvenile Justice, 2013 Agency Proposal (on file with the Criminal Justice Subcommittee).

¹¹³ *Id.*

- Section 5. Amends s. 985.037, F.S., relating to punishment for contempt of court; alternative sanctions.
- Section 6. Amends s. 985.039, F.S., relating to cost of supervision; cost of care.
- Section 7. Amends s. 985.045, F.S., relating to court records.
- Section 8. Amends s. 985.101, F.S., relating to taking a child into custody.
- Section 9. Repeals s. 985.105, F.S., relating to youth custody officer.
- Section 10. Amends s. 985.11, F.S., relating to fingerprinting and photographing.
- Section 11. Amends s. 985.14, F.S., relating to intake and case management system.
- Section 12. Amends s. 985.145, F.S., relating to responsibilities of the juvenile probation officer during intake; screenings and assessments.
- Section 13. Creates s. 985.17, F.S., relating to prevention services.
- Section 14. Amends s. 985.24, F.S., relating to use of detention; prohibitions.
- Section 15. Amends s. 985.245, F.S., relating to risk assessment instrument.
- Section 16. Amends s. 985.25, F.S., relating to detention intake.
- Section 17. Amends s. 985.255, F.S., relating to detention criteria; detention hearing.
- Section 18. Amends s. 985.26, F.S., relating to length of detention.
- Section 19. Amends s. 985.265, F.S., relating to detention transfer and release; education; adult jails.
- Section 20. Amends s. 985.27, F.S., relating to postcommitment detention while awaiting placement.
- Section 21. Amends s. 985.275, F.S., relating to detention of escapee or absconder on authority of the department.
- Section 22. Amends s. 985.433, F.S., relating to disposition hearings in delinquency cases.
- Section 23. Amends s. 985.435, F.S., relating to probation and postcommitment probation; community service.
- Section 24. Amends s. 985.439, F.S., relating to violation of probation or postcommitment probation.
- Section 25. Amends s. 985.441, F.S., relating to commitment.
- Section 26. Amends s. 985.46, F.S., relating to conditional release.
- Section 27. Amends s. 985.461, F.S., relating to transition to adulthood.
- Section 28. Amends s. 985.481, F.S., relating to sexual offenders adjudicated delinquent; notification upon release.
- Section 29. Amends s. 985.4815, F.S., relating to notification to Department of Law Enforcement of information on juvenile sexual offenders.

- Section 30. Amends s. 985.514, F.S., relating to responsibility for cost of care; fees.
- Section 31. Amends s. 985.601, F.S., relating to administering the juvenile justice continuum.
- Section 32. Repeals s. 985.605, F.S., relating to prevention service program; monitoring; uniform performance measures; s. 985.606, F.S., relating to prevention services providers; performance data collection; reporting; and s. 985.61, F.S., relating to early delinquency intervention program; criteria.
- Section 33. Amends s. 985.632, F.S., relating to quality assurance and cost effectiveness.
- Section 34. Amends s. 985.644, F.S., relating to departmental contracting powers; personnel standards and screening.
- Section 35. Creates s. 985.6441, F.S., relating to health care services.
- Section 36. Amends s. 985.66, F.S., relating to juvenile justice training academies; staff development and training; Juvenile Justice Training Trust Fund.
- Section 37. Amends s. 985.664, F.S., relating to juvenile justice circuit advisory boards.
- Section 38. Amends s. 985.672, F.S., relating to direct-support organization; definition; use of property; board of directors; audit.
- Section 39. Amends s. 985.682, F.S., relating to siting of facilities; study; criteria.
- Section 40. Amends s. 985.69, F.S., relating to one-time startup funding for juvenile justice purposes.
- Section 41. Repeals s. 985.694, F.S., relating to Juvenile Care and Maintenance Trust Fund.
- Section 42. Amends s. 985.701, F.S., relating to sexual misconduct prohibited; reporting required; penalties.
- Section 43. Creates s. 985.702, F.S., relating to willful and malicious neglect of a juvenile offender prohibited; reporting required; penalties.
- Section 44. Amends s. 985.721, F.S., relating to escapes from a secure detention or residential commitment facility.
- Section 45. Amends s. 943.0582, F.S., relating to prearrest, postarrest, or teen court diversion program expunction.
- Section 46. Repeals s. 945.75, F.S., relating to tours of state correctional facilities for juveniles.
- Section 47. Amends s. 121.0515, F.S., relating to Special Risk Class.
- Section 48. Amends s. 316.635, F.S., relating to courts having jurisdiction over traffic violations; powers relating to custody and detention of minors.
- Section 49. Amends s. 318.143, F.S., relating to sanctions for infractions by minors.
- Section 50. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

By repealing s. 945.75, F.S., relating to "scared straight programs," the bill keeps DJJ in compliance with the Juvenile Justice and Delinquency Prevention Act, and eligible for federal funding.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill adds new detention criteria which could result in some children being held in secure detention that would not otherwise have been detained, or being detained for longer periods of time. This will have a minimal negative fiscal impact on local government expenditures. See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Families who are currently financially unable to access various services may have increased access to services, such as tutoring and counseling, as a result of the establishment of evening reporting centers.

Children who may currently be subject to placement in secure detention for technical violations of probation may not be required to go into secure detention because the bill creates an alternative consequence option to handle noncompliance with the technical conditions of probation. This could assist these children with maintaining any employment they currently possess.

Doctors and hospitals that currently provide services to children in the custody of DJJ without a contract may collect less money for the same services they currently provide if their fees are capped by 110 percent of the Medicare allowable rate.

D. FISCAL COMMENTS:

The bill provides that the maximum bed number for all residential facilities shall be 90 beds, instead of the maximum bed number of 165 currently set in statute. DJJ currently has two residential facilities over the 90 bed limit; Riverside Academy has 165 beds and Avon Park Youth Academy has 144 beds. DJJ reports they have already issued replacement "Invitation to Negotiate" for both of these facilities.¹¹⁴ The restructuring of these programs is being done within DJJ's existing resources.

The bill amends s. 985.25, F.S., to require any child who has been taken into custody on three or more separate occasions within a 60-day period to be placed in secure detention care until his or her detention hearing. DJJ reports that 1,730 youth met this criteria in the previous fiscal year. DJJ reports that the variable cost (clothing and food) per youth is less than \$10 per day per youth. This will be an estimated increased cost of \$30,000 a year. This number could vary depending on how many nights each youth stays at the detention center. DJJ states the majority of these youth will stay only one night and that they will absorb these increased costs within their existing resources.

¹¹⁴ DJJ Follow-Up Document provided by electronic mail from Jon Menendez dated December 20, 2013 (on file with the Criminal Justice Subcommittee).

The bill allows DJJ to pay expenses in support of innovative programs and activities, subject to the requirements of chapters 215, 216, and 287, that address identified needs and the well-being of children in the department's care or under its supervision. These will be new expenses the department is currently not paying. The department states these new expenses will be funded within existing resources.

The bill allows DJJ to permit the Direct Support Organization to use DJJ personnel services, which may have a fiscal impact on DJJ. However, DJJ states any new expenses will be funded within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Section 985.64, F.S., requires DJJ to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement the provisions of ch. 985, F.S. The bill does not appear to create an additional need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to juvenile justice; amending ss.
 3 985.01 and 985.02, F.S.; revising legislative purposes
 4 and intent; amending s. 985.03, F.S.; revising
 5 definitions; amending s. 985.0301, F.S.; clarifying
 6 jurisdictional age restrictions for children in the
 7 juvenile justice system; restricting when cases may be
 8 transferred to a different jurisdiction; amending s.
 9 985.037, F.S.; providing for the placement of a child
 10 in a secure detention facility for contempt of court;
 11 providing due process to a child accused of direct
 12 contempt; revising the procedure for reviewing a
 13 child's placement in secure detention for contempt of
 14 court; amending ss. 985.039, 985.045, and 985.101,
 15 F.S.; conforming provisions; repealing s. 985.105,
 16 F.S., relating to the creation, duties, and
 17 qualifications of the youth custody officers in the
 18 Department of Juvenile Justice; amending s. 985.11,
 19 F.S.; revising when fingerprints must be submitted to
 20 the Department of Law Enforcement; amending s. 985.14,
 21 F.S.; revising the intake process; amending s.
 22 985.145, F.S.; substituting "Department of Juvenile
 23 Justice" for references to "juvenile probation
 24 officer"; creating s. 985.17, F.S.; providing
 25 legislative intent; requiring the department to
 26 provide specialized services to minimize the

27 likelihood that youth will enter the juvenile justice
 28 system; providing for the department to promote the
 29 Invest in Children license plate to help fund
 30 prevention programs and services; providing for the
 31 department to monitor state-funded programs, grants,
 32 contracts, appropriations, and activities designed to
 33 prevent juvenile crime and report annually on these
 34 measures; limiting expenditure of funds to those
 35 prevention services that are consistent with the law
 36 and maximize public accountability; amending s.
 37 985.24, F.S.; revising factors to determine if the use
 38 of detention care is appropriate; authorizing the
 39 department to establish nonsecure, nonresidential
 40 evening reporting centers; conforming provisions;
 41 amending s. 985.245, F.S.; conforming provisions;
 42 amending s. 985.25, F.S.; requiring a child to be held
 43 in secure detention under certain circumstances;
 44 clarifying procedures for releasing a child before the
 45 child's detention hearing; conforming provisions;
 46 amending s. 985.255, F.S.; providing that a child
 47 shall be given a detention hearing within 24 hours
 48 after being taken into custody; clarifying when a
 49 court may order continued detention care; revising
 50 specified factors for ordering continued detention
 51 care; clarifying when a child charged with domestic
 52 violence can be held in secure detention; revising

53 written findings required to retain a child charged
 54 with domestic violence in secure detention; deleting
 55 obsolete provisions; amending s. 985.26, F.S.;
 56 conforming terminology; amending s. 985.265, F.S.;
 57 revising procedures for transferring a child to
 58 another detention status; providing new notification
 59 requirements for when a child is released or
 60 transferred from secure detention; revising the
 61 frequency of physical observation checks for children
 62 detained in jail facilities; amending s. 985.27, F.S.;
 63 requiring a child to be held in secure detention
 64 pending placement in a high-risk or maximum-risk
 65 residential program; conforming provisions; amending
 66 s. 985.275, F.S.; requiring the department to notify
 67 specified parties when a child absconds from a
 68 commitment program; requiring the department to make
 69 every reasonable effort to locate the absconded child;
 70 amending s. 985.433, F.S.; revising the content of a
 71 predisposition report; conforming terminology;
 72 amending s. 985.435, F.S.; authorizing a probation
 73 program to include an alternative consequence
 74 component that may be used to address noncompliance
 75 with the technical conditions of probation; requiring
 76 the department to identify a child's risk of
 77 reoffending if the child is being placed on probation
 78 or postcommitment probation; amending s. 985.439,

79 F.S.; authorizing the department to establish
 80 alternative sanctions for violations of probation or
 81 postcommitment probation; conforming terminology;
 82 amending s. 985.441, F.S.; providing that a child on
 83 probation for certain offenses may not be committed
 84 for a probation violation that is technical in nature;
 85 conforming terminology; amending s. 985.46, F.S.;
 86 revising the definition of the term "conditional
 87 release"; revising terminology; amending s. 985.461,
 88 F.S.; expanding the opportunity for transition-to-
 89 adulthood services to all children; revising
 90 provisions that the department may use to support
 91 participation in transition-to-adulthood services;
 92 conforming terminology; amending ss. 985.481 and
 93 985.4815, F.S.; deleting obsolete provisions; amending
 94 s. 985.514, F.S.; conforming provisions; amending s.
 95 985.601, F.S.; requiring the department's programs to
 96 include trauma-informed care, family engagement
 97 resources and programs, and gender-specific
 98 programming; authorizing the department to pay the
 99 expenses of programs and activities that address the
 100 needs and well-being of children in its care or under
 101 its supervision; conforming terminology; repealing ss.
 102 985.605, 985.606, and 985.61, F.S.; deleting
 103 provisions relating to prevention services programs
 104 and providers and early delinquency intervention

105 | programs; amending s. 985.632, F.S.; providing for the
 106 | establishment of a performance accountability system
 107 | for contract providers; revising definitions;
 108 | providing for the development of a Comprehensive
 109 | Accountability Report; requiring the department to
 110 | prepare and submit the report annually to the Governor
 111 | and Legislature; specifying content that must be
 112 | included in the report; revising provisions relating
 113 | to the cost-effectiveness model and quality
 114 | improvement; amending s. 985.644, F.S.; clarifying an
 115 | exemption for specified certified law enforcement,
 116 | correctional, and correctional probation officers
 117 | relating to a requirement to submit to level 2
 118 | background screenings; creating s. 985.6441, F.S.;
 119 | providing definitions; limiting the amount that the
 120 | department may pay a hospital or health care provider
 121 | for health care services based on a percentage of the
 122 | Medicare allowable rate; providing applicability;
 123 | amending s. 985.66, F.S.; revising specified juvenile
 124 | justice staff development and training procedures;
 125 | expanding application of training requirements to
 126 | contract providers who care for children in the
 127 | department's custody; amending s. 985.664, F.S.;
 128 | deleting obsolete provisions relating to the initial
 129 | selection of the juvenile justice circuit advisory
 130 | board chairs; revising procedures for appointing

131 juvenile justice circuit advisory board chairs;
 132 providing that chairs serve at the pleasure of the
 133 secretary; amending s. 985.672, F.S.; clarifying
 134 language concerning expenditures of the direct-support
 135 organization's funds; authorizing the direct-support
 136 organization to use department personnel services;
 137 defining the term "personnel services"; amending s.
 138 985.682, F.S.; deleting obsolete provisions regarding
 139 a comprehensive study relating to the siting of
 140 facilities; amending s. 985.69, F.S.; providing for
 141 the use of specified funds for repair and maintenance;
 142 repealing s. 985.694, F.S.; deleting a provision
 143 relating to the Juvenile Care and Maintenance Trust
 144 Fund; amending s. 985.701, F.S.; defining the term
 145 "juvenile offender" for purposes of prohibiting sexual
 146 misconduct with juvenile offenders; creating s.
 147 985.702, F.S.; providing definitions; providing for
 148 the imposition of criminal penalties against specified
 149 employees who inflict neglect upon juvenile offenders;
 150 providing enhanced penalties for such treatment that
 151 results in great bodily harm, permanent disability, or
 152 permanent disfigurement to a juvenile offender;
 153 specifying that such conduct constitutes sufficient
 154 cause for an employee's dismissal from employment;
 155 prohibiting such employee from future employment with
 156 the juvenile justice system; providing incident

157 reporting requirements; prohibiting an employee who
 158 witnesses such an incident from knowingly or willfully
 159 failing to report such incident; prohibiting false
 160 reporting, preventing another from reporting, or
 161 coercing another to alter testimony or reports;
 162 providing criminal penalties; amending s. 985.721,
 163 F.S.; correcting a cross-reference; amending s.
 164 943.0582, F.S.; clarifying that minors are not
 165 eligible for expunction if they have been charged by a
 166 state attorney for other crimes; repealing s. 945.75,
 167 F.S.; deleting a requirement that the Department of
 168 Corrections and counties develop programs under which
 169 a judge may order juveniles who have committed
 170 delinquent acts to tour correctional facilities;
 171 amending ss. 121.0515, 316.635, and 318.143, F.S.;
 172 conforming provisions and correcting cross-references;
 173 providing an effective date.

174

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

176

177 Section 1. Section 985.01, Florida Statutes, is amended to
 178 read:

179 985.01 Purposes and intent.—

180 (1) The purposes of this chapter are:

181 (a) To increase public safety by reducing juvenile
 182 delinquency through effective prevention, intervention, and

183 treatment services that strengthen and reform the lives of
 184 children.

185 (b)~~(a)~~ To provide judicial and other procedures to assure
 186 due process through which children, victims, and other
 187 interested parties are assured fair hearings by a respectful and
 188 respected court or other tribunal and the recognition,
 189 protection, and enforcement of their constitutional and other
 190 legal rights, while ensuring that public safety interests and
 191 the authority and dignity of the courts are adequately
 192 protected.

193 (c)~~(b)~~ To provide ~~for the care, safety, and protection of~~
 194 ~~children in~~ an environment that fosters healthy social,
 195 emotional, intellectual, educational, and physical development;
 196 to ensure secure and safe custody; and to promote the health and
 197 well-being of all children under the state's care.

198 (d)~~(e)~~ To ensure the protection of society, by providing
 199 for a comprehensive standardized assessment of the child's needs
 200 so that the most appropriate control, discipline, punishment,
 201 and treatment can be administered consistent with the
 202 seriousness of the act committed, the community's long-term need
 203 for public safety, the prior record of the child, and the
 204 specific rehabilitation needs of the child, while also
 205 providing, whenever possible, restitution to the victim of the
 206 offense.

207 (e)~~(d)~~ To preserve and strengthen the child's family ties
 208 whenever possible, by providing for removal of the child from

209 the physical custody of a parent ~~parental custody~~ only when his
 210 or her welfare or the safety and protection of the public cannot
 211 be adequately safeguarded without such removal; and, when the
 212 child is removed from his or her own family, to secure custody,
 213 care, and discipline for the child as nearly as possible
 214 equivalent to that which should have been given by the parents,
 215 ~~and to assure, in all cases in which a child must be permanently~~
 216 ~~removed from parental custody, that the child be placed in an~~
 217 ~~approved family home, adoptive home, independent living program,~~
 218 ~~or other placement that provides the most stable and permanent~~
 219 ~~living arrangement for the child, as determined by the court.~~

220 (f)~~(e)~~1. To assure that the adjudication and disposition
 221 of a child alleged or found to have committed a violation of
 222 Florida law be exercised with appropriate discretion and in
 223 keeping with the seriousness of the offense and the need for
 224 treatment services, and that all findings made under this
 225 chapter be based upon facts presented at a hearing that meets
 226 the constitutional standards of fundamental fairness and due
 227 process.

228 2. To assure that the sentencing and placement of a child
 229 tried as an adult be appropriate and in keeping with the
 230 seriousness of the offense and the child's need for
 231 rehabilitative services, and that the proceedings and procedures
 232 applicable to such sentencing and placement be applied within
 233 the full framework of constitutional standards of fundamental
 234 fairness and due process.

235 (g)~~(f)~~ To provide children committed to the department
 236 with training in life skills, including career and technical
 237 education, when appropriate.

238 (h) To care for children in the least restrictive and most
 239 appropriate service environments.

240 (i) To allocate resources for the most effective programs,
 241 services, and treatments to ensure that children, their
 242 families, and their community support systems are connected with
 243 these programs at the points along the juvenile justice
 244 continuum where they will have the most impact.

245 (2) It is the intent of the Legislature that this chapter
 246 be liberally interpreted and construed in conformity with its
 247 declared purposes.

248 Section 2. Paragraphs (g) and (h) of subsection (1),
 249 subsections (2) and (3), paragraph (b) of subsection (4), and
 250 subsections (5) and (7) of section 985.02, Florida Statutes, are
 251 amended, and subsections (8) and (9) are added to that section,
 252 to read:

253 985.02 Legislative intent for the juvenile justice
 254 system.—

255 (1) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of
 256 the Legislature that the children of this state be provided with
 257 the following protections:

258 (g) Access to prevention programs and preventive services.

259 ~~(h) An independent, trained advocate when intervention is~~
 260 ~~necessary, and a skilled guardian or caretaker in a safe~~

261 ~~environment when alternative placement is necessary.~~

262 (2) SUBSTANCE ABUSE SERVICES.—The Legislature finds that
 263 children in the care of the state's ~~dependency and~~ delinquency
 264 system ~~systems~~ need appropriate health care services, that the
 265 impact of substance abuse on health indicates the need for
 266 health care services to include substance abuse services where
 267 appropriate, and that it is in the state's best interest that
 268 such children be provided the services they need to enable them
 269 to become and remain independent of state care. In order to
 270 provide these services, the state's ~~dependency and~~ delinquency
 271 system ~~systems~~ must have the ability to identify and provide
 272 appropriate intervention and treatment for children with
 273 personal or family-related substance abuse problems. It is
 274 therefore the purpose of the Legislature to provide authority
 275 for the state to contract with community substance abuse
 276 treatment providers for the development and operation of
 277 specialized support and overlay services for the ~~dependency and~~
 278 delinquency system ~~systems~~, which will be fully implemented and
 279 utilized as resources permit.

280 (3) JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—It is the
 281 policy of the state with respect to juvenile justice and
 282 delinquency prevention to first protect the public from acts of
 283 delinquency. In addition, it is the policy of the state to:

284 (a) Develop and implement effective methods of preventing
 285 and reducing acts of delinquency, with a focus on maintaining
 286 and strengthening the family as a whole so that children may

287 remain in their homes or communities.

288 (b) Develop and implement effective programs to prevent
 289 delinquency, to divert children from the traditional juvenile
 290 justice system, to intervene at an early stage of delinquency,
 291 and to provide critically needed alternatives to
 292 institutionalization and deep-end commitment.

293 (c) Provide well-trained personnel, high-quality services,
 294 and cost-effective programs within the juvenile justice system.

295 (d) Increase the capacity of local governments and public
 296 and private agencies to conduct rehabilitative treatment
 297 programs and to provide research, evaluation, and training
 298 services in the field of juvenile delinquency prevention.
 299

300 ~~The Legislature intends that detention care, in addition to~~
 301 ~~providing secure and safe custody, will promote the health and~~
 302 ~~well-being of the children committed thereto and provide an~~
 303 ~~environment that fosters their social, emotional, intellectual,~~
 304 ~~and physical development.~~

305 (4) DETENTION.—

306 (b) The Legislature intends that a juvenile found to have
 307 committed a delinquent act understands the consequences and the
 308 serious nature of such behavior. Therefore, the Legislature
 309 finds that secure detention is appropriate to provide punishment
 310 for children who pose a threat to public safety ~~that discourages~~
 311 ~~further delinquent behavior.~~ The Legislature also finds that
 312 certain juveniles have committed a sufficient number of criminal

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313 acts, including acts involving violence to persons, to represent
 314 sufficient danger to the community to warrant sentencing and
 315 placement within the adult system. It is the intent of the
 316 Legislature to establish clear criteria in order to identify
 317 these juveniles and remove them from the juvenile justice
 318 system.

319 (5) SITING OF FACILITIES.—

320 (a) The Legislature finds that timely siting and
 321 development of needed residential facilities for juvenile
 322 offenders is critical to the public safety of the citizens of
 323 this state and to the effective rehabilitation of juvenile
 324 offenders.

325 (b) It is the purpose of the Legislature to guarantee that
 326 such facilities are sited and developed within reasonable
 327 timeframes after they are legislatively authorized and
 328 appropriated.

329 (c) The Legislature further finds that such facilities
 330 must be located in areas of the state close to the home
 331 communities of the children they house in order to ensure the
 332 most effective rehabilitation efforts, ~~and the most intensive~~
 333 postrelease supervision, and case management. The placement of
 334 facilities close to the home communities of the children they
 335 house is also intended to facilitate family involvement in the
 336 treatment process. Residential facilities shall have no more
 337 than 90 ~~165~~ beds each, including campus-style programs, unless
 338 those campus-style programs include more than one ~~level~~ of

339 ~~restrictiveness, provide multilevel education and treatment~~
 340 program ~~programs~~ using different treatment protocols, and have
 341 facilities that coexist separately in distinct locations on the
 342 same property.

343 (d) It is the intent of the Legislature that all other
 344 departments and agencies of the state shall cooperate fully with
 345 the Department of Juvenile Justice to accomplish the siting of
 346 facilities for juvenile offenders.

347

348 The supervision, counseling, and rehabilitative treatment, ~~and~~
 349 ~~punitive~~ efforts of the juvenile justice system should avoid the
 350 inappropriate use of correctional programs and large
 351 institutions. ~~The Legislature finds that detention services~~
 352 ~~should exceed the primary goal of providing safe and secure~~
 353 ~~custody pending adjudication and disposition.~~

354 (7) GENDER-SPECIFIC PROGRAMMING.-

355 (a) The Legislature finds that the ~~prevention, treatment,~~
 356 ~~and rehabilitation~~ needs of children youth served by the
 357 juvenile justice system are gender-specific. A gender-specific
 358 approach is one in which programs, services, and treatments
 359 comprehensively address the unique developmental needs of a
 360 targeted gender group under the care of the department. Young
 361 women and men have different pathways to delinquency, display
 362 different patterns of offending, and respond differently to
 363 interventions, treatment, and services.

364 (b) ~~Gender-specific programming refers to unique program~~

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365 ~~models and services that comprehensively address the needs of a~~
366 ~~targeted gender group. Gender-specific services require the~~
367 ~~adherence to the principle of equity to ensure that the~~
368 ~~different interests of young women and men are recognized and~~
369 ~~varying needs are met, with equality as the desired outcome.~~
370 Gender-specific interventions focus programming focuses on the
371 differences between young females' and young males' social roles
372 and responsibilities, ~~positions in society,~~ access to and use of
373 resources, history of trauma, and reasons for interaction with
374 the juvenile justice system and social codes governing behavior.
375 Gender-specific programs increase the effectiveness of programs
376 by making interventions more appropriate to the specific needs
377 of young women and men and ensuring that these programs do not
378 unknowingly create, maintain, or reinforce gender roles or
379 relations that may be damaging.

380 (8) TRAUMA-INFORMED CARE.—The Legislature finds that the
381 department should use trauma-informed care as an approach to
382 treating children with histories of trauma. Trauma-informed care
383 assists service providers in recognizing the symptoms of trauma
384 and acknowledges the role trauma has played in the child's life.
385 Services for children should be based on an understanding of the
386 vulnerabilities and triggers of trauma survivors that
387 traditional service delivery approaches may exacerbate, so that
388 these services and programs can be more supportive and avoid
389 retraumatization. The department should use trauma-specific
390 interventions that are designed to address the consequences of

391 trauma in the child and to facilitate healing.

392 (9) FAMILY AND COMMUNITY ENGAGEMENT.—The Legislature finds
 393 that families and community support systems are critical to the
 394 success of children and to ensure they are nondelinquent.

395 Therefore, when appropriate, children who can safely be held
 396 accountable when served and treated in their homes and
 397 communities should be diverted from more restrictive placements
 398 within the juvenile justice system. There should be an emphasis
 399 on strengthening the family and immersing the family members in
 400 their community support system. The department should develop
 401 customized plans that acknowledge the importance of family and
 402 community support systems. The customized plans should recognize
 403 a child's individual needs, capitalize on their strengths,
 404 reduce their risks, and prepare them for a successful transition
 405 to, and unification with, their family and community support
 406 system. The child's family must be considered in the
 407 department's process of assessing the needs, services and
 408 treatment, and community connections of the children who are
 409 involved in the juvenile justice system or in danger of becoming
 410 involved in the system.

411 Section 3. Section 985.03, Florida Statutes, is amended to
 412 read:

413 985.03 Definitions.—As used in this chapter, the term:
 414 (1) "Abscond" means to hide, conceal, or absent oneself
 415 from the jurisdiction of the court or supervision of the
 416 department to avoid prosecution or supervision.

417 (2)~~(1)~~ "Addictions receiving facility" means a substance
 418 abuse service provider as defined in chapter 397.

419 (3)~~(2)~~ "Adjudicatory hearing" means a hearing for the
 420 court to determine whether or not the facts support the
 421 allegations stated in the petition, as is provided for under s.
 422 985.35 in delinquency cases.

423 (4)~~(3)~~ "Adult" means any natural person other than a
 424 child.

425 (5)~~(4)~~ "Arbitration" means a process whereby a neutral
 426 third person or panel, called an arbitrator or an arbitration
 427 panel, considers the facts and arguments presented by the
 428 parties and renders a decision which may be binding or
 429 nonbinding.

430 (6)~~(5)~~ "Authorized agent" or "designee" of the department
 431 means a person or agency assigned or designated by the
 432 department ~~or the Department of Children and Family Services, as~~
 433 ~~appropriate,~~ to perform duties or exercise powers under this
 434 chapter and includes contract providers and their employees ~~for~~
 435 ~~purposes of providing services to and managing cases of children~~
 436 ~~in need of services and families in need of services.~~

437 (7)~~(6)~~ "Child" or "juvenile" or "youth" means any
 438 ~~unmarried~~ person under the age of 18 ~~who has not been~~
 439 ~~emancipated by order of the court and who has been found or~~
 440 ~~alleged to be dependent, in need of services, or from a family~~
 441 ~~in need of services,~~ or any ~~married or unmarried~~ person who is
 442 alleged to have committed ~~charged with~~ a violation of law

443 occurring prior to the time that person reached the age of 18
 444 years.

445 (8)~~(7)~~ "Child in need of services" has the same meaning as
 446 provided in s. 984.03 ~~means a child for whom there is no pending~~
 447 ~~investigation into an allegation or suspicion of abuse, neglect,~~
 448 ~~or abandonment; no pending referral alleging the child is~~
 449 ~~delinquent; or no current supervision by the department or the~~
 450 ~~Department of Children and Family Services for an adjudication~~
 451 ~~of dependency or delinquency. The child must also, under this~~
 452 ~~chapter, be found by the court:~~

453 ~~(a) To have persistently run away from the child's parents~~
 454 ~~or legal custodians despite reasonable efforts of the child, the~~
 455 ~~parents or legal custodians, and appropriate agencies to remedy~~
 456 ~~the conditions contributing to the behavior. Reasonable efforts~~
 457 ~~shall include voluntary participation by the child's parents or~~
 458 ~~legal custodians and the child in family mediation, services,~~
 459 ~~and treatment offered by the department or the Department of~~
 460 ~~Children and Family Services;~~

461 ~~(b) To be habitually truant from school, while subject to~~
 462 ~~compulsory school attendance, despite reasonable efforts to~~
 463 ~~remedy the situation under ss. 1003.26 and 1003.27 and through~~
 464 ~~voluntary participation by the child's parents or legal~~
 465 ~~custodians and by the child in family mediation, services, and~~
 466 ~~treatment offered by the Department of Juvenile Justice or the~~
 467 ~~Department of Children and Family Services; or~~

468 ~~(c) To have persistently disobeyed the reasonable and~~

469 ~~lawful demands of the child's parents or legal custodians, and~~
 470 ~~to be beyond their control despite efforts by the child's~~
 471 ~~parents or legal custodians and appropriate agencies to remedy~~
 472 ~~the conditions contributing to the behavior. Reasonable efforts~~
 473 ~~may include such things as good faith participation in family or~~
 474 ~~individual counseling.~~

475 (9)~~(8)~~ "Child who has been found to have committed a
 476 delinquent act" means a child who, under this chapter, is found
 477 by a court to have committed a violation of law or to be in
 478 direct or indirect contempt of court, except that this
 479 definition does not include an act constituting contempt of
 480 court arising out of a dependency proceeding or a proceeding
 481 concerning a child or family in need of services.

482 ~~(9) "Child support" means a court ordered obligation,~~
 483 ~~enforced under chapter 61 and ss. 409.2551-409.2597, for~~
 484 ~~monetary support for the care, maintenance, training, and~~
 485 ~~education of a child.~~

486 (10) "Circuit" means any of the 20 judicial circuits as
 487 set forth in s. 26.021.

488 (11) "Comprehensive assessment" or "assessment" means the
 489 gathering of information for the evaluation of a juvenile
 490 offender's or a child's physical, psychological, educational,
 491 career and technical education ~~vocational~~, and social condition
 492 and family environment as they relate to the child's need for
 493 rehabilitative and treatment services, including substance abuse
 494 treatment services, mental health services, developmental

495 services, literacy services, medical services, family services,
 496 and other specialized services, as appropriate.

497 (12) "Conditional release" means the care, treatment,
 498 help, ~~and~~ supervision, and provision of transition-to-adulthood
 499 services provided to a juvenile released from a residential
 500 commitment program which is intended to promote rehabilitation
 501 and prevent recidivism. The purpose of conditional release is to
 502 protect the public, reduce recidivism, increase responsible
 503 productive behavior, and provide for a successful transition of
 504 the youth from the department to his or her ~~the~~ family.
 505 Conditional release includes, but is not limited to,
 506 nonresidential community-based programs.

507 (13) "Court," ~~unless otherwise expressly stated,~~ means the
 508 circuit court assigned to exercise jurisdiction under this
 509 chapter, unless otherwise expressly stated.

510 (14) "Day treatment" means a nonresidential, community-
 511 based program designed to provide therapeutic intervention to
 512 youth who are served by the department, ~~who are~~ placed on
 513 probation or conditional release, or are committed to the
 514 minimum-risk nonresidential level. A day treatment program may
 515 provide educational and career and technical education
 516 ~~vocational~~ services and shall provide case management services;
 517 individual, group, and family counseling; training designed to
 518 address delinquency risk factors; and monitoring of a youth's
 519 compliance with, and facilitation of a youth's completion of,
 520 sanctions if ordered by the court. Program types may include,

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521 but are not limited to, career programs, marine programs,
 522 juvenile justice alternative schools, training and
 523 rehabilitation programs, and gender-specific programs.

524 (15) (a) "Delinquency program" means any intake, probation,
 525 or similar program; regional detention center or facility; or
 526 community-based program, whether owned and operated by or
 527 contracted by the department, or institution owned and operated
 528 by or contracted by the department, which provides intake,
 529 supervision, or custody and care of children who are alleged to
 530 be or who have been found to be delinquent under this chapter.

531 (b) "Delinquency program staff" means supervisory and
 532 direct care staff of a delinquency program as well as support
 533 staff who have direct contact with children in a delinquency
 534 program.

535 ~~(c) "Delinquency prevention programs" means programs~~
 536 ~~designed for the purpose of reducing the occurrence of~~
 537 ~~delinquency, including criminal gang activity, and juvenile~~
 538 ~~arrests. The term excludes arbitration, diversionary or~~
 539 ~~mediation programs, and community service work or other~~
 540 ~~treatment available subsequent to a child committing a~~
 541 ~~delinquent act.~~

542 (16) "Department" means the Department of Juvenile
 543 Justice.

544 (17) "Designated facility" or "designated treatment
 545 facility" means any facility designated by the department to
 546 provide treatment to juvenile offenders.

547 (18) "Detention care" means the temporary care of a child
 548 in secure or, ~~nonsecure, or home~~ detention, pending a court
 549 adjudication or disposition or execution of a court order. There
 550 are two ~~three~~ types of detention care, as follows:

551 (a) "Secure detention" means temporary custody of the
 552 child while the child is under the physical restriction of a
 553 secure detention center or facility pending adjudication,
 554 disposition, or placement.

555 ~~(b) "Nonsecure detention" means temporary custody of the~~
 556 ~~child while the child is in a residential home in the community~~
 557 ~~in a physically nonrestrictive environment under the supervision~~
 558 ~~of the Department of Juvenile Justice pending adjudication,~~
 559 ~~disposition, or placement.~~

560 (b)(c) "Nonsecure detention" ~~"Home detention"~~ means
 561 temporary, nonsecure custody of the child while the child is
 562 released to the custody of the parent, guardian, or custodian in
 563 a physically nonrestrictive environment under the supervision of
 564 the department staff pending adjudication, disposition, or
 565 placement. Forms of nonsecure detention include, but are not
 566 limited to, home detention, electronic monitoring, day reporting
 567 centers, evening reporting centers, and nonsecure shelters.
 568 Nonsecure detention may include other requirements imposed by
 569 the court.

570 (19) "Detention center or facility" means a facility used
 571 pending court adjudication or disposition or execution of court
 572 order for the temporary care of a child alleged or found to have

573 committed a violation of law. A detention center or facility may
 574 provide secure ~~or nonsecure~~ custody. A facility used for the
 575 commitment of adjudicated delinquents shall not be considered a
 576 detention center or facility.

577 (20) "Detention hearing" means a hearing for the court to
 578 determine if a child should be placed in temporary custody, as
 579 provided for under part V in delinquency cases.

580 (21) "Disposition hearing" means a hearing in which the
 581 court determines the most appropriate dispositional services in
 582 the least restrictive available setting provided for under part
 583 VII, in delinquency cases.

584 (22) "Family" means a collective of persons, consisting of
 585 a child and a parent, guardian, adult custodian, or adult
 586 relative, in which:

587 (a) The persons reside in the same house or living unit;
 588 or

589 (b) The parent, guardian, adult custodian, or adult
 590 relative has a legal responsibility by blood, marriage, or court
 591 order to support or care for the child.

592 (23) "Family in need of services" has the same meaning as
 593 provided in s. 984.03 ~~means a family that has a child for whom~~
 594 ~~there is no pending investigation into an allegation of abuse,~~
 595 ~~neglect, or abandonment or no current supervision by the~~
 596 ~~department or the Department of Children and Family Services for~~
 597 ~~an adjudication of dependency or delinquency. The child must~~
 598 ~~also have been referred to a law enforcement agency or the~~

599 ~~department for:~~
 600 ~~(a) Running away from parents or legal custodians,~~
 601 ~~(b) Persistently disobeying reasonable and lawful demands~~
 602 ~~of parents or legal custodians, and being beyond their control,~~
 603 ~~or~~
 604 ~~(c) Habitual truancy from school.~~
 605 ~~(24) "Foster care" means care provided a child in a foster~~
 606 ~~family or boarding home, group home, agency boarding home, child~~
 607 ~~care institution, or any combination thereof.~~
 608 ~~(25) "Habitually truant" means that:~~
 609 ~~(a) The child has 15 unexcused absences within 90 calendar~~
 610 ~~days with or without the knowledge or justifiable consent of the~~
 611 ~~child's parent or legal guardian, is subject to compulsory~~
 612 ~~school attendance under s. 1003.21(1) and (2)(a), and is not~~
 613 ~~exempt under s. 1003.21(3), s. 1003.24, or any other exemptions~~
 614 ~~specified by law or the rules of the State Board of Education.~~
 615 ~~(b) Escalating activities to determine the cause, and to~~
 616 ~~attempt the remediation, of the child's truant behavior under~~
 617 ~~ss. 1003.26 and 1003.27 have been completed.~~
 618 ~~If a child who is subject to compulsory school attendance is~~
 619 ~~responsive to the interventions described in ss. 1003.26 and~~
 620 ~~1003.27 and has completed the necessary requirements to pass the~~
 621 ~~current grade as indicated in the district pupil progression~~
 622 ~~plan, the child shall not be determined to be habitually truant~~
 623 ~~and shall be passed.~~

624

625 ~~If a child within the compulsory school attendance age has 15~~
 626 ~~unexcused absences within 90 calendar days or fails to enroll in~~
 627 ~~school, the state attorney may file a child in need of services~~
 628 ~~petition. Before filing a petition, the child must be referred~~
 629 ~~to the appropriate agency for evaluation. After consulting with~~
 630 ~~the evaluating agency, the state attorney may elect to file a~~
 631 ~~child in need of services petition.~~

632 ~~(c) A school representative, designated according to~~
 633 ~~school board policy, and a juvenile probation officer of the~~
 634 ~~department have jointly investigated the truancy problem or, if~~
 635 ~~that was not feasible, have performed separate investigations to~~
 636 ~~identify conditions that could be contributing to the truant~~
 637 ~~behavior; and if, after a joint staffing of the case to~~
 638 ~~determine the necessity for services, such services were~~
 639 ~~determined to be needed, the persons who performed the~~
 640 ~~investigations met jointly with the family and child to discuss~~
 641 ~~any referral to appropriate community agencies for economic~~
 642 ~~services, family or individual counseling, or other services~~
 643 ~~required to remedy the conditions that are contributing to the~~
 644 ~~truant behavior.~~

645 ~~(d) The failure or refusal of the parent or legal guardian~~
 646 ~~or the child to participate, or make a good faith effort to~~
 647 ~~participate, in the activities prescribed to remedy the truant~~
 648 ~~behavior, or the failure or refusal of the child to return to~~
 649 ~~school after participation in activities required by this~~
 650 ~~subsection, or the failure of the child to stop the truant~~

651 ~~behavior after the school administration and the department have~~
 652 ~~worked with the child as described in s. 1003.27(3) shall be~~
 653 ~~handled as prescribed in s. 1003.27.~~

654 ~~(26) "Halfway house" means a community-based residential~~
 655 ~~program for 10 or more committed delinquents at the moderate-~~
 656 ~~risk commitment level which is operated or contracted by the~~
 657 ~~department.~~

658 (24)~~(27)~~ "Intake" means the initial acceptance and
 659 screening by the department or juvenile assessment center
 660 personnel of a complaint or a law enforcement report or probable
 661 cause affidavit of delinquency, ~~family in need of services, or~~
 662 ~~child in need of services~~ to determine the recommendation to be
 663 taken in the best interests of the child, the family, and the
 664 community. The emphasis of intake is on diversion and the least
 665 restrictive available services. Consequently, intake includes
 666 such alternatives as:

667 (a) The disposition of the complaint, report, or probable
 668 cause affidavit without court or public agency action or
 669 judicial handling when appropriate.

670 (b) The referral of the child to another public or private
 671 agency when appropriate.

672 (c) The recommendation by the department juvenile
 673 ~~probation officer~~ of judicial handling when appropriate and
 674 warranted.

675 (25)~~(28)~~ "Judge" means the circuit judge exercising
 676 jurisdiction pursuant to this chapter.

677 (26)~~(29)~~ "Juvenile justice continuum" includes, but is not
 678 limited to, ~~delinquency~~ prevention programs and services
 679 designed for the purpose of preventing or reducing delinquent
 680 acts, including criminal activity by criminal gangs, and
 681 juvenile arrests, as well as programs and services targeted at
 682 children who have committed delinquent acts, and children who
 683 have previously been committed to residential treatment programs
 684 for delinquents. The term includes children-in-need-of-services
 685 and families-in-need-of-services programs under chapter 984;
 686 conditional release; substance abuse and mental health programs;
 687 educational and career programs; recreational programs;
 688 community services programs; community service work programs;
 689 mother-infant programs; and alternative dispute resolution
 690 programs serving children at risk of delinquency and their
 691 families, whether offered or delivered by state or local
 692 governmental entities, public or private for-profit or not-for-
 693 profit organizations, or religious or charitable organizations.

694 (27)~~(30)~~ "Juvenile probation officer" means the authorized
 695 agent of the department who performs the intake, case
 696 management, or supervision functions.

697 (28)~~(31)~~ "Legal custody or guardian" means a legal status
 698 created by court order or letter of guardianship which vests in
 699 a custodian of the person or guardian, whether an agency or an
 700 individual, the right to have physical custody of the child and
 701 the right and duty to protect, train, and discipline the child
 702 and to provide him or her with food, shelter, education, and

703 ordinary medical, dental, psychiatric, and psychological care.

704 (29)~~(32)~~ "Licensed child-caring agency" means a person,
 705 society, association, or agency licensed by the Department of
 706 Children and Families ~~Family Services~~ to care for, receive, and
 707 board children.

708 (30)~~(33)~~ "Licensed health care professional" means a
 709 physician licensed under chapter 458, an osteopathic physician
 710 licensed under chapter 459, a nurse licensed under part I of
 711 chapter 464, a physician assistant licensed under chapter 458 or
 712 chapter 459, or a dentist licensed under chapter 466.

713 (31)~~(34)~~ "Likely to injure oneself" means that, as
 714 evidenced by violent or other actively self-destructive
 715 behavior, it is more likely than not that within a 24-hour
 716 period the child will attempt to commit suicide or inflict
 717 serious bodily harm on himself or herself.

718 (32)~~(35)~~ "Likely to injure others" means that it is more
 719 likely than not that within a 24-hour period the child will
 720 inflict serious and unjustified bodily harm on another person.

721 (33)~~(36)~~ "Mediation" means a process whereby a neutral
 722 third person called a mediator acts to encourage and facilitate
 723 the resolution of a dispute between two or more parties. It is
 724 an informal and nonadversarial process with the objective of
 725 helping the disputing parties reach a mutually acceptable and
 726 voluntary agreement. In mediation, decisionmaking authority
 727 rests with the parties. The role of the mediator includes, but
 728 is not limited to, assisting the parties in identifying issues,

729 fostering joint problem solving, and exploring settlement
730 alternatives.

731 (34)~~(37)~~ "Mother-infant program" means a residential
732 program designed to serve the needs of juvenile mothers or
733 expectant juvenile mothers who are committed as delinquents,
734 which is operated or contracted by the department. A mother-
735 infant program facility must be licensed as a child care
736 facility under s. 402.308 and must provide the services and
737 support necessary to enable each juvenile mother committed to
738 the facility to provide for the needs of her infants who, upon
739 agreement of the mother, may accompany her in the program.

740 (35)~~(38)~~ "Necessary medical treatment" means care which is
741 necessary within a reasonable degree of medical certainty to
742 prevent the deterioration of a child's condition or to alleviate
743 immediate pain of a child.

744 (36)~~(39)~~ "Next of kin" means an adult relative of a child
745 who is the child's brother, sister, grandparent, aunt, uncle, or
746 first cousin.

747 (37)~~(40)~~ "Ordinary medical care" means medical procedures
748 that are administered or performed on a routine basis and
749 include, but are not limited to, inoculations, physical
750 examinations, remedial treatment for minor illnesses and
751 injuries, preventive services, medication management, chronic
752 disease detection and treatment, and other medical procedures
753 that are administered or performed on a routine basis and do not
754 involve hospitalization, surgery, the use of general anesthesia,

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755 or the provision of psychotropic medications.

756 (38)~~(41)~~ "Parent" means a woman who gives birth to a child
757 and a man whose consent to the adoption of the child would be
758 required under s. 63.062(1). If a child has been legally
759 adopted, the term "parent" means the adoptive mother or father
760 of the child. The term does not include an individual whose
761 parental relationship to the child has been legally terminated,
762 or an alleged or prospective parent, unless the parental status
763 falls within the terms of either s. 39.503(1) or s. 63.062(1).

764 (39)~~(42)~~ "Preliminary screening" means the gathering of
765 preliminary information to be used in determining a child's need
766 for further evaluation or assessment or for referral for other
767 substance abuse services through means such as psychosocial
768 interviews; urine and breathalyzer screenings; and reviews of
769 available educational, delinquency, and dependency records of
770 the child.

771 ~~(43) "Preventive services" means social services and other~~
772 ~~supportive and rehabilitative services provided to the parent of~~
773 ~~the child, the legal guardian of the child, or the custodian of~~
774 ~~the child and to the child for the purpose of averting the~~
775 ~~removal of the child from the home or disruption of a family~~
776 ~~which will or could result in the placement of a child in foster~~
777 ~~care. Social services and other supportive and rehabilitative~~
778 ~~services shall promote the child's need for a safe, continuous,~~
779 ~~stable living environment and shall promote family autonomy and~~
780 ~~shall strengthen family life as the first priority whenever~~

781 ~~possible.~~

782 (40) "Prevention" means programs, strategies, initiatives,
 783 and networks designed to keep children from making initial or
 784 further contact with the juvenile justice system.

785 ~~(41)(44)~~ "Probation" means the legal status of probation
 786 created by law and court order in cases involving a child who
 787 has been found to have committed a delinquent act. Probation is
 788 an individualized program in which the freedom of the child is
 789 limited and the child is restricted to noninstitutional quarters
 790 or restricted to the child's home in lieu of commitment to the
 791 custody of the department. Youth on probation may be assessed
 792 and classified for placement in day-treatment probation programs
 793 designed for youth who represent a minimum risk to themselves
 794 and public safety and do not require placement and services in a
 795 residential setting.

796 ~~(42)(45)~~ "Relative" means a grandparent, great-
 797 grandparent, sibling, first cousin, aunt, uncle, great-aunt,
 798 great-uncle, niece, or nephew, whether related by the whole or
 799 half blood, by affinity, or by adoption. The term does not
 800 include a stepparent.

801 ~~(43)(47)~~ "Respite" means a placement that is available for
 802 the care, custody, and placement of a youth charged with
 803 domestic violence as an alternative to secure detention or for
 804 placement of a youth when a shelter bed for a child in need of
 805 services or a family in need of services is unavailable.

806 ~~(44)(46)~~ "Restrictiveness level" means the level of

807 programming and security provided by programs that service the
 808 supervision, custody, care, and treatment needs of committed
 809 children. Sections 985.601(10) and 985.721 apply to children
 810 placed in programs at any residential commitment level. The
 811 restrictiveness levels of commitment are as follows:

812 (a) Minimum-risk nonresidential.—Programs or program
 813 models at this commitment level work with youth who remain in
 814 the community and participate at least 5 days per week in a day
 815 treatment program. Youth assessed and classified for programs at
 816 this commitment level represent a minimum risk to themselves and
 817 public safety and do not require placement and services in
 818 residential settings. Youth in this level have full access to,
 819 and reside in, the community. Youth who have been found to have
 820 committed delinquent acts that involve firearms, that are sexual
 821 offenses, or that would be life felonies or first degree
 822 felonies if committed by an adult may not be committed to a
 823 program at this level.

824 ~~(b) Low risk residential. Programs or program models at~~
 825 ~~this commitment level are residential but may allow youth to~~
 826 ~~have unsupervised access to the community. Residential~~
 827 ~~facilities shall have no more than 165 beds each, including~~
 828 ~~campus-style programs, unless those campus-style programs~~
 829 ~~include more than one level of restrictiveness, provide~~
 830 ~~multilevel education and treatment programs using different~~
 831 ~~treatment protocols, and have facilities that coexist separately~~
 832 ~~in distinct locations on the same property. Youth assessed and~~

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833 ~~classified for placement in programs at this commitment level~~
834 ~~represent a low risk to themselves and public safety but do~~
835 ~~require placement and services in residential settings. Children~~
836 ~~who have been found to have committed delinquent acts that~~
837 ~~involve firearms, delinquent acts that are sexual offenses, or~~
838 ~~delinquent acts that would be life felonies or first degree~~
839 ~~felonies if committed by an adult shall not be committed to a~~
840 ~~program at this level.~~

841 (b)(e) ~~Nonsecure~~ Moderate-risk residential.—Programs or
842 program models at this commitment level are residential but may
843 allow youth to have supervised access to the community.
844 Facilities at this commitment level are either environmentally
845 secure, staff secure, or are hardware-secure with walls,
846 fencing, or locking doors. Residential facilities at this
847 commitment level shall have no more than 90 ~~165~~ beds each,
848 including campus-style programs, unless those campus-style
849 programs include more than one ~~level of restrictiveness, provide~~
850 ~~multilevel education and treatment program programs~~ using
851 different treatment protocols, and have facilities that coexist
852 separately in distinct locations on the same property.
853 Facilities at this commitment level shall provide 24-hour awake
854 supervision, custody, care, and treatment of residents. Youth
855 assessed and classified for placement in programs at this
856 commitment level represent a low or moderate risk to public
857 safety and require close supervision. The staff at a facility at
858 this commitment level may seclude a child who is a physical

859 | threat to himself or herself or others. Mechanical restraint may
 860 | also be used when necessary.

861 | (c)~~(d)~~ High-risk residential.—Programs or program models
 862 | at this commitment level are residential and do not allow youth
 863 | to have access to the community, except that temporary release
 864 | providing community access for up to 72 continuous hours may be
 865 | approved by a court for a youth who has made successful progress
 866 | in his or her program in order for the youth to attend a family
 867 | emergency or, during the final 60 days of his or her placement,
 868 | to visit his or her home, enroll in school or a career and
 869 | technical education ~~vocational~~ program, complete a job
 870 | interview, or participate in a community service project. High-
 871 | risk residential facilities are hardware-secure with perimeter
 872 | fencing and locking doors. Residential facilities at this
 873 | commitment level shall have no more than 90 ~~165~~ beds each,
 874 | including campus-style programs, unless those campus-style
 875 | programs include more than one ~~level of restrictiveness, provide~~
 876 | ~~multilevel education and treatment program programs~~ using
 877 | different treatment protocols, and have facilities that coexist
 878 | separately in distinct locations on the same property.
 879 | Facilities at this commitment level shall provide 24-hour awake
 880 | supervision, custody, care, and treatment of residents. Youth
 881 | assessed and classified for this level of placement require
 882 | close supervision in a structured residential setting. Placement
 883 | in programs at this level is prompted by a concern for public
 884 | safety that outweighs placement in programs at lower commitment

885 | levels. The staff at a facility at this commitment level may
 886 | seclude a child who is a physical threat to himself or herself
 887 | or others. Mechanical restraint may also be used when necessary.
 888 | The facility may provide for single cell occupancy, except that
 889 | youth may be housed together during prerelease transition.

890 | (d)(e) Maximum-risk residential.—Programs or program
 891 | models at this commitment level include juvenile correctional
 892 | facilities and juvenile prisons. The programs at this commitment
 893 | level are long-term residential and do not allow youth to have
 894 | access to the community. Facilities at this commitment level are
 895 | maximum-custody, hardware-secure with perimeter security fencing
 896 | and locking doors. Residential facilities at this commitment
 897 | level shall have no more than 90 ~~165~~ beds each, including
 898 | campus-style programs, unless those campus-style programs
 899 | include more than one ~~level of restrictiveness, provide~~
 900 | ~~multilevel education and treatment program programs~~ using
 901 | different treatment protocols, and have facilities that coexist
 902 | separately in distinct locations on the same property.
 903 | Facilities at this commitment level shall provide 24-hour awake
 904 | supervision, custody, care, and treatment of residents. The
 905 | staff at a facility at this commitment level may seclude a child
 906 | who is a physical threat to himself or herself or others.
 907 | Mechanical restraint may also be used when necessary. Facilities
 908 | at this commitment level ~~The facility~~ shall provide for single
 909 | cell occupancy, except that youth may be housed together during
 910 | prerelease transition. Youth assessed and classified for this

911 level of placement require close supervision in a maximum
 912 security residential setting. Placement in a program at this
 913 level is prompted by a demonstrated need to protect the public.

914 (45)~~(48)~~ "Secure detention center or facility" means a
 915 physically restricting facility for the temporary care of
 916 children, pending adjudication, disposition, or placement.

917 (46)~~(49)~~ "Shelter" means a place for the temporary care of
 918 a child who is alleged to be or who has been found to be
 919 delinquent.

920 ~~(50) "Shelter hearing" means a hearing provided for under~~
 921 ~~s. 984.14 in family in need of services cases or child in need~~
 922 ~~of services cases.~~

923 ~~(51) "Staff secure shelter" means a facility in which a~~
 924 ~~child is supervised 24 hours a day by staff members who are~~
 925 ~~awake while on duty. The facility is for the temporary care and~~
 926 ~~assessment of a child who has been found to be dependent, who~~
 927 ~~has violated a court order and been found in contempt of court,~~
 928 ~~or whom the Department of Children and Family Services is unable~~
 929 ~~to properly assess or place for assistance within the continuum~~
 930 ~~of services provided for dependent children.~~

931 (47)~~(52)~~ "Substance abuse" means using, without medical
 932 reason, any psychoactive or mood-altering drug, including
 933 alcohol, in such a manner as to induce impairment resulting in
 934 dysfunctional social behavior.

935 (48)~~(53)~~ "Taken into custody" means the status of a child
 936 immediately when temporary physical control over the child is

937 attained by a person authorized by law, pending the child's
 938 release, detention, placement, or other disposition as
 939 authorized by law.

940 (49)~~(54)~~ "Temporary legal custody" means the relationship
 941 that a juvenile court creates between a child and an adult
 942 relative of the child, adult nonrelative approved by the court,
 943 or other person until a more permanent arrangement is ordered.
 944 Temporary legal custody confers upon the custodian the right to
 945 have temporary physical custody of the child and the right and
 946 duty to protect, train, and discipline the child and to provide
 947 the child with food, shelter, and education, and ordinary
 948 medical, dental, psychiatric, and psychological care, unless
 949 these rights and duties are otherwise enlarged or limited by the
 950 court order establishing the temporary legal custody
 951 relationship.

952 (50)~~(55)~~ "Temporary release" means the terms and
 953 conditions under which a child is temporarily released from a
 954 residential commitment facility or allowed home visits. If the
 955 temporary release is from a nonsecure ~~moderate-risk~~ residential
 956 facility, a high-risk residential facility, or a maximum-risk
 957 residential facility, the terms and conditions of the temporary
 958 release must be approved by the child, the court, and the
 959 facility. ~~The term includes periods during which the child is~~
 960 ~~supervised pursuant to a conditional release program or a period~~
 961 ~~during which the child is supervised by a juvenile probation~~
 962 ~~officer or other nonresidential staff of the department or staff~~

963 ~~employed by an entity under contract with the department.~~
 964 ~~(51)(56)~~ "Transition-to-adulthood services" means services
 965 that are provided for youth in the custody of the department or
 966 under the supervision of the department and that have the
 967 objective of instilling the knowledge, skills, and aptitudes
 968 essential to a socially integrated, self-supporting adult life.
 969 The services may include, but are not limited to:
 970 (a) Assessment of the youth's ability and readiness for
 971 adult life.
 972 (b) A plan for the youth to acquire the knowledge,
 973 information, and counseling necessary to make a successful
 974 transition to adulthood.
 975 (c) Services that have proven effective toward achieving
 976 the transition to adulthood.
 977 (52) "Trauma-informed care" means services that are
 978 provided to children with a history of trauma, recognizing the
 979 symptoms of trauma and acknowledging the role that trauma has
 980 played in the child's life. Trauma may include, but is not
 981 limited to, community and school violence, physical or sexual
 982 abuse, neglect, medical difficulties, and domestic violence.
 983 ~~(53)(57)~~ "Violation of law" or "delinquent act" means a
 984 violation of any law of this state, the United States, or any
 985 other state which is a misdemeanor or a felony or a violation of
 986 a county or municipal ordinance which would be punishable by
 987 incarceration if the violation were committed by an adult.
 988 ~~(54)(58)~~ "Waiver hearing" means a hearing provided for

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989 | under s. 985.556(4).

990 | Section 4. Subsections (4) and (5) of section 985.0301,
991 | Florida Statutes, are amended to read:

992 | 985.0301 Jurisdiction.—

993 | (4) (a) Petitions alleging delinquency shall be filed in
994 | the county where the delinquent act or violation of law
995 | occurred. The ~~, but the~~ circuit court for that county may
996 | transfer the case to the circuit court of the circuit in which
997 | the child resides or will reside at the time of detention or
998 | placement for dispositional purposes. A child who has been
999 | detained may ~~shall~~ be transferred to the ~~appropriate~~ detention
1000 | center or facility in the circuit in which the child resides or
1001 | will reside at the time of detention ~~or other placement directed~~
1002 | ~~by the receiving court.~~

1003 | (b) The jurisdiction to be exercised by the court when a
1004 | child is taken into custody before the filing of a petition
1005 | under subsection (2) shall be exercised by the circuit court for
1006 | the county in which the child is taken into custody, which court
1007 | shall have personal jurisdiction of the child and the child's
1008 | parent or legal guardian. Upon the filing of a petition in the
1009 | appropriate circuit court, the court that is exercising initial
1010 | jurisdiction of the person of the child shall, if the child has
1011 | been detained, immediately order the child to be transferred to
1012 | the detention center or facility or other placement as ordered
1013 | by the court having subject matter jurisdiction of the case.

1014 | (5) (a) Notwithstanding s. ~~ss.~~ 743.07, ~~985.43, 985.433,~~

1015 ~~985.435, 985.439, and 985.441, and except as provided in~~
 1016 ~~paragraph (b) ss. 985.461 and 985.465 and paragraph (f), when~~
 1017 ~~the jurisdiction of any child who is alleged to have committed a~~
 1018 ~~delinquent act or violation of law is obtained, the court shall~~
 1019 ~~retain jurisdiction to dispose a case, unless relinquished by~~
 1020 ~~its order, until the child reaches 19 years of age, with the~~
 1021 ~~same power over the child which the court had before the child~~
 1022 ~~became an adult. For the purposes of s. 985.461, the court may~~
 1023 ~~retain jurisdiction for an additional 365 days following the~~
 1024 ~~child's 19th birthday if the child is participating in~~
 1025 ~~transition to adulthood services. The additional services do not~~
 1026 ~~extend involuntary court-sanctioned residential commitment and~~
 1027 ~~therefore require voluntary participation by the affected youth.~~

1028 (b) The court shall retain jurisdiction, Notwithstanding
 1029 ~~ss. 743.07 and 985.455(3), the term of any order placing a child~~
 1030 ~~in a probation program must be until the child's 19th birthday~~
 1031 ~~unless relinquished by its own order:~~

1032 1. Over a child on probation until the child reaches 19
 1033 ~~years of age he or she is released by the court on the motion of~~
 1034 ~~an interested party or on his or her own motion.~~

1035 2. Over a child committed to the department until the
 1036 ~~child reaches 21 years of age, specifically for the purpose of~~
 1037 ~~allowing the child to complete the commitment program, including~~
 1038 ~~conditional release supervision.~~

1039 (c) The court shall retain jurisdiction over a juvenile
 1040 ~~sexual offender, as defined in s. 985.475, who has been placed~~

1041 on community-based treatment alternative with supervision or who
 1042 has been placed in a program or facility for juvenile sexual
 1043 offenders, pursuant to s. 985.48, until the juvenile sexual
 1044 offender reaches 21 years of age, specifically for the purpose
 1045 of allowing the juvenile to complete the program.

1046 ~~(c) Notwithstanding ss. 743.07 and 985.455(3), the term of~~
 1047 ~~the commitment must be until the child is discharged by the~~
 1048 ~~department or until he or she reaches the age of 21 years.~~
 1049 ~~Notwithstanding ss. 743.07, 985.435, 985.437, 985.439, 985.441,~~
 1050 ~~985.455, and 985.513, and except as provided in this section, a~~
 1051 ~~child may not be held under a commitment from a court under s.~~
 1052 ~~985.439, s. 985.441(1)(a) or (b), or s. 985.455 after becoming~~
 1053 ~~21 years of age.~~

1054 ~~(d) The court may retain jurisdiction over a child~~
 1055 ~~committed to the department for placement in a juvenile prison~~
 1056 ~~or in a high risk or maximum risk residential commitment program~~
 1057 ~~to allow the child to participate in a juvenile conditional~~
 1058 ~~release program pursuant to s. 985.46. The jurisdiction of the~~
 1059 ~~court may not be retained after the child's 22nd birthday.~~
 1060 ~~However, if the child is not successful in the conditional~~
 1061 ~~release program, the department may use the transfer procedure~~
 1062 ~~under s. 985.441(4).~~

1063 ~~(e) The court may retain jurisdiction over a child~~
 1064 ~~committed to the department for placement in an intensive~~
 1065 ~~residential treatment program for 10-year old to 13-year old~~
 1066 ~~offenders, in the residential commitment program in a juvenile~~

1067 ~~prison or in a residential sex offender program until the child~~
 1068 ~~reaches the age of 21. If the court exercises this jurisdiction~~
 1069 ~~retention, it shall do so solely for the purpose of the child~~
 1070 ~~completing the intensive residential treatment program for 10-~~
 1071 ~~year-old to 13-year-old offenders, in the residential commitment~~
 1072 ~~program in a juvenile prison, or in a residential sex offender~~
 1073 ~~program. Such jurisdiction retention does not apply for other~~
 1074 ~~programs, other purposes, or new offenses.~~

1075 ~~(f) The court may retain jurisdiction over a child~~
 1076 ~~committed to a juvenile correctional facility or a juvenile~~
 1077 ~~prison until the child reaches the age of 21 years, specifically~~
 1078 ~~for the purpose of allowing the child to complete such program.~~

1079 ~~(g) The court may retain jurisdiction over a juvenile~~
 1080 ~~sexual offender who has been placed in a program or facility for~~
 1081 ~~juvenile sexual offenders until the juvenile sexual offender~~
 1082 ~~reaches the age of 21, specifically for the purpose of~~
 1083 ~~completing the program.~~

1084 (d) ~~(h)~~ The court may retain jurisdiction over a child and
 1085 the child's parent or legal guardian whom the court has ordered
 1086 to pay restitution until the restitution order is satisfied. To
 1087 retain jurisdiction, the court shall enter a restitution order,
 1088 which is separate from any disposition or order of commitment,
 1089 on or prior to the date that the court's jurisdiction would
 1090 cease under this section. The contents of the restitution order
 1091 shall be limited to the child's name and address, the name and
 1092 address of the parent or legal guardian, the name and address of

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1093 the payee, the case number, the date and amount of restitution
 1094 ordered, any amount of restitution paid, the amount of
 1095 restitution due and owing, and a notation that costs, interest,
 1096 penalties, and attorney fees may also be due and owing. The
 1097 terms of the restitution order are subject to s. 775.089(5).

1098 ~~(e)(i)~~ This subsection does not prevent the exercise of
 1099 jurisdiction by any court having jurisdiction of the child if
 1100 the child, after becoming an adult, commits a violation of law.

1101 Section 5. Subsections (2) and (4) of section 985.037,
 1102 Florida Statutes, are amended to read:

1103 985.037 Punishment for contempt of court; alternative
 1104 sanctions.-

1105 (2) PLACEMENT IN A SECURE DETENTION FACILITY.-A child may
 1106 be placed in a secure detention facility for purposes of
 1107 punishment for contempt of court if alternative sanctions are
 1108 unavailable or inappropriate, or if the child has already been
 1109 ordered to serve an alternative sanction but failed to comply
 1110 with the sanction. A delinquent child who has been held in
 1111 direct or indirect contempt may be placed in a secure detention
 1112 facility not to exceed 5 days for a first offense and not to
 1113 exceed 15 days for a second or subsequent offense.

1114 (4) CONTEMPT OF COURT SANCTIONS; PROCEDURE AND DUE
 1115 PROCESS.-

1116 (a) If a child is charged with direct contempt of court,
 1117 including traffic court, the court may impose an authorized
 1118 sanction immediately. The court must hold a hearing to determine

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1119 | if the child committed direct contempt. Due process must be
 1120 | afforded to the child during this hearing.

1121 | (b) If a child is charged with indirect contempt of court,
 1122 | the court must hold a hearing within 24 hours to determine
 1123 | whether the child committed indirect contempt of a valid court
 1124 | order. At the hearing, the following due process rights must be
 1125 | provided to the child:

1126 | 1. Right to a copy of the order to show cause alleging
 1127 | facts supporting the contempt charge.

1128 | 2. Right to an explanation of the nature and the
 1129 | consequences of the proceedings.

1130 | 3. Right to legal counsel and the right to have legal
 1131 | counsel appointed by the court if the juvenile is indigent,
 1132 | under s. 985.033.

1133 | 4. Right to confront witnesses.

1134 | 5. Right to present witnesses.

1135 | 6. Right to have a transcript or record of the proceeding.

1136 | 7. Right to appeal to an appropriate court.

1137 |

1138 | The child's parent or guardian may address the court regarding
 1139 | the due process rights of the child. Upon motion by the defense
 1140 | attorney or state attorney, the court shall review the placement
 1141 | of the child ~~every 72 hours~~ to determine whether it is
 1142 | appropriate for the child to remain in the facility.

1143 | (c) The court may not order that a child be placed in a
 1144 | secure detention facility for punishment for contempt unless the

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1145 court determines that an alternative sanction is inappropriate
1146 or unavailable or that the child was initially ordered to an
1147 alternative sanction and did not comply with the alternative
1148 sanction. The court is encouraged to order a child to perform
1149 community service, up to the maximum number of hours, where
1150 appropriate before ordering that the child be placed in a secure
1151 detention facility as punishment for contempt of court.

1152 (d) In addition to any other sanction imposed under this
1153 section, the court may direct the Department of Highway Safety
1154 and Motor Vehicles to withhold issuance of, or suspend, a
1155 child's driver ~~driver's~~ license or driving privilege. The court
1156 may order that a child's driver ~~driver's~~ license or driving
1157 privilege be withheld or suspended for up to 1 year for a first
1158 offense of contempt and up to 2 years for a second or subsequent
1159 offense. If the child's driver ~~driver's~~ license or driving
1160 privilege is suspended or revoked for any reason at the time the
1161 sanction for contempt is imposed, the court shall extend the
1162 period of suspension or revocation by the additional period
1163 ordered under this paragraph. If the child's driver ~~driver's~~
1164 license is being withheld at the time the sanction for contempt
1165 is imposed, the period of suspension or revocation ordered under
1166 this paragraph shall begin on the date on which the child is
1167 otherwise eligible to drive.

1168 Section 6. Paragraph (a) of subsection (1) of section
1169 985.039, Florida Statutes, is amended to read:

1170 985.039 Cost of supervision; cost of care.—

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1171 (1) Except as provided in subsection (3) or subsection
 1172 (4):

1173 (a) When any child is placed into nonsecure ~~home~~
 1174 detention, probation, or other supervision status with the
 1175 department, or is committed to the minimum-risk nonresidential
 1176 restrictiveness level, the court shall order the parent of such
 1177 child to pay to the department a fee for the cost of the
 1178 supervision of such child in the amount of \$1 per day for each
 1179 day that the child is in such status.

1180 Section 7. Subsection (5) of section 985.045, Florida
 1181 Statutes, is amended to read:

1182 985.045 Court records.—

1183 (5) This chapter does not prohibit a circuit court from
 1184 providing a restitution order containing the information
 1185 prescribed in s. 985.0301(5)(d) ~~985.0301(5)(h)~~ to a collection
 1186 court or a private collection agency for the sole purpose of
 1187 collecting unpaid restitution ordered in a case in which the
 1188 circuit court has retained jurisdiction over the child and the
 1189 child's parent or legal guardian. The collection court or
 1190 private collection agency shall maintain the confidential status
 1191 of the information to the extent such confidentiality is
 1192 provided by law.

1193 Section 8. Paragraph (d) of subsection (1) and subsection
 1194 (3) of section 985.101, Florida Statutes, are amended to read:

1195 985.101 Taking a child into custody.—

1196 (1) A child may be taken into custody under the following

1197 | circumstances:

1198 | (d) By a law enforcement officer who has probable cause to
 1199 | believe that the child is in violation of the conditions of the
 1200 | child's probation, nonsecure ~~home~~ detention, postcommitment
 1201 | probation, or conditional release supervision; has absconded
 1202 | from nonresidential commitment; or has escaped from residential
 1203 | commitment.

1204 |
 1205 | Nothing in this subsection shall be construed to allow the
 1206 | detention of a child who does not meet the detention criteria in
 1207 | part V.

1208 | (3) When a child is taken into custody as provided in this
 1209 | section, the person taking the child into custody shall attempt
 1210 | to notify the parent, guardian, or legal custodian of the child.
 1211 | The person taking the child into custody shall continue such
 1212 | attempt until the parent, guardian, or legal custodian of the
 1213 | child is notified or the child is delivered to the department ~~a~~
 1214 | ~~juvenile probation officer~~ under ss. 985.14 and 985.145,
 1215 | whichever occurs first. If the child is delivered to the
 1216 | department ~~a juvenile probation officer~~ before the parent,
 1217 | guardian, or legal custodian is notified, the department
 1218 | ~~juvenile probation officer~~ shall continue the attempt to notify
 1219 | until the parent, guardian, or legal custodian of the child is
 1220 | notified. Following notification, the parent or guardian must
 1221 | provide identifying information, including name, address, date
 1222 | of birth, social security number, and driver ~~driver's~~ license

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1223 number or identification card number of the parent or guardian
 1224 to the person taking the child into custody or the department
 1225 ~~juvenile probation officer~~.

1226 Section 9. Section 985.105, Florida Statutes, is repealed.

1227 Section 10. Paragraph (b) of subsection (1) of section
 1228 985.11, Florida Statutes, is amended to read:

1229 985.11 Fingerprinting and photographing.—

1230 (1)

1231 (b) Unless the child is issued a civil citation or is
 1232 participating in a similar diversion program pursuant to s.

1233 985.12, a child who is charged with or found to have committed
 1234 one of the following offenses shall be fingerprinted, and the
 1235 fingerprints shall be submitted to the Department of Law
 1236 Enforcement as provided in s. 943.051(3)(b):

1237 1. Assault, as defined in s. 784.011.

1238 2. Battery, as defined in s. 784.03.

1239 3. Carrying a concealed weapon, as defined in s.
 1240 790.01(1).

1241 4. Unlawful use of destructive devices or bombs, as
 1242 defined in s. 790.1615(1).

1243 5. Neglect of a child, as defined in s. 827.03(1)(e).

1244 6. Assault on a law enforcement officer, a firefighter, or
 1245 other specified officers, as defined in s. 784.07(2)(a).

1246 7. Open carrying of a weapon, as defined in s. 790.053.

1247 8. Exposure of sexual organs, as defined in s. 800.03.

1248 9. Unlawful possession of a firearm, as defined in s.

1249 790.22(5).

1250 10. Petit theft, as defined in s. 812.014.

1251 11. Cruelty to animals, as defined in s. 828.12(1).

1252 12. Arson, resulting in bodily harm to a firefighter, as

1253 defined in s. 806.031(1).

1254 13. Unlawful possession or discharge of a weapon or

1255 firearm at a school-sponsored event or on school property as

1256 defined in s. 790.115.

1257

1258 A law enforcement agency may fingerprint and photograph a child

1259 taken into custody upon probable cause that such child has

1260 committed any other violation of law, as the agency deems

1261 appropriate. Such fingerprint records and photographs shall be

1262 retained by the law enforcement agency in a separate file, and

1263 these records and all copies thereof must be marked "Juvenile

1264 Confidential." These records are not available for public

1265 disclosure and inspection under s. 119.07(1) except as provided

1266 in ss. 943.053 and 985.04(2), but shall be available to other

1267 law enforcement agencies, criminal justice agencies, state

1268 attorneys, the courts, the child, the parents or legal

1269 custodians of the child, their attorneys, and any other person

1270 authorized by the court to have access to such records. In

1271 addition, such records may be submitted to the Department of Law

1272 Enforcement for inclusion in the state criminal history records

1273 and used by criminal justice agencies for criminal justice

1274 purposes. These records may, in the discretion of the court, be

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1275 open to inspection by anyone upon a showing of cause. The
 1276 fingerprint and photograph records shall be produced in the
 1277 court whenever directed by the court. Any photograph taken
 1278 pursuant to this section may be shown by a law enforcement
 1279 officer to any victim or witness of a crime for the purpose of
 1280 identifying the person who committed such crime.

1281 Section 11. Subsection (2) of section 985.14, Florida
 1282 Statutes, is amended to read:

1283 985.14 Intake and case management system.—

1284 (2) The intake process shall be performed by the
 1285 department or juvenile assessment center personnel through a
 1286 case management system. The purpose of the intake process is to
 1287 assess the child's needs and risks and to determine the most
 1288 appropriate treatment plan and setting for the child's
 1289 programmatic needs and risks. The intake process shall consist
 1290 of an initial assessment and may be followed by a full mental
 1291 health, substance abuse, or psychosexual evaluation. The intake
 1292 process shall result in choosing the most appropriate services
 1293 through a balancing of the interests and needs of the child with
 1294 those of the family and the community ~~public~~. The department
 1295 ~~juvenile probation officer~~ shall be responsible for making
 1296 informed decisions and recommendations to other agencies, the
 1297 state attorney, and the courts so that the child and family may
 1298 receive the least intrusive service alternative throughout the
 1299 judicial process. The department shall establish uniform
 1300 procedures for the department ~~juvenile probation officer~~ to

1301 provide a preliminary screening of the child and family for
 1302 substance abuse and mental health services prior to the filing
 1303 of a petition or as soon as possible thereafter and prior to a
 1304 disposition hearing.

1305 Section 12. Section 985.145, Florida Statutes, is amended
 1306 to read:

1307 985.145 Responsibilities of the department ~~juvenile~~
 1308 ~~probation officer~~ during intake; screenings and assessments.-

1309 (1) The department ~~juvenile probation officer~~ shall serve
 1310 as the primary case manager for the purpose of managing,
 1311 coordinating, and monitoring the services provided to the child.
 1312 Each program administrator within the Department of Children and
 1313 Families ~~Family Services~~ shall cooperate with the primary case
 1314 manager in carrying out the duties and responsibilities
 1315 described in this section. In addition to duties specified in
 1316 other sections and through departmental rules, the department
 1317 ~~assigned juvenile probation officer~~ shall be responsible for the
 1318 following:

1319 (a) Reviewing probable cause affidavit.-The department
 1320 ~~juvenile probation officer~~ shall make a preliminary
 1321 determination as to whether the report, affidavit, or complaint
 1322 is complete, consulting with the state attorney as may be
 1323 necessary. A report, affidavit, or complaint alleging that a
 1324 child has committed a delinquent act or violation of law shall
 1325 be made to the intake office operating in the county in which
 1326 the child is found or in which the delinquent act or violation

1327 of law occurred. Any person or agency having knowledge of the
 1328 facts may make such a written report, affidavit, or complaint
 1329 and shall furnish to the intake office facts sufficient to
 1330 establish the jurisdiction of the court and to support a finding
 1331 by the court that the child has committed a delinquent act or
 1332 violation of law.

1333 (b) Notification concerning apparent insufficiencies in
 1334 probable cause affidavit.—In any case where the department
 1335 ~~juvenile probation officer~~ or the state attorney finds that the
 1336 report, affidavit, or complaint is insufficient by the standards
 1337 for a probable cause affidavit, the department ~~juvenile~~
 1338 ~~probation officer~~ or state attorney shall return the report,
 1339 affidavit, or complaint, without delay, to the person or agency
 1340 originating the report, affidavit, or complaint or having
 1341 knowledge of the facts or to the appropriate law enforcement
 1342 agency having investigative jurisdiction of the offense, and
 1343 shall request, and the person or agency shall promptly furnish,
 1344 additional information in order to comply with the standards for
 1345 a probable cause affidavit.

1346 (c) Screening.—During the intake process, the department
 1347 ~~juvenile probation officer~~ shall screen each child or shall
 1348 cause each child to be screened in order to determine:

- 1349 1. Appropriateness for release; referral to a diversionary
 1350 program, including, but not limited to, a teen court program;
 1351 referral for community arbitration; or referral to some other
 1352 program or agency for the purpose of nonofficial or nonjudicial

1353 handling.

1354 2. The presence of medical, psychiatric, psychological,
 1355 substance abuse, educational, or career and technical education
 1356 ~~vocational~~ problems, or other conditions that may have caused
 1357 the child to come to the attention of law enforcement or the
 1358 department. The child shall also be screened to determine
 1359 whether the child poses a danger to himself or herself or others
 1360 in the community. The results of this screening shall be made
 1361 available to the court and to court officers. In cases where
 1362 such conditions are identified and a nonjudicial handling of the
 1363 case is chosen, the department ~~juvenile probation officer~~ shall
 1364 attempt to refer the child to a program or agency, together with
 1365 all available and relevant assessment information concerning the
 1366 child's precipitating condition.

1367 (d) Completing risk assessment instrument.—The department
 1368 ~~juvenile probation officer~~ shall ensure that a risk assessment
 1369 instrument establishing the child's eligibility for detention
 1370 has been accurately completed and that the appropriate
 1371 recommendation was made to the court.

1372 (e) Rights.—The department ~~juvenile probation officer~~
 1373 shall inquire as to whether the child understands his or her
 1374 rights to counsel and against self-incrimination.

1375 (f) Multidisciplinary assessment.—The department ~~juvenile~~
 1376 ~~probation officer~~ shall coordinate the multidisciplinary
 1377 assessment when required, which includes the classification and
 1378 placement process that determines the child's priority needs,

1379 risk classification, and treatment plan. When sufficient
 1380 evidence exists to warrant a comprehensive assessment and the
 1381 child fails to voluntarily participate in the assessment
 1382 efforts, the department ~~juvenile probation officer~~ shall inform
 1383 the court of the need for the assessment and the refusal of the
 1384 child to participate in such assessment. This assessment,
 1385 classification, and placement process shall develop into the
 1386 predisposition report.

1387 (g) Comprehensive assessment.—The department ~~juvenile~~
 1388 ~~probation officer~~, pursuant to uniform procedures established by
 1389 the department and upon determining that the report, affidavit,
 1390 or complaint is complete, shall:

1391 1. Perform the preliminary screening and make referrals
 1392 for a comprehensive assessment regarding the child's need for
 1393 substance abuse treatment services, mental health services,
 1394 intellectual disability services, literacy services, or other
 1395 educational or treatment services.

1396 2. If indicated by the preliminary screening, provide for
 1397 a comprehensive assessment of the child and family for substance
 1398 abuse problems, using community-based licensed programs with
 1399 clinical expertise and experience in the assessment of substance
 1400 abuse problems.

1401 3. If indicated by the preliminary screening, provide for
 1402 a comprehensive assessment of the child and family for mental
 1403 health problems, using community-based psychologists,
 1404 psychiatrists, or other licensed mental health professionals who

1405 have clinical expertise and experience in the assessment of
 1406 mental health problems.

1407 (h) Referrals for services.—The department ~~juvenile~~
 1408 ~~probation officer~~ shall make recommendations for services and
 1409 facilitate the delivery of those services to the child,
 1410 including any mental health services, educational services,
 1411 family counseling services, family assistance services, and
 1412 substance abuse services.

1413 (i) Recommendation concerning a petition.—Upon determining
 1414 that the report, affidavit, or complaint complies with the
 1415 standards of a probable cause affidavit and that the interests
 1416 of the child and the public will be best served, the department
 1417 ~~juvenile probation officer~~ may recommend that a delinquency
 1418 petition not be filed. If such a recommendation is made, the
 1419 department ~~juvenile probation officer~~ shall advise in writing
 1420 the person or agency making the report, affidavit, or complaint,
 1421 the victim, if any, and the law enforcement agency having
 1422 investigative jurisdiction over the offense of the
 1423 recommendation; the reasons therefor; and that the person or
 1424 agency may submit, within 10 days after the receipt of such
 1425 notice, the report, affidavit, or complaint to the state
 1426 attorney for special review. The state attorney, upon receiving
 1427 a request for special review, shall consider the facts presented
 1428 by the report, affidavit, or complaint, and by the department
 1429 ~~juvenile probation officer~~ who made the recommendation that no
 1430 petition be filed, before making a final decision as to whether

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1431 a petition or information should or should not be filed.

1432 (j) Completing intake report.—Subject to the interagency
1433 agreement authorized under this paragraph, the department ~~the~~
1434 ~~juvenile probation officer for each case in which a child is~~
1435 ~~alleged to have committed a violation of law or delinquent act~~
1436 ~~and is not detained~~ shall submit a written report to the state
1437 attorney for each case in which a child is alleged to have
1438 committed a violation of law or delinquent act and is not
1439 detained. The report shall be submitted within 20 days after the
1440 date the child is taken into custody and include ~~,including~~ the
1441 original police report, complaint, or affidavit, or a copy
1442 thereof, and including a copy of the child's prior juvenile
1443 record, ~~within 20 days after the date the child is taken into~~
1444 ~~custody~~. In cases in which the child is in detention, the intake
1445 office report must be submitted within 24 hours after the child
1446 is placed into detention. The intake office report may include a
1447 recommendation that a petition or information be filed or that
1448 no petition or information be filed and may set forth reasons
1449 for the recommendation. The state attorney and the department
1450 may, on a district-by-district basis, enter into interagency
1451 agreements denoting the cases that will require a recommendation
1452 and those for which a recommendation is unnecessary.

1453 (2) Prior to requesting that a delinquency petition be
1454 filed or prior to filing a dependency petition, the department
1455 ~~juvenile probation officer~~ may request the parent or legal
1456 guardian of the child to attend a course of instruction in

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1457 parenting skills, training in conflict resolution, and the
1458 practice of nonviolence; to accept counseling; or to receive
1459 other assistance from any agency in the community which notifies
1460 the clerk of the court of the availability of its services.
1461 Where appropriate, the department ~~juvenile probation officer~~
1462 shall request both parents or guardians to receive such parental
1463 assistance. The department ~~juvenile probation officer~~ may, in
1464 determining whether to request that a delinquency petition be
1465 filed, take into consideration the willingness of the parent or
1466 legal guardian to comply with such request. The parent or
1467 guardian must provide the department ~~juvenile probation officer~~
1468 with identifying information, including the parent's or
1469 guardian's name, address, date of birth, social security number,
1470 and driver ~~driver's~~ license number or identification card number
1471 in order to comply with s. 985.039.

1472 (3) When indicated by the comprehensive assessment, the
1473 department is authorized to contract within appropriated funds
1474 for services with a local nonprofit community mental health or
1475 substance abuse agency licensed or authorized under chapter 394
1476 or chapter 397 or other authorized nonprofit social service
1477 agency providing related services. The determination of mental
1478 health or substance abuse services shall be conducted in
1479 coordination with existing programs providing mental health or
1480 substance abuse services in conjunction with the intake office.

1481 (4) Client information resulting from the screening and
1482 evaluation shall be documented under rules of the department and

1483 shall serve to assist the department ~~juvenile probation officer~~
 1484 in providing the most appropriate services and recommendations
 1485 in the least intrusive manner. Such client information shall be
 1486 used in the multidisciplinary assessment and classification of
 1487 the child, but such information, and any information obtained
 1488 directly or indirectly through the assessment process, is
 1489 inadmissible in court prior to the disposition hearing, unless
 1490 the child's written consent is obtained. At the disposition
 1491 hearing, documented client information shall serve to assist the
 1492 court in making the most appropriate custody, adjudicatory, and
 1493 dispositional decision.

1494 (5) If the screening and assessment indicate that the
 1495 interests of the child and the public will be best served, the
 1496 department ~~juvenile probation officer~~, with the approval of the
 1497 state attorney, may refer the child for care, diagnostic, and
 1498 evaluation services; substance abuse treatment services; mental
 1499 health services; intellectual disability services; a
 1500 diversionary, arbitration, or mediation program; community
 1501 service work; or other programs or treatment services
 1502 voluntarily accepted by the child and the child's parents or
 1503 legal guardian. If a child volunteers to participate in any work
 1504 program under this chapter or volunteers to work in a specified
 1505 state, county, municipal, or community service organization
 1506 supervised work program or to work for the victim, the child is
 1507 considered an employee of the state for the purposes of
 1508 liability. In determining the child's average weekly wage,

1509 unless otherwise determined by a specific funding program, all
 1510 remuneration received from the employer is considered a
 1511 gratuity, and the child is not entitled to any benefits
 1512 otherwise payable under s. 440.15 regardless of whether the
 1513 child may be receiving wages and remuneration from other
 1514 employment with another employer and regardless of the child's
 1515 future wage-earning capacity.

1516 (6) The victim, if any, and the law enforcement agency
 1517 that investigated the offense shall be notified immediately by
 1518 the state attorney of the action taken under subsection (5).

1519 Section 13. Section 985.17, Florida Statutes, is created
 1520 to read:

1521 985.17 Prevention services.—

1522 (1) The Legislature finds that prevention services
 1523 decrease recidivism by addressing the needs of at-risk youth and
 1524 their families, preventing further involvement of such youth in
 1525 the juvenile justice system, protecting the safety of the
 1526 public, and facilitating successful reentry of at-risk youth
 1527 into the community. To assist with decreasing recidivism, the
 1528 department's prevention services shall strengthen protective
 1529 factors and reduce risk factors using tested and effective
 1530 approaches.

1531 (2) A goal of the department's prevention services shall
 1532 be to develop the capacity for local communities to serve their
 1533 youth.

1534 (a) The department shall engage faith and community-based

1535 organizations to provide a full range of voluntary programs and
 1536 services to prevent and reduce juvenile delinquency, including,
 1537 but not limited to, chaplaincy services, crisis intervention
 1538 counseling, mentoring, and tutoring.

1539 (b) The department shall establish volunteer coordinators
 1540 in each circuit and encourage the recruitment of volunteers to
 1541 serve as mentors for youth in department services.

1542 (c) The department shall promote the sale of the Invest in
 1543 Children license plate to help fund programs and services to
 1544 prevent juvenile delinquency. The department shall allocate
 1545 money for programs and services within each county based on that
 1546 county's proportionate share of the license plate annual use
 1547 fees collected by the county.

1548 (3) The department's prevention services for youth at risk
 1549 of becoming delinquent should:

1550 (a) Focus on preventing initial or further involvement of
 1551 such youth in the juvenile justice system by including services
 1552 such as literacy services, gender-specific programming,
 1553 recreational services, and after-school services, and should
 1554 include targeted services to troubled, truant, ungovernable,
 1555 abused, trafficked, or runaway youth. To decrease the likelihood
 1556 that a youth will commit a delinquent act, the department should
 1557 use mentoring and may provide specialized services addressing
 1558 the strengthening of families, job training, and substance
 1559 abuse.

1560 (b) Address the multiple needs of such youth in order to

1561 decrease the prevalence of disproportionate minority
 1562 representation in the juvenile justice system.

1563 (5) The department shall expend funds related to the
 1564 prevention services in a manner consistent with the policies
 1565 expressed in ss. 984.02 and 985.01 and in a manner that
 1566 maximizes accountability to the public and ensures the
 1567 documentation of outcomes.

1568 (a) As a condition of receipt of state funds, all entities
 1569 that receive or use state moneys to fund prevention services
 1570 through contracts with the department or grants from any entity
 1571 dispersed by the department shall:

1572 1. Design the programs providing such services to further
 1573 one or more of the following strategies:

1574 a. Encouraging youth to attend and succeed in school,
 1575 which may include special assistance and tutoring to address
 1576 deficiencies in academic performance and collecting outcome data
 1577 to reveal the number of days youth attended school while
 1578 participating in the program.

1579 b. Engaging youth in productive and wholesome activities
 1580 during nonschool hours that build positive character, instill
 1581 positive values, and enhance educational experiences.

1582 c. Encouraging youth to avoid the use of violence.

1583 d. Assisting youth in acquiring the skills needed to find
 1584 meaningful employment, which may include assisting the youth in
 1585 finding a suitable employer.

1586 2. Provide the department with demographic information,

1587 dates of services, and types of interventions received by each
 1588 youth.

1589 (b) The department shall monitor output and outcome
 1590 measures for each program strategy in paragraph (a) and annually
 1591 report the outputs and outcomes in the Comprehensive
 1592 Accountability Report as provided in s. 985.632.

1593 (c) The department shall monitor all state-funded programs
 1594 that receive or use state moneys to fund the prevention services
 1595 through contracts or grants with the department for compliance
 1596 with all provisions in the contracts and grants.

1597 Section 14. Section 985.24, Florida Statutes, is amended
 1598 to read:

1599 985.24 Use of detention; prohibitions.—

1600 (1) All determinations and court orders regarding the use
 1601 of ~~secure, nonsecure, or home~~ detention care shall be based
 1602 primarily upon findings that the child:

1603 (a) Presents a substantial risk of not appearing at a
 1604 subsequent hearing;

1605 (b) Presents a substantial risk of inflicting bodily harm
 1606 on others as evidenced by recent behavior, including the illegal
 1607 possession of a firearm;

1608 (c) Presents a history of committing a property offense
 1609 prior to adjudication, disposition, or placement;

1610 (d) Has committed contempt of court by:

1611 1. Intentionally disrupting the administration of the
 1612 court;

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1613 2. Intentionally disobeying a court order; or
 1614 3. Engaging in a punishable act or speech in the court's
 1615 presence which shows disrespect for the authority and dignity of
 1616 the court; or
 1617 (e) Requests protection from imminent bodily harm.
 1618 (2) A child alleged to have committed a delinquent act or
 1619 violation of law may not be placed into secure or nonsecure, ~~or~~
 1620 ~~home~~ detention care for any of the following reasons:
 1621 (a) To allow a parent to avoid his or her legal
 1622 responsibility.
 1623 (b) To permit more convenient administrative access to the
 1624 child.
 1625 (c) To facilitate further interrogation or investigation.
 1626 (d) Due to a lack of more appropriate facilities.
 1627 (3) A child alleged to be dependent under chapter 39 may
 1628 not, under any circumstances, be placed into secure detention
 1629 care.
 1630 (4) The department may, within its existing resources,
 1631 develop nonsecure, nonresidential evening reporting centers as
 1632 an alternative to placing a child in secure detention. Evening
 1633 reporting centers may be collocated with a juvenile assessment
 1634 center. If established, evening reporting centers shall serve
 1635 children and families who are awaiting a child's court hearing
 1636 and, at a minimum, operate during the afternoon and evening
 1637 hours to provide a highly structured program of supervision.
 1638 Evening reporting centers may also provide academic tutoring,

1639 counseling, family engagement programs, and other activities.

1640 (5)~~(4)~~ The department shall continue to identify
 1641 alternatives to secure detention care and shall develop such
 1642 alternatives and annually submit them to the Legislature for
 1643 authorization and appropriation.

1644 Section 15. Paragraph (b) of subsection (2) and subsection
 1645 (4) of section 985.245, Florida Statutes, are amended to read:

1646 985.245 Risk assessment instrument.—

1647 (2)

1648 (b) The risk assessment instrument shall take into
 1649 consideration, but need not be limited to, prior history of
 1650 failure to appear, prior offenses, offenses committed pending
 1651 adjudication, any unlawful possession of a firearm, theft of a
 1652 motor vehicle or possession of a stolen motor vehicle, and
 1653 probation status at the time the child is taken into custody.
 1654 The risk assessment instrument shall also take into
 1655 consideration appropriate aggravating and mitigating
 1656 circumstances, and shall be designed to target a narrower
 1657 population of children than s. 985.255. The risk assessment
 1658 instrument shall also include any information concerning the
 1659 child's history of abuse and neglect. The risk assessment shall
 1660 indicate whether detention care is warranted, and, if detention
 1661 care is warranted, whether the child should be placed into
 1662 secure or, nonsecure, ~~or home~~ detention care.

1663 (4) For a child who is under the supervision of the
 1664 department through probation, ~~home detention~~, nonsecure

1665 detention, conditional release, postcommitment probation, or
 1666 commitment and who is charged with committing a new offense, the
 1667 risk assessment instrument may be completed and scored based on
 1668 the underlying charge for which the child was placed under the
 1669 supervision of the department and the new offense.

1670 Section 16. Subsection (1) of section 985.25, Florida
 1671 Statutes, is amended to read:

1672 985.25 Detention intake.-

1673 (1) The department ~~juvenile probation officer~~ shall
 1674 receive custody of a child who has been taken into custody from
 1675 the law enforcement agency or court and shall review the facts
 1676 in the law enforcement report or probable cause affidavit and
 1677 make such further inquiry as may be necessary to determine
 1678 whether detention care is appropriate ~~required~~.

1679 (a) During the period of time from the taking of the child
 1680 into custody to the date of the detention hearing, the initial
 1681 decision as to the child's placement into secure ~~detention care,~~
 1682 or nonsecure detention care, ~~or home detention care~~ shall be
 1683 made by the department ~~juvenile probation officer~~ under ss.
 1684 985.24 and 985.245(1).

1685 (b) The department ~~juvenile probation officer~~ shall base
 1686 the decision whether ~~or not~~ to place the child into secure
 1687 ~~detention care, home detention care,~~ or nonsecure detention care
 1688 on an assessment of risk in accordance with the risk assessment
 1689 instrument and procedures developed by the department under s.
 1690 985.245. However, a child charged with possessing or discharging

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1691 a firearm on school property in violation of s. 790.115 shall be
 1692 placed in secure detention care. A child who has been taken into
 1693 custody on three or more separate occasions within a 60-day
 1694 period shall be placed in secure detention care until the
 1695 child's detention hearing.

1696 (c) If the final score on the child's risk assessment
 1697 instrument indicates juvenile probation officer determines that
 1698 a child who is eligible for detention care is appropriate, but
 1699 the department otherwise determines the child based upon the
 1700 results of the risk assessment instrument should be released,
 1701 the department juvenile probation officer shall contact the
 1702 state attorney, who may authorize release.

1703 (d) If the final score on the risk assessment instrument
 1704 indicates detention is not appropriate ~~authorized~~, the child may
 1705 be released by the department juvenile probation officer in
 1706 accordance with ss. 985.115 and 985.13.

1707
 1708 Under no circumstances shall the department juvenile probation
 1709 ~~officer~~ or the state attorney or law enforcement officer
 1710 authorize the detention of any child in a jail or other facility
 1711 intended or used for the detention of adults, without an order
 1712 of the court.

1713 Section 17. Subsections (1) and (2) and paragraphs (a) and
 1714 (c) of subsection (3) of section 985.255, Florida Statutes, are
 1715 amended to read:

1716 985.255 Detention criteria; detention hearing.-

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1717 (1) Subject to s. 985.25(1), a child taken into custody
 1718 and placed into secure or nonsecure ~~or home~~ detention care shall
 1719 be given a hearing within 24 hours after being taken into
 1720 custody. At the hearing, the court may order continued detention
 1721 ~~or detained in secure detention care prior to a detention~~
 1722 ~~hearing may continue to be detained by the court~~ if:

1723 (a) The child is alleged to be an escapee from a
 1724 residential commitment program; or an absconder from a
 1725 nonresidential commitment program, a probation program, or
 1726 conditional release supervision; or is alleged to have escaped
 1727 while being lawfully transported to or from a residential
 1728 commitment program.

1729 (b) The child is wanted in another jurisdiction for an
 1730 offense which, if committed by an adult, would be a felony.

1731 (c) The child is charged with a delinquent act or
 1732 violation of law and requests in writing through legal counsel
 1733 to be detained for protection from an imminent physical threat
 1734 to his or her personal safety.

1735 (d) The child is charged with committing an offense of
 1736 domestic violence as defined in s. 741.28 and is detained as
 1737 provided in subsection (2).

1738 (e) The child is charged with possession of or discharging
 1739 a firearm on school property in violation of s. 790.115 or the
 1740 illegal possession of a firearm.

1741 (f) The child is charged with a capital felony, a life
 1742 felony, a felony of the first degree, a felony of the second

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1743 degree that does not involve a violation of chapter 893, or a
 1744 felony of the third degree that is also a crime of violence,
 1745 including any such offense involving the use or possession of a
 1746 firearm.

1747 (g) The child is charged with any second degree or third
 1748 degree felony involving a violation of chapter 893 or any third
 1749 degree felony that is not also a crime of violence, and the
 1750 child:

1751 1. Has a record of failure to appear at court hearings
 1752 after being properly notified in accordance with the Rules of
 1753 Juvenile Procedure;

1754 2. Has a record of law violations prior to court hearings;

1755 3. Has already been detained or has been released and is
 1756 awaiting final disposition of the case;

1757 4. Has a record of violent conduct resulting in physical
 1758 injury to others; or

1759 5. Is found to have been in possession of a firearm.

1760 (h) The child is alleged to have violated the conditions
 1761 of the child's probation or conditional release supervision.
 1762 However, a child detained under this paragraph may be held only
 1763 in a consequence unit as provided in s. 985.439. If a
 1764 consequence unit is not available, the child shall be placed on
 1765 nonsecure ~~home~~ detention with electronic monitoring.

1766 (i) The child is detained on a judicial order for failure
 1767 to appear and has previously willfully failed to appear, after
 1768 proper notice:~

1769 1. For an adjudicatory hearing on the same case regardless
 1770 of the results of the risk assessment instrument; or

1771 2. At two or more court hearings of any nature on the same
 1772 case regardless of the results of the risk assessment
 1773 instrument.

1774
 1775 A child may be held in secure detention for up to 72 hours in
 1776 advance of the next scheduled court hearing pursuant to this
 1777 paragraph. The child's failure to keep the clerk of court and
 1778 defense counsel informed of a current and valid mailing address
 1779 where the child will receive notice to appear at court
 1780 proceedings does not provide an adequate ground for excusal of
 1781 the child's nonappearance at the hearings.

1782 ~~(j) The child is detained on a judicial order for failure~~
 1783 ~~to appear and has previously willfully failed to appear, after~~
 1784 ~~proper notice, at two or more court hearings of any nature on~~
 1785 ~~the same case regardless of the results of the risk assessment~~
 1786 ~~instrument. A child may be held in secure detention for up to 72~~
 1787 ~~hours in advance of the next scheduled court hearing pursuant to~~
 1788 ~~this paragraph. The child's failure to keep the clerk of court~~
 1789 ~~and defense counsel informed of a current and valid mailing~~
 1790 ~~address where the child will receive notice to appear at court~~
 1791 ~~proceedings does not provide an adequate ground for excusal of~~
 1792 ~~the child's nonappearance at the hearings.~~

1793 (2) A child who is charged with committing an offense of
 1794 domestic violence as defined in s. 741.28 and whose risk

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1795 assessment instrument indicates secure detention is not
 1796 appropriate ~~who does not meet detention criteria~~ may be held in
 1797 secure detention if the court makes specific written findings
 1798 that:

- 1799 (a) Respite care for the child is not available.
- 1800 (b) It is necessary to place the child in secure detention
- 1801 in order to protect the victim from injury.

1802
 1803 The child may not be held in secure detention under this
 1804 subsection for more than 48 hours unless ordered by the court.
 1805 After 48 hours, the court shall hold a hearing if the state
 1806 attorney or victim requests that secure detention be continued.
 1807 The child may continue to be held in detention care if the court
 1808 makes a specific, written finding that respite care is
 1809 unavailable and it ~~detention care~~ is necessary to protect the
 1810 victim from injury. However, the child may not be held in
 1811 detention care beyond the time limits set forth in this section
 1812 or s. 985.26.

1813 (3) (a) ~~A child who meets any of the criteria in subsection~~
 1814 ~~(1) and who is ordered to be detained under that subsection~~
 1815 ~~shall be given a hearing within 24 hours after being taken into~~
 1816 ~~eustody.~~ The purpose of the detention hearing required under
 1817 subsection (1) is to determine the existence of probable cause
 1818 that the child has committed the delinquent act or violation of
 1819 law that he or she is charged with and the need for continued
 1820 detention. Unless a child is detained under paragraph (1)(d) or

1821 paragraph (1)(e), the court shall use the results of the risk
 1822 assessment performed by the department juvenile probation
 1823 ~~officer~~ and, based on the criteria in subsection (1), shall
 1824 determine the need for continued detention. ~~A child placed into~~
 1825 ~~secure, nonsecure, or home detention care may continue to be so~~
 1826 ~~detained by the court.~~

1827 (c) Except as provided in s. 790.22(8) or in s. 985.27,
 1828 when a child is placed into secure or nonsecure detention care,
 1829 or into a respite home or other placement pursuant to a court
 1830 order following a hearing, the court order must include specific
 1831 instructions that direct the release of the child from such
 1832 placement no later than 5 p.m. on the last day of the detention
 1833 period specified in s. 985.26 or s. 985.27, whichever is
 1834 applicable, unless the requirements of such applicable provision
 1835 have been met or an order of continuance has been granted under
 1836 s. 985.26(4). If the court order does not include a release
 1837 date, the release date shall be requested from the court on the
 1838 same date that the child is placed in detention care. If a
 1839 subsequent hearing is needed to provide additional information
 1840 to the court for safety planning, the initial order placing the
 1841 child in detention care shall reflect the next detention review
 1842 hearing, which shall be held within 3 calendar days after the
 1843 child's initial detention placement.

1844 Section 18. Subsections (1), (2), and (3) of section
 1845 985.26, Florida Statutes, are amended to read:

1846 985.26 Length of detention.-

1847 (1) A child may not be placed into or held in secure or
 1848 nonsecure, ~~or home~~ detention care for longer than 24 hours
 1849 unless the court orders such detention care, and the order
 1850 includes specific instructions that direct the release of the
 1851 child from such detention care, in accordance with s. 985.255.
 1852 The order shall be a final order, reviewable by appeal under s.
 1853 985.534 and the Florida Rules of Appellate Procedure. Appeals of
 1854 such orders shall take precedence over other appeals and other
 1855 pending matters.

1856 (2) A child may not be held in secure or nonsecure, ~~or~~
 1857 ~~home~~ detention care under a special detention order for more
 1858 than 21 days unless an adjudicatory hearing for the case has
 1859 been commenced in good faith by the court. However, upon good
 1860 cause being shown that the nature of the charge requires
 1861 additional time for the prosecution or defense of the case, the
 1862 court may extend the length of detention for an additional 9
 1863 days if the child is charged with an offense that would be, if
 1864 committed by an adult, a capital felony, a life felony, a felony
 1865 of the first degree, or a felony of the second degree involving
 1866 violence against any individual.

1867 (3) Except as provided in subsection (2), a child may not
 1868 be held in secure or nonsecure, ~~or home~~ detention care for more
 1869 than 15 days following the entry of an order of adjudication.

1870 Section 19. Section 985.265, Florida Statutes, is amended
 1871 to read:

1872 985.265 Detention transfer and release; education; adult

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1873 jails.-

1874 (1) If a child is detained under this part, the department
 1875 may transfer the child from nonsecure ~~or home~~ detention care to
 1876 secure detention care only if significantly changed
 1877 circumstances warrant such transfer.

1878 (2) If a child is on release status and not detained under
 1879 this part, the child may be placed into secure or, nonsecure, ~~or~~
 1880 ~~home~~ detention care only pursuant to a court hearing in which
 1881 the original risk assessment instrument and the, rescored based
 1882 ~~on~~ newly discovered evidence or changed circumstances are
 1883 introduced into evidence with a rescored risk assessment
 1884 instrument with the results recommending detention, is
 1885 ~~introduced into evidence.~~

1886 (3)(a) When a juvenile sexual offender is placed in
 1887 detention, detention staff shall provide appropriate monitoring
 1888 and supervision to ensure the safety of other children in the
 1889 facility.

1890 (b) When a juvenile ~~sexual offender, under this~~
 1891 ~~subsection,~~ is released from secure detention or transferred to
 1892 ~~home detention or~~ nonsecure detention, detention staff shall
 1893 immediately notify the appropriate law enforcement agency, and
 1894 school personnel, and victim if the juvenile is charged with
 1895 committing any of the following offenses or attempting to commit
 1896 any of the following offenses:

- 1897 1. Murder, under s. 782.04;
- 1898 2. Sexual battery, under chapter 794;

1899 3. Stalking, under s. 784.048; or
 1900 4. Domestic violence, as defined in s. 741.28.
 1901 (4) (a) While a child who is currently enrolled in school
 1902 is in nonsecure ~~or home~~ detention care, the child shall continue
 1903 to attend school unless otherwise ordered by the court.
 1904 (b) While a child is in secure detention care, the child
 1905 shall receive education commensurate with his or her grade level
 1906 and educational ability.
 1907 (5) The court shall order the delivery of a child to a
 1908 jail or other facility intended or used for the detention of
 1909 adults:
 1910 (a) When the child has been transferred or indicted for
 1911 criminal prosecution as an adult under part X, except that the
 1912 court may not order or allow a child alleged to have committed a
 1913 misdemeanor who is being transferred for criminal prosecution
 1914 pursuant to either s. 985.556 or s. 985.557 to be detained or
 1915 held in a jail or other facility intended or used for the
 1916 detention of adults; however, such child may be held temporarily
 1917 in a detention facility; or
 1918 (b) When a child taken into custody in this state is
 1919 wanted by another jurisdiction for prosecution as an adult.
 1920
 1921 The child shall be housed separately from adult inmates to
 1922 prohibit a child from having regular contact with incarcerated
 1923 adults, including trustees. "Regular contact" means sight and
 1924 sound contact. Separation of children from adults shall permit

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1925 no more than haphazard or accidental contact. The receiving jail
 1926 or other facility shall contain a separate section for children
 1927 and shall have an adequate staff to supervise and monitor the
 1928 child's activities at all times. Supervision and monitoring of
 1929 children includes physical observation and documented checks by
 1930 jail or receiving facility supervisory personnel at intervals
 1931 not to exceed 10 ~~15~~ minutes. This subsection does not prohibit
 1932 placing two or more children in the same cell. Under no
 1933 circumstances shall a child be placed in the same cell with an
 1934 adult.

1935 Section 20. Section 985.27, Florida Statutes, is amended
 1936 to read:

1937 985.27 Postdisposition ~~Postcommitment~~ detention while
 1938 awaiting commitment placement.-

1939 (1) The court must place all children who are adjudicated
 1940 and awaiting placement in a commitment program in detention
 1941 care. Children who are in ~~home detention care or nonsecure~~
 1942 detention care may be placed on electronic monitoring.

1943 ~~(a) A child who is awaiting placement in a low risk~~
 1944 ~~residential program must be removed from detention within 5~~
 1945 ~~days, excluding Saturdays, Sundays, and legal holidays. Any~~
 1946 ~~child held in secure detention during the 5 days must meet~~
 1947 ~~detention admission criteria under this part. A child who is~~
 1948 ~~placed in home detention care, nonsecure detention care, or home~~
 1949 ~~or nonsecure detention care with electronic monitoring, while~~
 1950 ~~awaiting placement in a minimum risk or low risk program, may be~~

1951 ~~held in secure detention care for 5 days, if the child violates~~
 1952 ~~the conditions of the home detention care, the nonsecure~~
 1953 ~~detention care, or the electronic monitoring agreement. For any~~
 1954 ~~subsequent violation, the court may impose an additional 5 days~~
 1955 ~~in secure detention care.~~

1956 (a)~~(b)~~ A child who is awaiting placement in a nonsecure
 1957 ~~moderate-risk~~ residential program must be removed from detention
 1958 within 5 days, excluding Saturdays, Sundays, and legal holidays.
 1959 Any child held in secure detention during the 5 days must meet
 1960 detention admission criteria under this part. The department may
 1961 seek an order from the court authorizing continued detention for
 1962 a specific period of time necessary for the appropriate
 1963 residential placement of the child. However, such continued
 1964 detention in secure detention care may not exceed 15 days after
 1965 entry of the commitment order, excluding Saturdays, Sundays, and
 1966 legal holidays, and except as otherwise provided in this
 1967 section. A child who is placed in ~~home detention care,~~ nonsecure
 1968 ~~detention care,~~ or ~~home~~ or nonsecure detention care with
 1969 electronic monitoring, while awaiting placement in a nonsecure
 1970 residential ~~moderate-risk~~ program, may be held in secure
 1971 detention care for 5 days, if the child violates the conditions
 1972 of the ~~home detention care,~~ the nonsecure detention care, or the
 1973 electronic monitoring agreement. For any subsequent violation,
 1974 the court may impose an additional 5 days in secure detention
 1975 care.

1976 (b)~~(e)~~ If the child is committed to a high-risk

1977 residential program, the child must be held in secure detention
 1978 care until placement or commitment is accomplished.

1979 ~~(c)-(d)~~ If the child is committed to a maximum-risk
 1980 residential program, the child must be held in secure detention
 1981 care until placement or commitment is accomplished.

1982 (2) Regardless of detention status, a child being
 1983 transported by the department to a residential commitment
 1984 facility of the department may be placed in secure detention
 1985 overnight, not to exceed a 24-hour period, for the specific
 1986 purpose of ensuring the safe delivery of the child to his or her
 1987 residential commitment program, court, appointment, transfer, or
 1988 release.

1989 Section 21. Subsection (1) of section 985.275, Florida
 1990 Statutes, is amended to read:

1991 985.275 Detention of escapee or absconder on authority of
 1992 the department.-

1993 (1) If an authorized agent of the department has
 1994 reasonable grounds to believe that any delinquent child
 1995 committed to the department has escaped from a residential
 1996 commitment facility or from being lawfully transported thereto
 1997 or therefrom, or has absconded from a nonresidential commitment
 1998 facility, the agent shall notify law enforcement and, if the
 1999 offense would require notification under chapter 960, notify the
 2000 victim. The agent shall make every reasonable effort as
 2001 permitted within existing resources provided to the department
 2002 to locate the delinquent child and the child may be returned to

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2003 ~~the facility take the child into active custody and may deliver~~
 2004 ~~the child to the facility~~ or, if it is closer, to a detention
 2005 center for return to the facility. However, a child may not be
 2006 held in detention longer than 24 hours, excluding Saturdays,
 2007 Sundays, and legal holidays, unless a special order so directing
 2008 is made by the judge after a detention hearing resulting in a
 2009 finding that detention is required based on the criteria in s.
 2010 985.255. The order shall state the reasons for such finding. The
 2011 reasons shall be reviewable by appeal or in habeas corpus
 2012 proceedings in the district court of appeal.

2013 Section 22. Paragraph (b) of subsection (4), paragraph (h)
 2014 of subsection (6), and paragraph (a) of subsection (7) of
 2015 section 985.433, Florida Statutes, are amended to read:

2016 985.433 Disposition hearings in delinquency cases.—When a
 2017 child has been found to have committed a delinquent act, the
 2018 following procedures shall be applicable to the disposition of
 2019 the case:

2020 (4) Before the court determines and announces the
 2021 disposition to be imposed, it shall:

2022 (b) Discuss with the child his or her compliance with any
 2023 predisposition ~~home release~~ plan or other plan imposed since the
 2024 date of the offense.

2025 (6) The first determination to be made by the court is a
 2026 determination of the suitability or unsuitability for
 2027 adjudication and commitment of the child to the department. This
 2028 determination shall include consideration of the recommendations

2029 of the department, which may include a predisposition report.
 2030 The predisposition report shall include, whether as part of the
 2031 child's multidisciplinary assessment, classification, and
 2032 placement process components or separately, evaluation of the
 2033 following criteria:

2034 (h) The child's educational status, including, but not
 2035 limited to, the child's strengths, abilities, and unmet and
 2036 special educational needs. The report shall identify appropriate
 2037 educational and career ~~vocational~~ goals for the child. Examples
 2038 of appropriate goals include:

- 2039 1. Attainment of a high school diploma or its equivalent.
- 2040 2. Successful completion of literacy courses ~~course(s)~~.
- 2041 3. Successful completion of career and technical education
 2042 courses ~~vocational course(s)~~.
- 2043 4. Successful attendance and completion of the child's
 2044 current grade or recovery of credits of classes the child
 2045 previously failed, if enrolled in school.
- 2046 5. Enrollment in an apprenticeship or a similar program.

2047
 2048 It is the intent of the Legislature that the criteria set forth
 2049 in this subsection are general guidelines to be followed at the
 2050 discretion of the court and not mandatory requirements of
 2051 procedure. It is not the intent of the Legislature to provide
 2052 for the appeal of the disposition made under this section.

2053 (7) If the court determines that the child should be
 2054 adjudicated as having committed a delinquent act and should be

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2055 committed to the department, such determination shall be in
 2056 writing or on the record of the hearing. The determination shall
 2057 include a specific finding of the reasons for the decision to
 2058 adjudicate and to commit the child to the department, including
 2059 any determination that the child was a member of a criminal
 2060 gang.

2061 (a) The department ~~juvenile probation officer~~ shall
 2062 recommend to the court the most appropriate placement and
 2063 treatment plan, specifically identifying the restrictiveness
 2064 level most appropriate for the child if commitment is
 2065 recommended. If the court has determined that the child was a
 2066 member of a criminal gang, that determination shall be given
 2067 great weight in identifying the most appropriate restrictiveness
 2068 level for the child. The court shall consider the department's
 2069 recommendation in making its commitment decision.

2070 Section 23. Subsections (4) through (6) of section
 2071 985.435, Florida Statutes, are renumbered as subsections (5)
 2072 through (7), respectively, subsection (3) and present subsection
 2073 (4) of that section are amended, and a new subsection (4) is
 2074 added to that section, to read:

2075 985.435 Probation and postcommitment probation; community
 2076 service.—

2077 (3) A probation program must also include a rehabilitative
 2078 program component such as a requirement of participation in
 2079 substance abuse treatment or in a school or career and technical
 2080 education ~~other educational~~ program. The nonconsent of the child

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2081 to treatment in a substance abuse treatment program in no way
 2082 precludes the court from ordering such treatment. Upon the
 2083 recommendation of the department at the time of disposition, or
 2084 subsequent to disposition pursuant to the filing of a petition
 2085 alleging a violation of the child's conditions of postcommitment
 2086 probation, the court may order the child to submit to random
 2087 testing for the purpose of detecting and monitoring the use of
 2088 alcohol or controlled substances.

2089 (4) A probation program may also include an alternative
 2090 consequence component to address instances in which a child is
 2091 noncompliant with technical conditions of his or her probation,
 2092 but has not committed any new violations of law. The alternative
 2093 consequence component is designed to provide swift and
 2094 appropriate consequences to any noncompliance with technical
 2095 conditions of probation. If the probation program includes this
 2096 component, specific consequences that apply to noncompliance
 2097 with specific technical conditions of probation must be detailed
 2098 in the disposition order.

2099 (5)(4) An identification of the child's risk of
 2100 reoffending ~~A classification scale for levels of supervision~~
 2101 shall be provided by the department, taking into account the
 2102 child's needs and risks relative to probation supervision
 2103 requirements to reasonably ensure the public safety. Probation
 2104 programs for children shall be supervised by the department or
 2105 by any other person or agency specifically authorized by the
 2106 court. These programs must include, but are not limited to,

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2107 structured or restricted activities as described in this section
 2108 and s. 985.439, and shall be designed to encourage the child
 2109 toward acceptable and functional social behavior.

2110 Section 24. Subsections (1) and (4) of section 985.439,
 2111 Florida Statutes, are amended to read:

2112 985.439 Violation of probation or postcommitment
 2113 probation.-

2114 (1) (a) This section is applicable when the court has
 2115 jurisdiction over a child on probation or postcommitment
 2116 probation, regardless of adjudication ~~an adjudicated delinquent~~
 2117 ~~child~~.

2118 (b) If the conditions of the probation program or the
 2119 postcommitment probation program are violated, the department or
 2120 the state attorney may bring the child before the court on a
 2121 petition alleging a violation of the program. A ~~Any~~ child who
 2122 violates the conditions of probation or postcommitment probation
 2123 must be brought before the court if sanctions are sought.

2124 (4) Upon the child's admission, or if the court finds
 2125 after a hearing that the child has violated the conditions of
 2126 probation or postcommitment probation, the court shall enter an
 2127 order revoking, modifying, or continuing probation or
 2128 postcommitment probation. In each such case, the court shall
 2129 enter a new disposition order and, in addition to the sanctions
 2130 set forth in this section, may impose any sanction the court
 2131 could have imposed at the original disposition hearing. If the
 2132 child is found to have violated the conditions of probation or

2133 postcommitment probation, the court may:

2134 (a) Place the child in a consequence unit in that judicial
 2135 circuit, if available, for up to 5 days for a first violation
 2136 and up to 15 days for a second or subsequent violation.

2137 (b) Place the child in nonsecure ~~on home~~ detention with
 2138 electronic monitoring. However, this sanction may be used only
 2139 if a residential consequence unit is not available.

2140 (c) If the violation of probation is technical in nature
 2141 and not a new violation of law, place the child in an
 2142 alternative consequence program designed to provide swift and
 2143 appropriate consequences to any further violations of probation.

2144 1. Alternative consequence programs shall be established,
 2145 within existing resources, at the local level in coordination
 2146 with law enforcement agencies, the chief judge of the circuit,
 2147 the state attorney, and the public defender.

2148 2. Alternative consequence programs may be operated by an
 2149 entity such as a law enforcement agency, the department, a
 2150 juvenile assessment center, a county or municipality, or another
 2151 entity selected by the department.

2152 3. Upon placing a child in an alternative consequence
 2153 program, the court must approve specific consequences for
 2154 specific violations of the conditions of probation.

2155 ~~(d)(e)~~ Modify or continue the child's probation program or
 2156 postcommitment probation program.

2157 ~~(e)(d)~~ Revoke probation or postcommitment probation and
 2158 commit the child to the department.

2159 Section 25. Subsection (2) of section 985.441, Florida
 2160 Statutes, is amended to read:

2161 985.441 Commitment.—

2162 (2) Notwithstanding subsection (1), the court having
 2163 jurisdiction over an adjudicated delinquent child whose
 2164 ~~underlying offense is was~~ a misdemeanor, or a child who is
 2165 currently on probation for a misdemeanor, may not commit the
 2166 child for any misdemeanor offense or any probation violation
 2167 that is technical in nature and not a new violation of law at a
 2168 restrictiveness level other than minimum-risk nonresidential
 2169 ~~unless the probation violation is a new violation of law~~
 2170 ~~constituting a felony.~~ However, the court may commit such child
 2171 to a nonsecure ~~low-risk or moderate-risk~~ residential placement
 2172 if:

2173 (a) The child has previously been adjudicated or had
 2174 adjudication withheld for a felony offense;

2175 (b) The child has previously been adjudicated or had
 2176 adjudication withheld for three or more misdemeanor offenses
 2177 within the previous 18 months;

2178 (c) The child is before the court for disposition for a
 2179 violation of s. 800.03, s. 806.031, or s. 828.12; or

2180 (d) The court finds by a preponderance of the evidence
 2181 that the protection of the public requires such placement or
 2182 that the particular needs of the child would be best served by
 2183 such placement. Such finding must be in writing.

2184 Section 26. Paragraph (a) of subsection (1) and subsection

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2185 (5) of section 985.46, Florida Statutes, are amended to read:

2186 985.46 Conditional release.—

2187 (1) The Legislature finds that:

2188 (a) Conditional release is the care, treatment, help, ~~and~~
 2189 supervision, and provision of transition-to-adulthood services
 2190 to ~~provided~~ juveniles released from residential commitment
 2191 programs to promote rehabilitation and prevent recidivism.

2192 (5) Participation in the educational program by students
 2193 of compulsory school attendance age pursuant to s. 1003.21(1)
 2194 and (2)(a) is mandatory for juvenile justice youth on
 2195 conditional release or postcommitment probation status. A
 2196 student of noncompulsory school-attendance age who has not
 2197 received a high school diploma or its equivalent must
 2198 participate in an ~~the~~ educational program ~~or career and~~
 2199 technical education course. A youth who has received a high
 2200 school diploma or its equivalent and is not employed must
 2201 participate in workforce development or other career or
 2202 technical education or attend a community college or a
 2203 university while in the program, subject to available funding.

2204 Section 27. Subsections (1) through (5) of section
 2205 985.461, Florida Statutes, are amended to read:

2206 985.461 Transition to adulthood.—

2207 (1) The Legislature finds that ~~elder~~ youth are faced with
 2208 the need to learn how to support themselves within legal means
 2209 and overcome the stigma of being delinquent. In most cases,
 2210 parents expedite this transition. It is the intent of the

2211 Legislature that the department provide ~~elder~~ youth in its
 2212 custody or under its supervision with opportunities for
 2213 participating in transition-to-adulthood services while in the
 2214 department's commitment programs or in probation or conditional
 2215 release programs in the community. These services should be
 2216 reasonable and appropriate for the youths' respective ages or
 2217 special needs and provide activities that build life skills and
 2218 increase the ability to live independently and become self-
 2219 sufficient.

2220 (2) Youth served by the department who are in the custody
 2221 of the Department of Children and Families ~~Family Services~~ and
 2222 who entered juvenile justice placement from a foster care
 2223 placement, if otherwise eligible, may receive independent living
 2224 transition services pursuant to s. 409.1451. Court-ordered
 2225 commitment or probation with the department is not a barrier to
 2226 eligibility for the array of services available to a youth who
 2227 is in the dependency foster care system only.

2228 (3) For a dependent child in the foster care system,
 2229 adjudication for delinquency does not, by itself, disqualify
 2230 such child for eligibility in the Department of Children and
 2231 Families' ~~Family Services'~~ independent living program.

2232 (4) As part of the child's treatment plan, the department
 2233 may provide transition-to-adulthood services to children
 2234 released from residential commitment. To support participation
 2235 in transition-to-adulthood services and subject to
 2236 appropriation, the department may:

2237 (a) Assess the child's skills and abilities to live
 2238 independently and become self-sufficient. The specific services
 2239 to be provided shall be determined using an assessment of his or
 2240 her readiness for adult life.

2241 (b) Use community reentry teams to assist in the
 2242 development of ~~Develop~~ a list of age-appropriate activities and
 2243 responsibilities to be incorporated in the child's written case
 2244 plan for any youth ~~17 years of age or older~~ who is under the
 2245 custody or supervision of the department. Community reentry
 2246 teams may include representatives from school districts, law
 2247 enforcement, workforce development services, community-based
 2248 service providers, and the youth's family. Such community
 2249 reentry teams must be created within existing resources provided
 2250 to the department. Activities may include, but are not limited
 2251 to, life skills training, including training to develop banking
 2252 and budgeting skills, interviewing and career planning skills,
 2253 parenting skills, personal health management, and time
 2254 management or organizational skills; educational support;
 2255 employment training; and counseling.

2256 (c) Provide information related to social security
 2257 insurance benefits and public assistance.

2258 (d) Request parental or guardian permission for the youth
 2259 to participate in transition-to-adulthood services. Upon such
 2260 consent, age-appropriate activities shall be incorporated into
 2261 the youth's written case plan. This plan may include specific
 2262 goals and objectives and shall be reviewed and updated at least

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2263 quarterly. If the parent or guardian is cooperative, the plan
2264 may not interfere with the parent's or guardian's rights to
2265 nurture and train his or her child in ways that are otherwise in
2266 compliance with the law and court order.

2267 (e) Contract for transition-to-adulthood services that
2268 include residential services and assistance and allow the child
2269 to live independently of the daily care and supervision of an
2270 adult in a setting that is not licensed under s. 409.175. A
2271 child under the care or supervision of the department ~~who has~~
2272 ~~reached 17 years of age but is not yet 19 years of age~~ is
2273 eligible for such services if he or she does not pose a danger
2274 to the public and is able to demonstrate minimally sufficient
2275 skills and aptitude for living under decreased adult
2276 supervision, as determined by the department, using established
2277 procedures and assessments.

2278 (f) Assist the child in building a portfolio of
2279 educational and vocational accomplishments, necessary
2280 identification, résumés, and cover letters in an effort to
2281 enhance the child's employability.

2282 (g) Collaborate with school district contacts to
2283 facilitate appropriate educational services based on the child's
2284 identified needs.

2285 (5) For a child ~~who is 17 years of age or older,~~ under the
2286 department's care or supervision, and without benefit of parents
2287 or legal guardians capable of assisting the child in the
2288 transition to adult life, the department may provide an

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2289 assessment to determine the child's skills and abilities to live
 2290 independently and become self-sufficient. Based on the
 2291 assessment and within existing resources, services and training
 2292 may be provided in order to develop the necessary skills and
 2293 abilities ~~before the child's 18th birthday.~~

2294 Section 28. Paragraph (b) of subsection (3) of section
 2295 985.481, Florida Statutes, is amended to read:

2296 985.481 Sexual offenders adjudicated delinquent;
 2297 notification upon release.-

2298 (3)

2299 (b) ~~No later than November 1, 2007,~~ The department must
 2300 make the information described in subparagraph (a)1. available
 2301 electronically to the Department of Law Enforcement in its
 2302 database and in a format that is compatible with the
 2303 requirements of the Florida Crime Information Center.

2304 Section 29. Subsection (5) of section 985.4815, Florida
 2305 Statutes, is amended to read:

2306 985.4815 Notification to Department of Law Enforcement of
 2307 information on juvenile sexual offenders.-

2308 (5) In addition to notification and transmittal
 2309 requirements imposed by any other provision of law, the
 2310 department shall compile information on any sexual offender and
 2311 provide the information to the Department of Law Enforcement. ~~No~~
 2312 ~~later than November 1, 2007,~~ The department must make the
 2313 information available electronically to the Department of Law
 2314 Enforcement in its database in a format that is compatible with

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2315 the requirements of the Florida Crime Information Center.

2316 Section 30. Subsection (1) of section 985.514, Florida
 2317 Statutes, is amended to read:

2318 985.514 Responsibility for cost of care; fees.—

2319 (1) When any child is placed into secure or nonsecure ~~home~~
 2320 detention care or into other placement for the purpose of being
 2321 supervised by the department pursuant to a court order following
 2322 a detention hearing, the court shall order the child's parents
 2323 to pay fees to the department as provided in s. 985.039.

2324 Section 31. Paragraph (a) of subsection (3) and paragraph
 2325 (a) of subsection (9) of section 985.601, Florida Statutes, are
 2326 amended to read:

2327 985.601 Administering the juvenile justice continuum.—

2328 (3)(a) The department shall develop or contract for
 2329 diversified and innovative programs to provide rehabilitative
 2330 treatment, including early intervention and prevention,
 2331 diversion, comprehensive intake, case management, diagnostic and
 2332 classification assessments, trauma-informed care, individual and
 2333 family counseling, family engagement resources and programs,
 2334 gender-specific programming, shelter care, diversified detention
 2335 care emphasizing alternatives to secure detention, diversified
 2336 probation, halfway houses, foster homes, community-based
 2337 substance abuse treatment services, community-based mental
 2338 health treatment services, community-based residential and
 2339 nonresidential programs, mother-infant programs, and
 2340 environmental programs. The department may pay expenses in

2341 support of innovative programs and activities that address
 2342 identified needs and the well-being of children in the
 2343 department's care or under its supervision, subject to the
 2344 requirements of chapters 215, 216, and 287. Each program shall
 2345 place particular emphasis on reintegration and conditional
 2346 release for all children in the program.

2347 (9) (a) The department shall operate a statewide,
 2348 regionally administered system of detention services for
 2349 children, in accordance with a comprehensive plan for the
 2350 regional administration of all detention services in the state.
 2351 The plan must provide for the maintenance of adequate
 2352 availability of detention services for all counties. The plan
 2353 must cover all the department's operating circuits, with each
 2354 operating circuit having access to a secure facility and
 2355 nonsecure and home detention programs, and the plan may be
 2356 altered or modified by the Department of Juvenile Justice as
 2357 necessary.

2358 Section 32. Sections 985.605, 985.606, and 985.61, Florida
 2359 Statutes, are repealed.

2360 Section 33. Section 985.632, Florida Statutes, is amended
 2361 to read:

2362 985.632 Quality improvement assurance and cost-
 2363 effectiveness; Comprehensive Accountability Report.-

2364 (1) INTENT.-It is the intent of the Legislature that the
 2365 department establish a performance accountability system for
 2366 each provider who contracts with the department for the delivery

2367 of services to children. The contract shall include both output
 2368 measures, such as the number of children served, and outcome
 2369 measures, including program completion and postcompletion
 2370 recidivism. Each contractor shall report performance results to
 2371 the department annually. The department's Bureau of Research and
 2372 Planning shall summarize performance results from all contracts
 2373 and report the information to the Legislature annually in the
 2374 Comprehensive Accountability Report. The report shall:

2375 (a) Ensure that information be provided to decisionmakers
 2376 in a timely manner so that resources are allocated to programs
 2377 that ~~of the department which~~ achieve desired performance levels.

2378 (b) Provide information about the cost of such programs
 2379 and their differential effectiveness so that the quality of such
 2380 programs can be compared and improvements made continually.

2381 (c) Provide information to aid in developing related
 2382 policy issues and concerns.

2383 (d) Provide information to the public about the
 2384 effectiveness of such programs in meeting established goals and
 2385 objectives.

2386 (e) Provide a basis for a system of accountability so that
 2387 each child ~~client~~ is afforded the best programs to meet his or
 2388 her needs.

2389 (f) Improve service delivery to children through the use
 2390 of technical assistance ~~clients~~.

2391 (g) Modify or eliminate activities or programs that are
 2392 not effective.

2393 (h) Collect and analyze available statistical data for the
 2394 purpose of ongoing evaluation of all programs.

2395 (2) DEFINITIONS.—As used in this section, the term:

2396 ~~(a) "Client" means any person who is being provided~~
 2397 ~~treatment or services by the department or by a provider under~~
 2398 ~~contract with the department.~~

2399 (a) "Program" means any facility or service for youth that
 2400 is operated by the department or by a provider under contract
 2401 with the department.

2402 (b) "Program component" means an aggregation of generally
 2403 related objectives which, because of their special character,
 2404 related workload, and interrelated output, can logically be
 2405 considered an entity for purposes of organization, management,
 2406 accounting, reporting, and budgeting.

2407 ~~(c) "Program effectiveness" means the ability of the~~
 2408 ~~program to achieve desired client outcomes, goals, and~~
 2409 ~~objectives.~~

2410 (c) "Program group" means a collection of programs with
 2411 sufficient similarity of functions, services, and youth to
 2412 permit appropriate comparison amongst programs within the group.

2413 (3) COMPREHENSIVE ACCOUNTABILITY REPORT.—The department,
 2414 in consultation with contract service providers, shall develop
 2415 and use a standard methodology for annually measuring,
 2416 evaluating, and reporting program outputs and youth outcomes for
 2417 each program and program group. The standard methodology must:

2418 (a) Include common terminology and operational definitions

2419 for measuring the performance of system and program
 2420 administration, program outputs, and program outcomes.

2421 (b) Specify program outputs for each program and for each
 2422 program group within the juvenile justice continuum.

2423 (c) Specify desired child outcomes and methods by which to
 2424 measure child outcomes for each program and program group
 2425 ~~annually collect and report cost data for every program operated~~
 2426 ~~or contracted by the department. The cost data shall conform to~~
 2427 ~~a format approved by the department and the Legislature. Uniform~~
 2428 ~~cost data shall be reported and collected for state-operated and~~
 2429 ~~contracted programs so that comparisons can be made among~~
 2430 ~~programs. The department shall ensure that there is accurate~~
 2431 ~~cost accounting for state-operated services including market-~~
 2432 ~~equivalent rent and other shared cost. The cost of the~~
 2433 ~~educational program provided to a residential facility shall be~~
 2434 ~~reported and included in the cost of a program. The department~~
 2435 ~~shall submit an annual cost report to the President of the~~
 2436 ~~Senate, the Speaker of the House of Representatives, the~~
 2437 ~~Minority Leader of each house of the Legislature, the~~
 2438 ~~appropriate substantive and fiscal committees of each house of~~
 2439 ~~the Legislature, and the Governor, no later than December 1 of~~
 2440 ~~each year. Cost benefit analysis for educational programs will~~
 2441 ~~be developed and implemented in collaboration with and in~~
 2442 ~~cooperation with the Department of Education, local providers,~~
 2443 ~~and local school districts. Cost data for the report shall~~
 2444 ~~include data collected by the Department of Education for the~~

2445 ~~purposes of preparing the annual report required by s.~~
 2446 ~~1003.52(19).~~

2447 (4) ~~(a)~~ COST-EFFECTIVENESS MODEL.—The department, in
 2448 consultation with the Office of Economic and Demographic
 2449 Research and contract service providers, shall develop a cost-
 2450 effectiveness model and apply the model to each commitment
 2451 program. ~~Program recidivism rates shall be a component of the~~
 2452 ~~model.~~

2453 (a) The cost-effectiveness model shall compare program
 2454 costs to expected and actual child recidivism rates ~~client~~
 2455 ~~outcomes and program outputs~~. It is the intent of the
 2456 Legislature that continual development efforts take place to
 2457 improve the validity and reliability of the cost-effectiveness
 2458 model.

2459 (b) The department shall rank commitment programs based on
 2460 the cost-effectiveness model, performance measures, and
 2461 adherence to quality improvement standards and shall ~~submit a~~
 2462 report this data in the annual Comprehensive Accountability
 2463 Report ~~to the appropriate substantive and fiscal committees of~~
 2464 ~~each house of the Legislature by December 31 of each year.~~

2465 (c) Based on reports of the department on child client
 2466 outcomes and program outputs and on the department's most recent
 2467 cost-effectiveness rankings, the department may terminate a
 2468 program operated by the department or a provider if the program
 2469 has failed to achieve a minimum standard ~~threshold~~ of program
 2470 effectiveness. This paragraph does not preclude the department

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2471 from terminating a contract as provided under this section or as
 2472 otherwise provided by law or contract, and does not limit the
 2473 department's authority to enter into or terminate a contract.

2474 (d) In collaboration with the Office of Economic and
 2475 Demographic Research, and contract service providers, the
 2476 department shall develop a work plan to refine the cost-
 2477 effectiveness model so that the model is consistent with the
 2478 performance-based program budgeting measures approved by the
 2479 Legislature to the extent the department deems appropriate. The
 2480 department shall notify the Office of Program Policy Analysis
 2481 and Government Accountability of any meetings to refine the
 2482 model.

2483 (e) Contingent upon specific appropriation, the
 2484 department, in consultation with the Office of Economic and
 2485 Demographic Research, and contract service providers, shall:

2486 1. Construct a profile of each commitment program that
 2487 uses the results of the quality improvement data portion of the
 2488 Comprehensive Accountability ~~assurance~~ Report required by this
 2489 section, the cost-effectiveness data portion of the
 2490 Comprehensive Accountability Report required in this subsection,
 2491 and other reports available to the department.

2492 2. Target, for a more comprehensive evaluation, any
 2493 commitment program that has achieved consistently high, low, or
 2494 disparate ratings in the reports required under subparagraph 1.
 2495 and target, for technical assistance, any commitment program
 2496 that has achieved low or disparate ratings in the reports

2497 required under subparagraph 1.

2498 3. Identify the essential factors that contribute to the
2499 high, low, or disparate program ratings.

2500 4. Use the results of these evaluations in developing or
2501 refining juvenile justice programs or program models, child
2502 ~~client~~ outcomes and program outputs, provider contracts, quality
2503 improvement assurance standards, and the cost-effectiveness
2504 model.

2505 (5) QUALITY IMPROVEMENT.—The department shall:

2506 (a) Establish a comprehensive quality improvement
2507 ~~assurance~~ system for each program operated by the department or
2508 operated by a provider under contract with the department. Each
2509 contract entered into by the department must provide for quality
2510 improvement assurance.

2511 (b) Provide operational definitions of and criteria for
2512 quality improvement assurance for each specific program
2513 component.

2514 (c) Establish quality improvement assurance goals and
2515 objectives for each specific program component.

2516 (d) Establish the information and specific data elements
2517 required for the quality improvement assurance program.

2518 (e) Develop a quality improvement assurance manual of
2519 specific, standardized terminology and procedures to be followed
2520 by each program.

2521 (f) Evaluate each program operated by the department or a
2522 provider under a contract with the department annually and

2523 establish minimum standards ~~thresholds~~ for each program
 2524 component. If a provider fails to meet the established minimum
 2525 standards ~~thresholds~~, such failure shall cause the department to
 2526 cancel the provider's contract unless the provider achieves
 2527 compliance with minimum standards ~~thresholds~~ within 6 months or
 2528 unless there are documented extenuating circumstances. In
 2529 addition, the department may not contract with the same provider
 2530 for the canceled service for a period of 12 months. If a
 2531 department-operated program fails to meet the established
 2532 minimum standards ~~thresholds~~, the department must take necessary
 2533 and sufficient steps to ensure and document program changes to
 2534 achieve compliance with the established minimum standards
 2535 ~~thresholds~~. If the department-operated program fails to achieve
 2536 compliance with the established minimum standards ~~thresholds~~
 2537 within 6 months and if there are no documented extenuating
 2538 circumstances, the department must notify the Executive Office
 2539 of the Governor and the Legislature of the corrective action
 2540 taken. Appropriate corrective action may include, but is not
 2541 limited to:

- 2542 1. Contracting out for the services provided in the
 2543 program;
- 2544 2. Initiating appropriate disciplinary action against all
 2545 employees whose conduct or performance is deemed to have
 2546 materially contributed to the program's failure to meet
 2547 established minimum standards ~~thresholds~~;
- 2548 3. Redesigning the program; or

2549 4. Realigning the program.

2550 (6) COMPREHENSIVE ACCOUNTABILITY REPORT SUBMISSION.—The

2551 department shall submit the Comprehensive Accountability Report

2552 ~~an annual report~~ to the President of the Senate, the Speaker of

2553 the House of Representatives, the Minority Leader of each house

2554 of the Legislature, the appropriate substantive and fiscal

2555 committees of each house of the Legislature, and the Governor,

2556 no later than February 1 of each year. The Comprehensive

2557 Accountability Report ~~annual report~~ must contain, at a minimum,

2558 for each specific program component: a comprehensive description

2559 of the population served by the program; a specific description

2560 of the services provided by the program; cost; a comparison of

2561 expenditures to federal and state funding; immediate and long-

2562 range concerns; and recommendations to maintain, expand,

2563 improve, modify, or eliminate each program component so that

2564 changes in services lead to enhancement in program quality. The

2565 department shall ensure the reliability and validity of the

2566 information contained in the report.

2567 (7) ~~(6)~~ ONGOING EVALUATIONS; REPORTS.—The department shall

2568 collect and analyze available statistical data for the purpose

2569 of ongoing evaluation of all programs. The department shall

2570 provide the Legislature with necessary information and reports

2571 to enable the Legislature to make informed decisions regarding

2572 the effectiveness of, and any needed changes in, services,

2573 programs, policies, and laws.

2574 Section 34. Paragraph (a) of subsection (1) and paragraph

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2575 (b) of subsection (3) of section 985.644, Florida Statutes, are
 2576 amended to read:

2577 985.644 Departmental contracting powers; personnel
 2578 standards and investigation screening.-

2579 (1) The department may contract with the Federal
 2580 Government, other state departments and agencies, county and
 2581 municipal governments and agencies, public and private agencies,
 2582 and private individuals and corporations in carrying out the
 2583 purposes of, and the responsibilities established in, this
 2584 chapter.

2585 (a) Each contract entered into by the department for
 2586 services delivered on an appointment or intermittent basis by a
 2587 provider that does not have regular custodial responsibility for
 2588 children and each contract with a school for ~~before or aftercare~~
 2589 services must ensure that all owners, operators, and personnel
 2590 who have direct contact with children are subject to level 2
 2591 background screening pursuant to chapter 435.

2592 (3)

2593 (b) ~~Except for~~ Law enforcement, correctional, and
 2594 correctional probation officers, certified pursuant to s.
 2595 943.13, are not required to submit to level 2 screenings as long
 2596 as they are currently employed by a law enforcement agency or
 2597 correctional facility. to whom s. 943.13(5) applies, The
 2598 department shall electronically submit to the Department of Law
 2599 Enforcement:

2600 1. Fingerprint information obtained during the employment

2601 screening required by subparagraph (a)1.

2602 2. Fingerprint information for all persons employed by the
 2603 department, or by a provider under contract with the department,
 2604 in delinquency facilities, services, or programs if such
 2605 fingerprint information has not previously been ~~electronically~~
 2606 submitted pursuant to this section ~~to the Department of Law~~
 2607 ~~Enforcement under this paragraph.~~

2608 Section 35. Section 985.6441, Florida Statutes, is created
 2609 to read:

2610 985.6441 Health care services.-

2611 (1) As used in this section, the term:

2612 (a) "Health care provider" has the same meaning as
 2613 provided in s. 766.105.

2614 (b) "Hospital" means a hospital licensed under chapter
 2615 395.

2616 (2) When compensating health care providers, the
 2617 department must comply with the following reimbursement
 2618 limitations:

2619 (a) Payments to a hospital or a health care provider may
 2620 not exceed 110 percent of the Medicare allowable rate for any
 2621 health care services provided if there is no contract between
 2622 the department and the hospital or the health care provider
 2623 providing services at a hospital.

2624 (b)1. The department may continue to make payments for
 2625 health care services at the contracted rates for contracts
 2626 executed before July 1, 2014, through the current term of the

2627 contract if a contract has been executed between the department
 2628 and a hospital or a health care provider providing services at a
 2629 hospital.

2630 2. Payments may not exceed 110 percent of the Medicare
 2631 allowable rate after the current term of the contract expires or
 2632 after the contract is renewed during the 2013-2014 fiscal year.

2633 (c) Payments may not exceed 110 percent of the Medicare
 2634 allowable rate under a contract executed on or after July 1,
 2635 2014, between the department and a hospital or a health care
 2636 provider providing services at a hospital.

2637 (d) Notwithstanding paragraphs (a)-(c), the department may
 2638 pay up to 125 percent of the Medicare allowable rate for health
 2639 care services at a hospital that reports, or has reported, a
 2640 negative operating margin for the previous fiscal year to the
 2641 Agency for Health Care Administration through hospital-audited
 2642 financial data.

2643 Section 36. Subsections (1), (2), and (3) of section
 2644 985.66, Florida Statutes, are amended to read:

2645 985.66 Juvenile justice training ~~academies~~; staff
 2646 development and training; Juvenile Justice Training Trust Fund.-

2647 (1) LEGISLATIVE PURPOSE.-In order to enable the state to
 2648 provide a systematic approach to staff development and training
 2649 for judges, state attorneys, public defenders, law enforcement
 2650 officers, school district personnel, and juvenile justice
 2651 program staff that will meet the needs of such persons in their
 2652 discharge of duties while at the same time meeting the

2653 requirements for the American Correction Association
 2654 accreditation by the Commission on Accreditation for
 2655 Corrections, it is the purpose of the Legislature to require the
 2656 department to establish, maintain, and oversee the operation of
 2657 juvenile justice training, programs, and courses ~~academies~~ in
 2658 the state. The purpose of the Legislature in establishing staff
 2659 development and training programs is to provide employees of the
 2660 department, any private or public entity, or contract providers
 2661 who provide services or care for children under the
 2662 responsibility of the department with the knowledge and skills
 2663 needed to appropriately interact with children and provide such
 2664 care and services ~~foster better staff morale and reduce~~
 2665 ~~mistreatment and aggressive and abusive behavior in delinquency~~
 2666 ~~programs~~; to positively impact the recidivism of children in the
 2667 juvenile justice system; and to afford greater protection of the
 2668 public through an improved level of services delivered by a
 2669 professionally trained juvenile justice ~~program~~ staff to
 2670 children who are alleged to be or who have been found to be
 2671 delinquent.

2672 (2) STAFF DEVELOPMENT AND TRAINING.—The department shall:

2673 (a) Designate the number and location of the training
 2674 programs and courses; assess, design, ~~academies,~~ develop,
 2675 implement, evaluate, maintain, and update the curriculum to be
 2676 used in the training of juvenile justice ~~program~~ staff;
 2677 establish timeframes for participation in and completion of
 2678 training by juvenile justice ~~program~~ staff; develop, implement,

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2679 score, analyze, maintain, and update job-related examinations;
 2680 develop, implement, analyze, and update the types and
 2681 frequencies for ~~of~~ evaluations of the training programs,
 2682 courses, and instructors ~~academies;~~ and manage ~~approve, modify,~~
 2683 ~~or disapprove~~ the budget and contracts for all ~~the training~~
 2684 ~~deliverables~~ ~~academies, and the contractor to be selected to~~
 2685 ~~organize and operate the training academies and to provide the~~
 2686 ~~training curriculum.~~

2687 (b) Establish uniform minimum job-related preservice and
 2688 inservice training courses and examinations for juvenile justice
 2689 program staff.

2690 (c) Consult and cooperate with the state or any political
 2691 subdivision; any private entity or contractor; and with private
 2692 and public universities, colleges, community colleges, and other
 2693 educational institutions concerning the development of juvenile
 2694 justice training and programs or courses of instruction,
 2695 including, but not limited to, education and training in the
 2696 areas of juvenile justice.

2697 (d) Enter into contracts and agreements with other
 2698 agencies, organizations, associations, corporations,
 2699 individuals, or federal agencies as necessary in the execution
 2700 of the powers of the department or the performance of its
 2701 duties.

2702 (3) JUVENILE JUSTICE TRAINING PROGRAM.—The department
 2703 shall establish a certifiable program for juvenile justice
 2704 training pursuant to this section, and all department program

2705 staff and providers who deliver direct care services pursuant to
 2706 contract with the department shall be required to participate in
 2707 and successfully complete the department-approved program of
 2708 training pertinent to their areas of responsibility. Judges,
 2709 state attorneys, and public defenders, law enforcement officers,
 2710 ~~and school district personnel,~~ and employees of contract
 2711 providers who provide services or care for children under the
 2712 responsibility of the department may participate in such
 2713 training program. For the juvenile justice program staff, the
 2714 department shall, based on a job-task analysis:

2715 (a) Design, implement, maintain, evaluate, and revise a
 2716 basic training program, including a competency-based
 2717 examination, for the purpose of providing minimum employment
 2718 training qualifications for all juvenile justice personnel. All
 2719 program staff of the department and providers who deliver
 2720 direct-care services who are hired after October 1, 1999, must
 2721 meet the following minimum requirements:

- 2722 1. Be at least 19 years of age.
- 2723 2. Be a high school graduate or its equivalent as
 2724 determined by the department.
- 2725 3. Not have been convicted of any felony or a misdemeanor
 2726 involving perjury or a false statement, or have received a
 2727 dishonorable discharge from any of the Armed Forces of the
 2728 United States. Any person who, after September 30, 1999, pleads
 2729 guilty or nolo contendere to or is found guilty of any felony or
 2730 a misdemeanor involving perjury or false statement is not

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2731 eligible for employment, notwithstanding suspension of sentence
2732 or withholding of adjudication. Notwithstanding this
2733 subparagraph, any person who pled nolo contendere to a
2734 misdemeanor involving a false statement before October 1, 1999,
2735 and who has had such record of that plea sealed or expunged is
2736 not ineligible for employment for that reason.

2737 4. Abide by all ~~the provisions~~ of s. 985.644(1) regarding
2738 fingerprinting and background investigations and other screening
2739 requirements for personnel.

2740 5. Execute and submit to the department an affidavit-of-
2741 application form, adopted by the department, attesting to his or
2742 her compliance with subparagraphs 1.-4. The affidavit must be
2743 executed under oath and constitutes an official statement under
2744 s. 837.06. The affidavit must include conspicuous language that
2745 the intentional false execution of the affidavit constitutes a
2746 misdemeanor of the second degree. The employing agency shall
2747 retain the affidavit.

2748 (b) Design, implement, maintain, evaluate, and revise an
2749 advanced training program, including a competency-based
2750 examination for each training course, which is intended to
2751 enhance knowledge, skills, and abilities related to job
2752 performance.

2753 (c) Design, implement, maintain, evaluate, and revise a
2754 career development training program, including a competency-
2755 based examination for each training course. Career development
2756 courses are intended to prepare personnel for promotion.

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2757 (d) The department is encouraged to design, implement,
 2758 maintain, evaluate, and revise juvenile justice training
 2759 courses, or to enter into contracts for such training courses,
 2760 that are intended to provide for the safety and well-being of
 2761 both citizens and juvenile offenders.

2762 Section 37. Subsection (5) of section 985.664, Florida
 2763 Statutes, is amended to read:

2764 985.664 Juvenile justice circuit advisory boards.-

2765 ~~(5)(a) To form the initial juvenile justice circuit~~
 2766 ~~advisory board, the Secretary of Juvenile Justice, in~~
 2767 ~~consultation with the juvenile justice county councils in~~
 2768 ~~existence on October 1, 2013, shall appoint the chair of the~~
 2769 ~~board, who must meet the board membership requirements in~~
 2770 ~~subsection (4). Within 45 days after being appointed, the chair~~
 2771 ~~shall appoint the remaining members to the juvenile justice~~
 2772 ~~circuit advisory board and submit the appointments to the~~
 2773 ~~department for approval.~~

2774 ~~(b) Thereafter,~~ When a vacancy in the office of the chair
 2775 occurs, ~~the Secretary of Juvenile Justice, in consultation with~~
 2776 the juvenile justice circuit advisory board, shall appoint a new
 2777 chair, who must meet the board membership requirements in
 2778 subsection (4). The chair shall appoint members to vacant seats
 2779 within 45 days after the vacancy and submit the appointments to
 2780 the department for approval. The chair shall serve at the
 2781 pleasure of the Secretary of Juvenile Justice.

2782 Section 38. Subsections (1) and (4) of section 985.672,

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2783 Florida Statutes, are amended to read:

2784 985.672 Direct-support organization; definition; use of
 2785 property; board of directors; audit.-

2786 (1) DEFINITION.-As used in this section, the term "direct-
 2787 support organization" means an organization whose sole purpose
 2788 is to support the juvenile justice system and which is:

2789 (a) A corporation not-for-profit incorporated under
 2790 chapter 617 and which is approved by the Department of State;

2791 (b) Organized and operated to conduct programs and
 2792 activities; to raise funds; to request and receive grants,
 2793 gifts, and bequests of moneys; to acquire, receive, hold,
 2794 invest, and administer, in its own name, securities, funds,
 2795 objects of value, or other property, real or personal; and to
 2796 make expenditures to or for the direct or indirect benefit of
 2797 the Department of Juvenile Justice or the juvenile justice
 2798 system operated by a county commission or a circuit board;

2799 (c) Determined by the Department of Juvenile Justice to be
 2800 consistent with the goals of the juvenile justice system, in the
 2801 best interest of the state, and in accordance with the adopted
 2802 goals and mission of the Department of Juvenile Justice.

2803

2804 Expenditures of the organization shall be ~~expressly~~ used for the
 2805 prevention to prevent and amelioration of ameliorate juvenile
 2806 delinquency. The expenditures of the direct-support organization
 2807 may not be used for the purpose of lobbying as defined in s.
 2808 11.045.

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2809 (4) USE OF PROPERTY.—The department may permit, without
 2810 charge, appropriate use of fixed property, and facilities, and
 2811 personnel services of the juvenile justice system by the direct-
 2812 support organization, subject to ~~the provisions of~~ this section.
 2813 For the purposes of this subsection, the term "personnel
 2814 services" includes full-time or part-time personnel, as well as
 2815 payroll processing services.

2816 (a) The department may prescribe any condition with which
 2817 the direct-support organization must comply in order to use
 2818 fixed property or facilities of the juvenile justice system.

2819 (b) The department may not permit the use of any fixed
 2820 property or facilities of the juvenile justice system by the
 2821 direct-support organization if it does not provide equal
 2822 membership and employment opportunities to all persons
 2823 regardless of race, color, religion, sex, age, or national
 2824 origin.

2825 (c) The department shall adopt rules prescribing the
 2826 procedures by which the direct-support organization is governed
 2827 and any conditions with which a direct-support organization must
 2828 comply to use property or facilities of the department.

2829 Section 39. Subsections (1) through (4) and subsection (9)
 2830 of section 985.682, Florida Statutes, are amended to read:

2831 985.682 Siting of facilities; study; criteria.—

2832 ~~(1) The department is directed to conduct or contract for~~
 2833 ~~a statewide comprehensive study to determine current and future~~
 2834 ~~needs for all types of facilities for children committed to the~~

2835 ~~eustody, care, or supervision of the department under this~~
 2836 ~~chapter.~~

2837 ~~(2) The study shall assess, rank, and designate~~
 2838 ~~appropriate sites, and shall be reflective of the different~~
 2839 ~~purposes and uses for all facilities, based upon the following~~
 2840 ~~criteria:~~

2841 ~~(a) Current and future estimates of children originating~~
 2842 ~~from each county;~~

2843 ~~(b) Current and future estimates of types of delinquent~~
 2844 ~~acts committed in each county;~~

2845 ~~(c) Geographic location of existing facilities;~~

2846 ~~(d) Availability of personnel within the local labor~~
 2847 ~~market;~~

2848 ~~(e) Current capacity of facilities in the area;~~

2849 ~~(f) Total usable and developable acreage of various sites~~
 2850 ~~based upon the use and purpose of the facility;~~

2851 ~~(g) Accessibility of each site to existing utility,~~
 2852 ~~transportation, law enforcement, health care, fire protection,~~
 2853 ~~refuse collection, water, and sewage disposal services;~~

2854 ~~(h) Susceptibility of each site to flooding hazards or~~
 2855 ~~other adverse natural environmental consequences;~~

2856 ~~(i) Site location in relation to desirable and undesirable~~
 2857 ~~proximity to other public facilities, including schools;~~

2858 ~~(j) Patterns of residential growth and projected~~
 2859 ~~population growth; and~~

2860 ~~(k) Such other criteria as the department, in conjunction~~

2861 ~~with local governments, deems appropriate.~~

2862 ~~(3) The department shall recommend certification of the~~
 2863 ~~study by the Governor and Cabinet within 2 months after its~~
 2864 ~~receipt.~~

2865 ~~(4) Upon certification of the study by the Governor and~~
 2866 ~~Cabinet, the department shall notify those counties designated~~
 2867 ~~as being in need of a facility.~~

2868 (5)~~(9)~~ The Governor and Cabinet shall consider the
 2869 following when determining whether to grant the appeal from the
 2870 decision of the local government on the requested modification:

2871 (a) The record of the proceedings before the local
 2872 government.

2873 (b) Reports and studies by any other agency relating to
 2874 matters within the jurisdiction of such agency which may be
 2875 potentially affected by the proposed site.

2876 (c) Existing ~~The statewide study, as established in~~
 2877 ~~subsection (1); other existing studies,~~ + reports and information
 2878 maintained by the department as the Governor and Cabinet may
 2879 request addressing the feasibility and availability of
 2880 alternative sites in the general area, + and the need for a
 2881 facility in the area based on the average number of petitions,
 2882 commitments, and transfers into the criminal court from the
 2883 county to state facilities for the most recent 3 calendar years.

2884 Section 40. Section 985.69, Florida Statutes, is amended
 2885 to read:

2886 985.69 Repair and maintenance ~~One-time startup~~ funding for

2887 juvenile justice purposes.—Funds from juvenile justice
 2888 appropriations may be used ~~utilized~~ as ~~one-time startup~~ funding
 2889 for juvenile justice purposes that include, but are not limited
 2890 to, remodeling or renovation of existing facilities,
 2891 ~~construction costs, leasing costs,~~ purchase of equipment and
 2892 furniture, site development, and other necessary and reasonable
 2893 costs associated with the repair and maintenance ~~startup~~ of
 2894 facilities or programs.

2895 Section 41. Section 985.694, Florida Statutes, is
 2896 repealed.

2897 Section 42. Paragraph (a) of subsection (1) of section
 2898 985.701, Florida Statutes, is amended to read:

2899 985.701 Sexual misconduct prohibited; reporting required;
 2900 penalties.—

2901 (1)(a)1. As used in this section ~~subsection~~, the term:

2902 a. "Sexual misconduct" means fondling the genital area,
 2903 groin, inner thighs, buttocks, or breasts of a person; the oral,
 2904 anal, or vaginal penetration by or union with the sexual organ
 2905 of another; or the anal or vaginal penetration of another by any
 2906 other object. The term does not include an act done for a bona
 2907 fide medical purpose or an internal search conducted in the
 2908 lawful performance of duty by an employee of the department or
 2909 an employee of a provider under contract with the department.

2910 b. "Employee" includes paid staff members, volunteers, and
 2911 interns who work in a department program or a program operated
 2912 by a provider under a contract.

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2913 c. "Juvenile offender" means any person of any age who is
 2914 detained or supervised by, or committed to the custody of, the
 2915 department.

2916 2. An employee who engages in sexual misconduct with a
 2917 juvenile offender ~~detained or supervised by, or committed to the~~
 2918 ~~custody of, the department~~ commits a felony of the second
 2919 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 2920 775.084. An employee may be found guilty of violating this
 2921 subsection without having committed the crime of sexual battery.

2922 3. The consent of the juvenile offender to any act of
 2923 sexual misconduct is not a defense to prosecution under this
 2924 subsection.

2925 4. This subsection does not apply to an employee of the
 2926 department, or an employee of a provider under contract with the
 2927 department, who:

2928 a. Is legally married to a juvenile offender who is
 2929 detained or supervised by, or committed to the custody of, the
 2930 department.

2931 b. Has no reason to believe that the person with whom the
 2932 employee engaged in sexual misconduct is a juvenile offender
 2933 ~~detained or supervised by, or committed to the custody of, the~~
 2934 ~~department.~~

2935 Section 43. Section 985.702, Florida Statutes, is created
 2936 to read:

2937 985.702 Willful and malicious neglect of a juvenile
 2938 offender prohibited; reporting required; penalties.-

2939 (1) As used in this section, the term:
 2940 (a) "Employee" means a paid staff member, volunteer, or
 2941 intern who works in a department program or a program operated
 2942 by a provider under a contract with the department.
 2943 (b) "Juvenile offender" means any person of any age who is
 2944 detained by, or committed to the custody of, the department.
 2945 (c) "Neglect" means:
 2946 1. An employee's failure or omission to provide a juvenile
 2947 offender with the proper level of care, supervision, and
 2948 services necessary to maintain the juvenile offender's physical
 2949 and mental health, including, but not limited to, adequate food,
 2950 nutrition, clothing, shelter, supervision, medicine, and medical
 2951 services; or
 2952 2. An employee's failure to make a reasonable effort to
 2953 protect a juvenile offender from abuse, neglect, or exploitation
 2954 by another person.
 2955 (2) (a) An employee who willfully and maliciously neglects
 2956 a juvenile offender without causing great bodily harm, permanent
 2957 disability, or permanent disfigurement commits a felony of the
 2958 third degree, punishable as provided in s. 775.082, s. 775.083,
 2959 or s. 775.084.
 2960 (b) An employee who willfully and maliciously neglects a
 2961 juvenile offender and in so doing causes great bodily harm,
 2962 permanent disability, or permanent disfigurement commits a
 2963 felony of the second degree, punishable as provided in s.
 2964 775.082, s. 775.083, or s. 775.084.

2965 (c) Notwithstanding prosecution, any violation of
 2966 paragraph (a) or paragraph (b), as determined by the Public
 2967 Employees Relations Commission, constitutes sufficient cause
 2968 under s. 110.227 for dismissal from employment with the
 2969 department, and such person may not again be employed in any
 2970 capacity in the juvenile justice system.

2971 (3) An employee who witnesses the infliction of neglect
 2972 upon a juvenile offender shall immediately report the incident
 2973 to the department's incident hotline and prepare, date, and sign
 2974 an independent report that specifically describes the nature of
 2975 the incident, the location and time of the incident, and the
 2976 persons involved in the incident. The employee shall deliver the
 2977 report to the employee's supervisor or program director, who
 2978 must provide copies to the department's inspector general and
 2979 the circuit juvenile justice manager. The inspector general
 2980 shall immediately conduct an appropriate administrative
 2981 investigation, and, if there is probable cause to believe that a
 2982 violation of subsection (2) has occurred, the inspector general
 2983 shall notify the state attorney in the circuit in which the
 2984 incident occurred.

2985 (4) (a) A person who is required to prepare a report under
 2986 this section who knowingly or willfully fails to do so, or who
 2987 knowingly or willfully prevents another person from doing so,
 2988 commits a misdemeanor of the first degree, punishable as
 2989 provided in s. 775.082 or s. 775.083.

2990 (b) A person who knowingly or willfully submits

2991 inaccurate, incomplete, or untruthful information with respect
 2992 to a report required under this section commits a misdemeanor of
 2993 the first degree, punishable as provided in s. 775.082 or s.
 2994 775.083.

2995 (c) A person who knowingly or willfully coerces or
 2996 threatens any other person with the intent to alter testimony or
 2997 a written report regarding an incident of neglect upon a
 2998 juvenile offender commits a felony of the third degree,
 2999 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3000 Section 44. Subsection (2) of section 985.721, Florida
 3001 Statutes, is amended to read:

3002 985.721 Escapes from secure detention or residential
 3003 commitment facility.—An escape from:

3004 (2) Any residential commitment facility described in s.
 3005 985.03(44) ~~985.03(46)~~, maintained for the custody, treatment,
 3006 punishment, or rehabilitation of children found to have
 3007 committed delinquent acts or violations of law; or

3008
 3009 constitutes escape within the intent and meaning of s. 944.40
 3010 and is a felony of the third degree, punishable as provided in
 3011 s. 775.082, s. 775.083, or s. 775.084.

3012 Section 45. Paragraphs (c) and (f) of subsection (3) of
 3013 section 943.0582, Florida Statutes, are amended to read:

3014 943.0582 Prearrest, postarrest, or teen court diversion
 3015 program expunction.—

3016 (3) The department shall expunge the nonjudicial arrest

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3017 record of a minor who has successfully completed a prearrest or
 3018 postarrest diversion program if that minor:

3019 (c) Submits to the department, with the application, an
 3020 official written statement from the state attorney for the
 3021 county in which the arrest occurred certifying that he or she
 3022 has successfully completed that county's prearrest or postarrest
 3023 diversion program, that his or her participation in the program
 3024 was based on an arrest for a nonviolent misdemeanor, and that he
 3025 or she has not otherwise been charged by the state attorney with
 3026 or found to have committed any criminal offense or comparable
 3027 ordinance violation.

3028 (f) Has never, prior to filing the application for
 3029 expunction, been charged by the state attorney with or been
 3030 found to have committed any criminal offense or comparable
 3031 ordinance violation.

3032 Section 46. Section 945.75, Florida Statutes, is repealed.

3033 Section 47. Paragraphs (h) through (k) of subsection (3)
 3034 of section 121.0515, Florida Statutes, are redesignated as
 3035 paragraphs (g) through (j), respectively, and paragraphs (e)
 3036 through (i) of subsection (2), present paragraphs (g) and (k) of
 3037 subsection (3), paragraph (b) of subsection (5), paragraph (d)
 3038 of subsection (8), and paragraph (c) of subsection (10) of that
 3039 section are amended to read:

3040 121.0515 Special Risk Class.—

3041 (2) MEMBERSHIP.—

3042 ~~(e) Effective July 1, 2001, "special risk member" includes~~

3043 ~~any member who is employed as a youth custody officer by the~~
 3044 ~~Department of Juvenile Justice and meets the special criteria~~
 3045 ~~set forth in paragraph (3)(g).~~

3046 (e)~~(f)~~ Effective October 1, 2005, through June 30, 2008,
 3047 the member must be employed by a law enforcement agency or
 3048 medical examiner's office in a forensic discipline and meet the
 3049 special criteria set forth in paragraph (3)(g) ~~(3)(h)~~.

3050 (f)~~(g)~~ Effective July 1, 2008, the member must be employed
 3051 by the Department of Law Enforcement in the crime laboratory or
 3052 by the Division of State Fire Marshal in the forensic laboratory
 3053 and meet the special criteria set forth in paragraph (3)(h)
 3054 ~~(3)(i)~~.

3055 (g)~~(h)~~ Effective July 1, 2008, the member must be employed
 3056 by a local government law enforcement agency or medical
 3057 examiner's office and meet the special criteria set forth in
 3058 paragraph (3)(i) ~~(3)(j)~~.

3059 (h)~~(i)~~ Effective August 1, 2008, "special risk member"
 3060 includes any member who meets the special criteria for continued
 3061 membership set forth in paragraph (3)(j) ~~(3)(k)~~.

3062 (3) CRITERIA.—A member, to be designated as a special risk
 3063 member, must meet the following criteria:

3064 ~~(g) Effective July 1, 2001, the member must be employed as~~
 3065 ~~a youth custody officer and be certified, or required to be~~
 3066 ~~certified, in compliance with s. 943.1395. In addition, the~~
 3067 ~~member's primary duties and responsibilities must be the~~
 3068 ~~supervised custody, surveillance, control, investigation,~~

3069 ~~apprehension, arrest, and counseling of assigned juveniles~~
 3070 ~~within the community;~~

3071 (j) ~~(k)~~ The member must have already qualified for and be
 3072 actively participating in special risk membership under
 3073 paragraph (a), paragraph (b), or paragraph (c), must have
 3074 suffered a qualifying injury as defined in this paragraph, must
 3075 not be receiving disability retirement benefits as provided in
 3076 s. 121.091(4), and must satisfy the requirements of this
 3077 paragraph.

3078 1. The ability to qualify for the class of membership
 3079 defined in paragraph (2)(h) ~~(2)(i)~~ occurs when two licensed
 3080 medical physicians, one of whom is a primary treating physician
 3081 of the member, certify the existence of the physical injury and
 3082 medical condition that constitute a qualifying injury as defined
 3083 in this paragraph and that the member has reached maximum
 3084 medical improvement after August 1, 2008. The certifications
 3085 from the licensed medical physicians must include, at a minimum,
 3086 that the injury to the special risk member has resulted in a
 3087 physical loss, or loss of use, of at least two of the following:
 3088 left arm, right arm, left leg, or right leg; and:

3089 a. That this physical loss or loss of use is total and
 3090 permanent, except if the loss of use is due to a physical injury
 3091 to the member's brain, in which event the loss of use is
 3092 permanent with at least 75 percent loss of motor function with
 3093 respect to each arm or leg affected.

3094 b. That this physical loss or loss of use renders the

3095 member physically unable to perform the essential job functions
 3096 of his or her special risk position.

3097 c. That, notwithstanding this physical loss or loss of
 3098 use, the individual can perform the essential job functions
 3099 required by the member's new position, as provided in
 3100 subparagraph 3.

3101 d. That use of artificial limbs is not possible or does
 3102 not alter the member's ability to perform the essential job
 3103 functions of the member's position.

3104 e. That the physical loss or loss of use is a direct
 3105 result of a physical injury and not a result of any mental,
 3106 psychological, or emotional injury.

3107 2. For the purposes of this paragraph, "qualifying injury"
 3108 means an injury sustained in the line of duty, as certified by
 3109 the member's employing agency, by a special risk member that
 3110 does not result in total and permanent disability as defined in
 3111 s. 121.091(4)(b). An injury is a qualifying injury if the injury
 3112 is a physical injury to the member's physical body resulting in
 3113 a physical loss, or loss of use, of at least two of the
 3114 following: left arm, right arm, left leg, or right leg.

3115 Notwithstanding any other provision of this section, an injury
 3116 that would otherwise qualify as a qualifying injury is not
 3117 considered a qualifying injury if and when the member ceases
 3118 employment with the employer for whom he or she was providing
 3119 special risk services on the date the injury occurred.

3120 3. The new position, as described in sub-subparagraph

3121 1.c., that is required for qualification as a special risk
 3122 member under this paragraph is not required to be a position
 3123 with essential job functions that entitle an individual to
 3124 special risk membership. Whether a new position as described in
 3125 sub-subparagraph 1.c. exists and is available to the special
 3126 risk member is a decision to be made solely by the employer in
 3127 accordance with its hiring practices and applicable law.

3128 4. This paragraph does not grant or create additional
 3129 rights for any individual to continued employment or to be hired
 3130 or rehired by his or her employer that are not already provided
 3131 within the Florida Statutes, the State Constitution, the
 3132 Americans with Disabilities Act, if applicable, or any other
 3133 applicable state or federal law.

3134 (5) REMOVAL OF SPECIAL RISK CLASS MEMBERSHIP.—

3135 (b) Any member who is a special risk member on July 1,
 3136 2008, and who became eligible to participate under paragraph
 3137 (3)(g) ~~(3)(h)~~ but fails to meet the criteria for Special Risk
 3138 Class membership established by paragraph (3)(h) ~~(3)(i)~~ or
 3139 paragraph (3)(i) ~~(3)(j)~~ shall have his or her special risk
 3140 designation removed and thereafter shall be a Regular Class
 3141 member and earn only Regular Class membership credit. The
 3142 department may review the special risk designation of members to
 3143 determine whether or not those members continue to meet the
 3144 criteria for Special Risk Class membership.

3145 (8) SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.—

3146 (d) Notwithstanding any other provision of this

3147 subsection, this subsection does not apply to any special risk
 3148 member who qualifies for continued membership pursuant to
 3149 paragraph (3)(j) ~~(3)(k)~~.

3150 (10) CREDIT FOR UPGRADED SERVICE.-

3151 (c) Any member of the Special Risk Class who has earned
 3152 creditable service through June 30, 2008, in another membership
 3153 class of the Florida Retirement System in a position with the
 3154 Department of Law Enforcement or the Division of State Fire
 3155 Marshal and became covered by the Special Risk Class as
 3156 described in paragraph (3)(h) ~~(3)(i)~~, or with a local government
 3157 law enforcement agency or medical examiner's office and became
 3158 covered by the Special Risk Class as described in paragraph
 3159 (3)(i) ~~(3)(j)~~, which service is within the purview of the
 3160 Special Risk Class, and is employed in such position on or after
 3161 July 1, 2008, may purchase additional retirement credit to
 3162 upgrade such service to Special Risk Class service, to the
 3163 extent of the percentages of the member's average final
 3164 compensation provided in s. 121.091(1)(a)2. The cost for such
 3165 credit must be an amount representing the actuarial accrued
 3166 liability for the difference in accrual value during the
 3167 affected period of service. The cost shall be calculated using
 3168 the discount rate and other relevant actuarial assumptions that
 3169 were used to value the Florida Retirement System Pension Plan
 3170 liabilities in the most recent actuarial valuation. The division
 3171 shall ensure that the transfer sum is prepared using a formula
 3172 and methodology certified by an enrolled actuary. The cost must

3173 be paid immediately upon notification by the division. The local
 3174 government employer may purchase the upgraded service credit on
 3175 behalf of the member if the member has been employed by that
 3176 employer for at least 3 years.

3177 Section 48. Paragraph (a) of subsection (4) of section
 3178 316.635, Florida Statutes, is amended to read:

3179 316.635 Courts having jurisdiction over traffic
 3180 violations; powers relating to custody and detention of minors.—

3181 (4) A minor who willfully fails to appear before any court
 3182 or judicial officer as required by written notice to appear is
 3183 guilty of contempt of court. Upon a finding by a court, after
 3184 notice and a hearing, that a minor is in contempt of court for
 3185 willful failure to appear pursuant to a valid notice to appear,
 3186 the court may:

3187 (a) For a first offense, order the minor to serve up to 5
 3188 days in a staff-secure shelter as defined in chapter 984 ~~or~~
 3189 ~~chapter 985~~ or, if space in a staff-secure shelter is
 3190 unavailable, in a secure juvenile detention center.

3191 Section 49. Paragraph (a) of subsection (2) of section
 3192 318.143, Florida Statutes, is amended to read:

3193 318.143 Sanctions for infractions by minors.—

3194 (2) Failure to comply with one or more of the sanctions
 3195 imposed by the court constitutes contempt of court. Upon a
 3196 finding by the court, after notice and a hearing, that a minor
 3197 is in contempt of court for failure to comply with court-ordered
 3198 sanctions, the court may:

HB 7055

2014

3199 (a) For a first offense, order the minor to serve up to 5
3200 days in a staff-secure shelter as defined in chapter 984 ~~or~~
3201 ~~chapter 985~~ or, if space in a staff-secure shelter is
3202 unavailable, in a secure juvenile detention center.

3203 Section 50. This act shall take effect July 1, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7055 (2014)

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: Justice Appropriations
2 Subcommittee

3 Representative Pilon offered the following:
4

5 **Amendment**

6 Remove lines 238-239 and insert:

7 (h) To care for children in the least restrictive and most
8 appropriate service environments, ensuring that children
9 assessed as low and moderate risk to reoffend are not committed
10 to residential programs.
11

H7055 line 238 Pilon (amendment #1)

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7055 (2014)

Amendment No. 2

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: Justice Appropriations
2 Subcommittee

3 Representative Pilon offered the following:
4

5 **Amendment**

6 Remove lines 1290-1291 and insert:
7 of a preliminary screening and may be followed by a
8 comprehensive assessment. The comprehensive assessment may
9 consist of a full mental health, cognitive impairment, substance
10 abuse, or psychosexual evaluation. The intake
11

H7055 line 1290 Pilon (amendment #2)

917101

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7055 (2014)

Amendment No. 3

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: Justice Appropriations
2 Subcommittee

3 Representative Pilon offered the following:
4

5 **Amendment**

6 Remove lines 1793-1809 and insert:

7 (2) A child who is charged with committing an offense that
8 is classified as an act of ~~of~~ domestic violence as defined in s.
9 741.28 and whose risk assessment instrument indicates secure
10 detention is not appropriate ~~who does not meet detention~~
11 criteria may be held in secure detention if the court makes
12 specific written findings that:

13 (a) Respite care for the child is not available; or-

14 (b) It is necessary to place the child in secure detention
15 in order to protect the victim from injury.
16

17 The child may not be held in secure detention under this
18 subsection for more than 48 hours unless ordered by the court.
19 After 48 hours, the court shall hold a hearing if the state

H7055 line 1793 Pilon (Amendment #3)

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7055 (2014)

Amendment No. 3

20 | attorney or victim requests that secure detention be continued.
21 | The child may continue to be held in detention care if the court
22 | makes a specific, written finding that respite care is
23 | unavailable or it ~~detention care~~ is necessary to protect the
24 |

H7055 line 1793 Pilon (Amendment #3)

544769

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7055 (2014)

Amendment No. 4

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: Justice Appropriations
2 Subcommittee

3 Representative Pilon offered the following:
4

5 **Amendment**

6 Remove line 3203 and insert:

7 Section 50. Except as otherwise expressly provided in this
8 act, this act shall take effect July 1, 2014.
9

633359 - h7055 line 3203 Pilon (amendment #4).docx

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7055 (2014)

Amendment No. 5

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: Justice Appropriations
2 Subcommittee
3 Representative Pilon offered the following:

Amendment (with title amendment)

Remove line 2935 and insert:

6 Section 43. Effective October, 1, 2014, section 985.702,
7 Florida Statutes, is created

12 -----
13 **T I T L E A M E N D M E N T**

14 Remove line 147 and insert:
15 985.702, F.S.; providing an effective date; providing
16 definitions; providing for

H7055 line 2935 Pilon (amendment #5)

