CHAPTER 97-238

House Bill No. 1369

An act relating to juvenile justice; creating chapter 985, F.S., relating to certain juvenile proceedings; creating s. 985.01, F.S.; providing purposes and intent; providing certain contracting authority of the Department of Juvenile Justice or Department of Children and Family Services; providing for both departments to require employment screening of personnel in programs for children or youths, including certain volunteers and other personnel of contracted-for programs; providing for both departments to grant exemptions from disqualification for working with children; creating s. 985.02, F.S.; providing legislative intent and findings for the juvenile justice system; creating s. 985.03, F.S.; providing definitions; renumbering and amending s. 39.045, F.S., relating to oaths, records, and confidential information; removing specified provisions; prohibiting release to outside party of certain information gained by victim regarding juvenile court case, except under specified circumstances; creating s. 985.05, F.S.; providing for court records; renumbering and amending s. 39.0573, F.S., relating to statewide information sharing; renumbering s. 39.0574, F.S., relating to school district and law enforcement information sharing; renumbering and amending s. 39.0585, F.S., relating to information systems; substituting reference to the Department of Children and Family Services for reference to the Department of Health and Rehabilitative Services to conform to departmental reorganization and renaming; renumbering and amending s. 39.022, F.S., relating to court jurisdiction; conforming references; renumbering and amending s. 39.014, F.S.; providing for legal representation for delinquency cases; renumbering and amending s. 39.041, F.S., relating to the right to counsel; providing for liability of nonindigent or indigent-but-able-to-contribute parent or legal guardian for certain legal fees and costs under specified circumstances when child is transferred for criminal prosecution; renumbering s. 39.0476, F.S., relating to powers with respect to certain children; creating s. 985.205, F.S.; providing that hearings are open to the public; providing for the court to close hearings under specified circumstances; renumbering and amending s. 39.0515, F.S., relating to rights of victims; conforming reference; renumbering and amending s. 39.037, F.S., relating to taking a child into custody; conforming references; renumbering and amending s. 39.064, F.S., relating to detention of furloughed children or escapees; conforming references; renumbering s. 39.0471, F.S., relating to juvenile justice assessment centers; renumbering and amending s. 39.047, F.S., relating to intake and case management; conforming references and departmental name; renumbering and amending s. 39.038, F.S., relating to release or delivery from custody; conforming references; renumbering and amending s. 39.039, F.S., relating to fingerprinting and photographing a minor; conforming departmental name; renumbering and amending s. 39.042, F.S., relating to the use of detention; conforming reference; renumbering s. 39.043, F.S.,

relating to prohibited uses of detention; renumbering and amending s. 39.044, F.S., relating to detention; conforming references; transferring and renumbering s. 39.0145, F.S., relating to punishment for contempt of court; conforming reference; repealing s. 39.0445, F.S., relating to juvenile domestic violence offender; conforming reference; renumbering s. 39.048, F.S., relating to petitions for delinquency; renumbering and amending s. 39.049, F.S., relating to process and service; conforming reference; renumbering and amending s. 39.0495, F.S., relating to threatening or dismissing employees; conforming references; renumbering s. 39.073, F.S., relating to court and witness fees; renumbering s. 39.051, F.S., relating to answers to petitions; renumbering and amending s. 39.0517, F.S., relating to incompetency in juvenile delinquency cases; conforming departmental name; renumbering and amending s. 39.046, F.S., relating to medical, psychiatric, psychological, substance abuse, and educational examinations and treatment; conforming departmental name; creating s. 985.225, F.S.; providing for indictment of a juvenile, including indictment of child of any age who is charged with a violation of state law punishable by death or life imprisonment; providing for adjudicatory hearing; providing for sentencing of child as adult under certain circumstances; providing for sentencing; creating s. 985.226, F.S.; providing criteria for waiver of juvenile court jurisdiction; providing guidelines and time limits with respect to waiver hearing; specifying effect of order waiving jurisdiction; creating s. 985.227, F.S.; providing for prosecution of juveniles as adults; requiring the state attorney to develop policies and guidelines with respect to determination for filing information on juvenile, and requiring annual report of same by the state attorney to the Legislature and Juvenile Justice Advisory Board; creating s. 985.228, F.S.; providing for adjudicatory hearings, withheld adjudications, and orders of adjudication; creating s. 985.229, F.S.; providing for predisposition reports and additional evaluations; providing for imposition of sanctions; providing for certain notification of victims; providing legislative intent; creating s. 985.23, F.S.; providing for disposition hearings in delinquency cases; creating s. 985.231, F.S.; providing powers of disposition in delinquency cases; providing for court-ordered payment of certain fees by parent or guardian, or participation in counseling by parent, custodian, or guardian, under specified circumstances; providing for enforcement through contempt powers; renumbering s. 39.078, F.S., relating to commitment forms; creating s. 985.233, F.S.; providing dispositional powers and procedures and alternatives for juveniles prosecuted as adults; providing for court-ordered payment of certain fees by parent or guardian for cost of care in juvenile justice facilities; providing legislative intent; renumbering s. 39.069, F.S., relating to appeals; renumbering s. 39.0711, F.S., relating to additional grounds for appeals by the state; renumbering s. 39.072, F.S., relating to orders or decisions when the state appeals; renumbering and amending s. 39.0255, F.S., relating to civil citations; conforming a reference; renumbering s. 39.019, F.S., relating to teen courts; renumbering and amending s. 39.0361, F.S., relating to the Neighborhood Restorative Justice Act; removing short

title designation; conforming reference and departmental name; renumbering and amending s. 39.026, F.S., relating to community arbitration; providing for establishment of programs; selection of community arbitrators, procedures, hearings, disposition, review, and funding; renumbering and amending s. 39.055, F.S., relating to early delinquency intervention; conforming departmental name; providing procedures and criteria for determination by Department of Juvenile Justice of whether certain children are likely to exhibit further significant delinquent behavior, under specified circumstances; providing for program placement; providing for certain reports to the Legislature by the department on program development and implementation; renumbering s. 39.0475, F.S., relating to delinquency pretrial intervention; renumbering s. 39.0551, F.S., relating to juvenile assignment centers; renumbering s. 39.0571, F.S., relating to juvenile sexual offender commitment programs; renumbering and amending s. 39.057, F.S., relating to boot camps for children; conforming a reference; renumbering and amending s. 39.058, F.S., relating to serious or habitual juvenile offenders; conforming references; renumbering and amending s. 39.0582, F.S., relating to intensive residential treatment; conforming references; renumbering and amending s. 39.0583, F.S., relating to intensive residential treatment programs; conforming references; renumbering s. 39.0581, F.S., relating to maximum-risk residential programs; renumbering and amending s. 39.0584, F.S., relating to commitment programs for juvenile felony offenders; conforming references; renumbering and amending s. 39.05841, F.S., relating to vocational work training programs; providing that Department of Juvenile Justice may require participation by certain juveniles in vocational work programs; providing for establishment of guidelines and specifying procedures; providing for an agricultural and industrial production and marketing program; providing for contracts with respect to a juvenile industry program including the operation of a direct private sector business within a juvenile facility; providing for workers' compensation coverage; renumbering s. 39.067, F.S., relating to furlough and intensive aftercare; renumbering and amending s. 39.003, F.S., relating to the Juvenile Justice Advisory Board; conforming references and departmental name; renumbering s. 39.085, F.S., relating to the Alternative Education Institute; renumbering s. 39.0572, F.S., relating to the Task Force on Juvenile Sexual Offenders and their Victims; renumbering and amending s. 39.021, F.S., relating to administering the juvenile justice continuum; conforming departmental name; removing specified provisions; creating s. 985.405, F.S.; requiring the Department of Juvenile Justice to adopt certain rules relating to program management; renumbering s. 39.024, F.S., relating to juvenile justice training academies, the Juvenile Justice Standards and Training Commission, and the Juvenile Justice Training Trust Fund; renumbering s. 39.076, F.S., relating to contracting and personnel; renumbering s. 39.075, F.S., relating to consultants; creating s. 985.409, F.S.; providing for participation in the Florida Casualty Insurance Risk Management Trust Fund; renumbering s. 39.074, F.S., relating to facilities siting; renumbering and amending s. 39.0215, F.S., relating to county and

municipal delinquency programs and facilities; creating s. 985.412, F.S.; providing for quality assurance; providing for an annual report to the Legislature and Governor with respect to program quality; renumbering and amending s. 39.025, F.S., relating to district juvenile justice boards; removing short title designation; conforming references and departmental name; removing specified provisions; creating s. 985.414, F.S.; providing for county juvenile justice councils; providing purpose, duties, and responsibilities; providing for an annual report; creating s. 985.415, F.S.; providing for county juvenile justice partnership grants; creating s. 985.416, F.S.; providing for innovation zones; renumbering s. 39.062, F.S., relating to transferring children from the Department of Corrections to the Department of Juvenile Justice; renumbering s. 39.063, F.S., relating to transferring children to other treatment services; renumbering s. 39.065, F.S., relating to contracts for the transfer of children under federal custody; renumbering s. 39.51, F.S., relating to the Interstate Compact on Juveniles; renumbering s. 39.511, F.S., relating to execution of the compact; renumbering s. 39.512, F.S., relating to the juvenile compact administrator; renumbering s. 39.513, F.S., relating to supplementary agreements; renumbering s. 39.514, F.S., relating to financial arrangements; renumbering s. 39.515, F.S., relating to responsibility of state departments, agencies, and officers; renumbering s. 39.516, F.S., relating to additional procedures with respect to the compact; creating s. 984.01, F.S.; providing purposes and intent with respect to children and families in need of services; providing certain contracting authority of the Department of Juvenile Justice or Department of Children and Family Services; providing for both departments to require employment screening of personnel in programs for children or youths, including certain volunteers or other personnel of contracted-for programs; providing for both departments to grant exemptions from disqualification for working with children; creating s. 984.02, F.S.; providing legislative intent; creating s. 984.03, F.S.; providing definitions; renumbering and amending s. 39.42, F.S., relating to children in need of services and families in need of services; conforming reference; renumbering and amending s. 39.015, F.S., relating to rules relating to habitual truants; conforming references; renumbering and amending s. 39.4451, F.S., relating to oaths, records, and confidential information; removing a reference; renumbering s. 39.447, F.S., relating to appointed counsel; renumbering and amending s. 39.017, F.S., relating to attorney's fees; conforming references; creating s. 984.09, F.S.; providing for punishment for contempt of court; providing for an alternative sanctions coordinator position within each judicial circuit; renumbering and amending s. 39.423, F.S., relating to intake of children; conforming reference and departmental name; renumbering and amending s. 39.424, F.S., relating to services to families in need of services; conforming reference; renumbering s. 39.426, F.S., relating to staffing for treatment and services to families in need of services; renumbering and amending s. 39.421, F.S., relating to taking certain children into custody; conforming references; renumbering and amending s. 39.422, F.S., relating to shelter placement of certain children;

revising catchline; renumbering and amending s. 39.436, F.S., relating to petitions for children in need of services; conforming references; renumbering s. 39.437, F.S., relating to process and service; renumbering s. 39.438, F.S., relating to response to petition and representation of parties; renumbering s. 39.4431, F.S., relating to referral of children-in-need-of-services cases to mediation; renumbering and amending s. 39.446, F.S., relating to examination and treatment of certain children; conforming references and departmental name; renumbering s. 39.44, F.S., relating to hearings for children-in-need-of-services cases; renumbering s. 39.441, F.S., relating to orders of adjudication; renumbering and amending s. 39.442, F.S., relating to powers of disposition; conforming departmental name; renumbering s. 39.4375, F.S., relating to court and witness fees; renumbering s. 39.4441, F.S., relating to appeals; amending s. 39.01, F.S.; conforming references, departmental name; removing specified provisions; defining "district administrator," "circuit," and "health and human services board"; revising definitions applicable to ch. 39, F.S.; repealing ss. 39.0205, 39.0206, F.S., relating to a short title and a definition; renumbering s. 39.061, F.S., relating to escapes from detention or residential commitment facilities; repealing s. 39.419, F.S., relating to a definition; repealing ss. 39.027, 39.028, 39.029, 39.033, 39.034, 39.035, 39.036, F.S., relating to community arbitration, which provisions are otherwise incorporated into this act; repealing ss. 39.052, 39.053, 39.054, 39.059, F.S., relating to adjudicatory hearings, adjudication, powers of disposition, and community control or commitment of children prosecuted as adults, which provisions are otherwise incorporated into this act; repealing ss. 39.05842, 39.05843, 39.05844, 39.05845, F.S., relating to vocational/work programs, which provisions are otherwise incorporated into this act; repealing s. 39.056, F.S., relating to early delinquency intervention, which provision is otherwise incorporated into this act; amending s. 39.002, F.S.; providing legislative intent for the juvenile justice system; removing specified provisions; amending s. 39.012, F.S.; providing for the Department of Children and Family Services to adopt certain rules relating to program management; removing specified provisions; designating and naming parts of ch. 985, F.S.; providing legislative intent with respect to reservation of certain statutory chapters for sections of statute relating to specified subjects and with respect to construction and statutory assignment of certain other acts; providing a directive to the Division of Statutory Revision; requiring the Juvenile Justice Advisory Board and the Department of Juvenile Justice to conduct research to determine effective aftercare program models; providing an appropriation; requiring reports to the Legislature; providing an effective date.

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

Section 1. Section 985.01, Florida Statutes, is created to read:

985.01 Purposes and intent; personnel standards and screening.—

(1) The purposes of this chapter are:

(a) To provide judicial and other procedures to assure due process through which children and other interested parties are assured fair hearings by a respectful and respected court or other tribunal and the recognition, protection, and enforcement of their constitutional and other legal rights, while ensuring that public safety interests and the authority and dignity of the courts are adequately protected.

(b) To provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; and to promote the health and well-being of all children under the state's care.

(c) To ensure the protection of society, by providing for a comprehensive standardized assessment of the child's needs so that the most appropriate control, discipline, punishment, and treatment can be administered consistent with the seriousness of the act committed, the community's long-term need for public safety, the prior record of the child, and the specific rehabilitation needs of the child, while also providing whenever possible restitution to the victim of the offense.

(d) To preserve and strengthen the child's family ties whenever possible, by providing for removal of the child from parental custody only when his or her welfare or the safety and protection of the public cannot be adequately safeguarded without such removal; and, when the child is removed from his or her own family, to secure custody, care, and discipline for the child as nearly as possible equivalent to that which should have been given by the parents; and to assure, in all cases in which a child must be permanently removed from parental custody, that the child be placed in an approved family home, adoptive home, independent living program, or other placement that provides the most stable and permanent living arrangement for the child, as determined by the court.

(e)1. To assure that the adjudication and disposition of a child alleged or found to have committed a violation of Florida law be exercised with appropriate discretion and in keeping with the seriousness of the offense and the need for treatment services, and that all findings made under this chapter be based upon facts presented at a hearing that meets the constitutional standards of fundamental fairness and due process.

2. To assure that the sentencing and placement of a child tried as an adult be appropriate and in keeping with the seriousness of the offense and the child's need for rehabilitative services, and that the proceedings and procedures applicable to such sentencing and placement be applied within the full framework of constitutional standards of fundamental fairness and due process.

(f) To provide children committed to the Department of Juvenile Justice with training in life skills, including career education.

(2) The Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, may contract with the Federal Govern-

ment, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the Department of Juvenile Justice or the Department of Children and Family Services contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

(b) The Department of Juvenile Justice and the Department of Children and Family Services shall require employment screening pursuant to chapter 435, using the level 2 standards set forth in that chapter for personnel in programs for children or youths.

(c) The Department of Juvenile Justice or the Department of Children and Family Services may grant exemptions from disqualification from working with children as provided in s. 435.07.

(3) It is the intent of the Legislature that this chapter be liberally interpreted and construed in conformity with its declared purposes.

Section 2. Section 985.02, Florida Statutes, is created to read:

985.02 Legislative intent for the juvenile justice system.—

(1) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(a) Protection from abuse, neglect, and exploitation.

(b) A permanent and stable home.

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(d) Adequate nutrition, shelter, and clothing.

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.

(f) Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.

(g) Access to preventive services.

(h) An independent, trained advocate, when intervention is necessary, and a skilled guardian or caretaker in a safe environment when alternative placement is necessary.

(2) SUBSTANCE ABUSE SERVICES.—The Legislature finds that children in the care of the state's dependency and delinquency systems need appropriate health care services, that the impact of substance abuse on health indicates the need for health care services to include substance abuse services where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency and delinquency systems must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related substance abuse problems. It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency and delinquency systems, which will be fully implemented and utilized as resources permit.

(3) JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—It is the policy of the state with respect to juvenile justice and delinquency prevention to first protect the public from acts of delinquency. In addition, it is the policy of the state to:

(a) Develop and implement effective methods of preventing and reducing acts of delinquency, with a focus on maintaining and strengthening the family as a whole so that children may remain in their homes or communities.

(b) Develop and implement effective programs to prevent delinquency, to divert children from the traditional juvenile justice system, to intervene at an early stage of delinquency, and to provide critically needed alternatives to institutionalization and deep-end commitment.

(c) Provide well-trained personnel, high-quality services, and cost-effective programs within the juvenile justice system.

(d) Increase the capacity of local governments and public and private agencies to conduct rehabilitative treatment programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention.

The Legislature intends that detention care, in addition to providing secure and safe custody, will promote the health and well-being of the children committed thereto and provide an environment that fosters their social, emotional, intellectual, and physical development.

(4) DETENTION.—

(a) The Legislature finds that there is a need for a secure placement for certain children alleged to have committed a delinquent act. The Legislature finds that detention under part II should be used only when less restrictive interim placement alternatives prior to adjudication and disposition are not appropriate. The Legislature further finds that decisions to detain should be based in part on a prudent assessment of risk and be limited to situations

where there is clear and convincing evidence that a child presents a risk of failing to appear or presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior; presents a history of committing a serious property offense prior to adjudication, disposition, or placement; has acted in direct or indirect contempt of court; or requests protection from imminent bodily harm.

(b) The Legislature intends that a juvenile found to have committed a delinquent act understands the consequences and the serious nature of such behavior. Therefore, the Legislature finds that secure detention is appropriate to provide punishment that discourages further delinquent behavior. The Legislature also finds that certain juveniles have committed a sufficient number of criminal acts, including acts involving violence to persons, to represent sufficient danger to the community to warrant sentencing and placement within the adult system. It is the intent of the Legislature to establish clear criteria in order to identify these juveniles and remove them from the juvenile justice system.

(5) SERIOUS OR HABITUAL JUVENILE OFFENDERS.—The Legislature finds that fighting crime effectively requires a multipronged effort focusing on particular classes of delinquent children and the development of particular programs. This state's juvenile justice system has an inadequate number of beds for serious or habitual juvenile offenders and an inadequate number of community and residential programs for a significant number of children whose delinquent behavior is due to or connected with illicit substance abuse. In addition, a significant number of children have been adjudicated in adult criminal court and placed in this state's prisons where programs are inadequate to meet their rehabilitative needs and where space is needed for adult offenders. Recidivism rates for each of these classes of offenders exceed those tolerated by the Legislature and by the citizens of this state.

(6) SITING OF FACILITIES.—

(a) The Legislature finds that timely siting and development of needed residential facilities for juvenile offenders is critical to the public safety of the citizens of this state and to the effective rehabilitation of juvenile offenders.

(b) It is the purpose of the Legislature to guarantee that such facilities are sited and developed within reasonable timeframes after they are legislatively authorized and appropriated.

(c) The Legislature further finds that such facilities must be located in areas of the state close to the home communities of the children they house in order to ensure the most effective rehabilitation efforts and the most intensive postrelease supervision and case management.

(d) It is the intent of the Legislature that all other departments and agencies of the state shall cooperate fully with the Department of Juvenile Justice to accomplish the siting of facilities for juvenile offenders.

The supervision, counseling, rehabilitative treatment, and punitive efforts of the juvenile justice system should avoid the inappropriate use of correctional programs and large institutions. The Legislature finds that detention services should exceed the primary goal of providing safe and secure custody pending adjudication and disposition.

(7) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision to deter their participation in delinquent acts. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caretakers to fulfill their responsibilities are identified through the delinquency intake process and that appropriate recommendations to address those problems are considered in any judicial or nonjudicial proceeding.

Section 3. Section 985.03, Florida Statutes, is created to read:

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

(1) "Addictions receiving facility" means a substance abuse service provider as defined in chapter 397.

(2) "Adjudicatory hearing" means a hearing for the court to determine whether or not the facts support the allegations stated in the petition, as is provided for under s. 985.228 in delinquency cases.

(3) "Adult" means any natural person other than a child.

(4) "Arbitration" means a process whereby a neutral third person or panel, called an arbitrator or an arbitration panel, considers the facts and arguments presented by the parties and renders a decision which may be binding or nonbinding.

(5) "Authorized agent" or "designee" of the department means a person or agency assigned or designated by the Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, to perform duties or exercise powers pursuant to this chapter and includes contract providers and their employees for purposes of providing services to and managing cases of children in need of services and families in need of services.

(6) "Child" or "juvenile" or "youth" means any unmarried person under the age of 18 who has not been emancipated by order of the court and who has been found or alleged to be dependent, in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.

(7) "Child eligible for an intensive residential treatment program for offenders less than 13 years of age" means a child who has been found to

have committed a delinquent act or a violation of law in the case currently before the court and who meets at least one of the following criteria:

(a) The child is less than 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:

1. Arson;

2. Sexual battery;

3. Robbery;

4. Kidnapping;

5. Aggravated child abuse;

6. Aggravated assault;

7. Aggravated stalking;

8. Murder;

9. Manslaughter;

10. Unlawful throwing, placing, or discharging of a destructive device or bomb;

11. Armed burglary;

12. Aggravated battery;

13. Lewd or lascivious assault or act in the presence of a child; or

14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.

(b) The child is less than 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least once to a delinquency commitment program.

(c) The child is less than 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.

(8) "Child in need of services" means a child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by the Department of Juvenile Justice or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also, pursuant to this chapter, be found by the court:

(a) To have persistently run away from the child's parents or legal custodians despite reasonable efforts of the child, the parents or legal custodians, and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts shall include voluntary participation by the

child's parents or legal custodians and the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Family Services;

(b) To be habitually truant from school, while subject to compulsory school attendance, despite reasonable efforts to remedy the situation pursuant to s. 232.19 and through voluntary participation by the child's parents or legal custodians and by the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Family Services; or

(c) To have persistently disobeyed the reasonable and lawful demands of the child's parents or legal custodians, and to be beyond their control despite efforts by the child's parents or legal custodians and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts may include such things as good faith participation in family or individual counseling.

(9) "Child who has been found to have committed a delinquent act" means a child who, pursuant to the provisions of this chapter, is found by a court to have committed a violation of law or to be in direct or indirect contempt of court, except that this definition shall not include an act constituting contempt of court arising out of a dependency proceeding or a proceeding pursuant to part III of this chapter.

(10) "Child support" means a court-ordered obligation, enforced under chapter 61 and ss. 409.2551-409.2597, for monetary support for the care, maintenance, training, and education of a child.

(11) "Circuit" means any of the 20 judicial circuits as set forth in s. 26.021.

(12) "Community control" means the legal status of probation created by law and court order in cases involving a child who has been found to have committed a delinquent act. Community control is an individualized program in which the freedom of the child is limited and the child is restricted to noninstitutional quarters or restricted to the child's home in lieu of commitment to the custody of the Department of Juvenile Justice.

(13) "Comprehensive assessment" or "assessment" means the gathering of information for the evaluation of a juvenile offender's or a child's physical, psychological, educational, vocational, and social condition and family environment as they relate to the child's need for rehabilitative and treatment services, including substance abuse treatment services, mental health services, developmental services, literacy services, medical services, family services, and other specialized services, as appropriate.

(14) "Court," unless otherwise expressly stated, means the circuit court assigned to exercise jurisdiction under this chapter.

(15)(a) "Delinquency program" means any intake, community control and furlough, or similar program; regional detention center or facility; or community-based program, whether owned and operated by or contracted

by the Department of Juvenile Justice, or institution owned and operated by or contracted by the Department of Juvenile Justice, which provides intake, supervision, or custody and care of children who are alleged to be or who have been found to be delinquent pursuant to part II.

(b) "Delinquency program staff" means supervisory and direct care staff of a delinquency program as well as support staff who have direct contact with children in a delinquency program.

(c) "Delinquency prevention programs" means programs designed for the purpose of reducing the occurrence of delinquency, including youth and street gang activity, and juvenile arrests. The term excludes arbitration, diversionary or mediation programs, and community service work or other treatment available subsequent to a child committing a delinquent act.

(16) "Department" means the Department of Juvenile Justice.

(17) "Designated facility" or "designated treatment facility" means any facility designated by the Department of Juvenile Justice to provide treatment to juvenile offenders.

(18) "Detention care" means the temporary care of a child in secure, nonsecure, or home detention, pending a court adjudication or disposition or execution of a court order. There are three types of detention care, as follows:

(a) "Secure detention" means temporary custody of the child while the child is under the physical restriction of a detention center or facility pending adjudication, disposition, or placement.

(b) "Nonsecure detention" means 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.

(c) "Home detention" means 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 of Juvenile Justice staff pending adjudication, disposition, or placement.

(19) "Detention center or facility" means a facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure or nonsecure custody. A facility used for the commitment of adjudicated delinquents shall not be considered a detention center or facility.

(20) "Detention hearing" means a hearing for the court to determine if a child should be placed in temporary custody, as provided for under ss. 985.213 and 985.215 in delinquency cases.

(21) "Disposition hearing" means a hearing in which the court determines the most appropriate dispositional services in the least restrictive available setting provided for under s. 985.231, in delinquency cases.

(22) "District" means a service district of the Department of Juvenile Justice.

(23) "District juvenile justice manager" means the person appointed by the Secretary of Juvenile Justice, responsible for planning, managing, and evaluating all juvenile justice continuum programs and services delivered or funded by the Department of Juvenile Justice within the district.

(24) "Family" means a collective body of persons, consisting of a child and a parent, guardian, adult custodian, or adult relative, in which:

(a) The persons reside in the same house or living unit; or

(b) The parent, guardian, adult custodian, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.

(25) "Family in need of services" means a family that has a child for whom there is no pending investigation into an allegation of abuse, neglect, or abandonment or no current supervision by the Department of Juvenile Justice or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also have been referred to a law enforcement agency or the Department of Juvenile Justice for:

(a) Running away from parents or legal custodians;

(b) Persistently disobeying reasonable and lawful demands of parents or legal custodians, and being beyond their control; or

(c) Habitual truancy from school.

(26) "Foster care" means care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.

(27) "Habitually truant" means that:

(a) The child has 15 unexcused absences within 90 days with or without the knowledge or justifiable consent of the child's parent or legal guardian and is not exempt from attendance by virtue of being over the age of compulsory school attendance or by meeting the criteria in s. 232.06, s. 232.09, or any other exemptions specified by law or the rules of the State Board of Education;

(b) In addition to the actions described in s. 232.17, the school administration has completed the following escalating activities to determine the cause, and to attempt the remediation, of the child's truant behavior:

1. After a minimum of 3 and prior to 15 unexcused absences within 90 days, one or more meetings have been held, either in person or by phone, between a school attendance assistant or school social worker, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the truancy problem. However, if the school attendance assistant or

school social worker has documented the refusal of the parent or guardian to participate in the meetings, then this requirement has been met;

2. Educational counseling has been provided to determine whether curriculum changes would help solve the truancy problem, and, if any changes were indicated, such changes were instituted but proved unsuccessful in remedying the truant behavior. Such curriculum changes may include enrollment of the child in an alternative education program that meets the specific educational and behavioral needs of the child, including a second chance school, as provided for in s. 230.2316, designed to resolve truant behavior;

3. Educational evaluation, pursuant to the requirements of s. 232.19(3)(b)3., has been provided; and

4. The school social worker, the attendance assistant, or the school superintendent's designee if there is no school social worker or attendance assistant has referred the student and family to the children-in-need-of-services and families-in-need-of-services provider or the case staffing committee, established pursuant to s. 984.12, as determined by the cooperative agreement required in s. 232.19(3). The case staffing committee may request the department or its designee to file a child-in-need-of-services petition based upon the report and efforts of the school district or other community agency or may seek to resolve the truancy behavior through the school or community-based organizations or agencies.

If a child within the compulsory school attendance age is responsive to the interventions described in this paragraph and has completed the necessary requirements to pass the current grade as indicated in the district pupil progression plan, the child shall not be determined to be habitually truant. If a child within the compulsory school attendance age has 15 unexcused absences or fails to enroll in school, the state attorney may file a child-in-need-of-services petition. Prior to filing a petition, the child must be referred to the appropriate agency for evaluation. After consulting with the evaluating agency, the state attorney may elect to file a child-in-need-of-services petition.

(c) A school social worker or other person designated by the school administration, if the school does not have a school social worker, and an intake counselor or case manager of the Department of Juvenile Justice have jointly investigated the truancy problem or, if that was not feasible, have performed separate investigations to identify conditions which may be contributing to the truant behavior; and if, after a joint staffing of the case to determine the necessity for services, such services were determined to be needed, the persons who performed the investigations met jointly with the family and child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truant behavior; and

(d) The failure or refusal of the parent or legal guardian or the child to participate, or make a good faith effort to participate, in the activities prescribed to remedy the truant behavior, or the failure or refusal of the child

to return to school after participation in activities required by this subsection, or the failure of the child to stop the truant behavior after the school administration and the Department of Juvenile Justice have worked with the child as described in s. 232.19(3) shall be handled as prescribed in s. 232.19.

(28) "Halfway house" means a community-based residential program for 10 or more committed delinquents at the moderate-risk restrictiveness level that is operated or contracted by the Department of Juvenile Justice.

(29) "Intake" means the initial acceptance and screening by the Department of Juvenile Justice of a complaint or a law enforcement report or probable cause affidavit of delinquency, family in need of services, or child in need of services to determine the recommendation to be taken in the best interests of the child, the family, and the community. The emphasis of intake is on diversion and the least restrictive available services. Consequently, intake includes such alternatives as:

(a) The disposition of the complaint, report, or probable cause affidavit without court or public agency action or judicial handling when appropriate.

(b) The referral of the child to another public or private agency when appropriate.

(c) The recommendation by the intake counselor or case manager of judicial handling when appropriate and warranted.

(30) "Intake counselor" or "case manager" means the authorized agent of the Department of Juvenile Justice performing the intake or case management function for a child alleged to be delinquent.

(31) "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.

(32) "Juvenile justice continuum" includes, but is not limited to, delinquency prevention programs and services designed for the purpose of preventing or reducing delinquent acts, including criminal activity by youth gangs, and juvenile arrests, as well as programs and services targeted at children who have committed delinquent acts, and children who have previously been committed to residential treatment programs for delinquents. The term includes children-in-need-of-services and families-in-need-of-services programs; aftercare and reentry services; substance abuse and mental health programs; educational and vocational programs; recreational programs; community services programs; community service work programs; and alternative dispute resolution programs serving children at risk of delinquency and their families, whether offered or delivered by state or local governmental entities, public or private for-profit or not-for-profit organizations, or religious or charitable organizations.

(33) "Juvenile sexual offender" means:

(a) A juvenile who has been found by the court pursuant to s. 985.228 to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;

(b) A juvenile found to have committed any violation of law or delinquent act involving juvenile sexual abuse. "Juvenile sexual abuse" means any sexual behavior which occurs without consent, without equality, or as a result of coercion. For purposes of this subsection, the following definitions apply:

1. "Coercion" means the exploitation of authority, use of bribes, threats of force, or intimidation to gain cooperation or compliance.

2. "Equality" means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.

3. "Consent" means an agreement including all of the following:

a. Understanding what is proposed based on age, maturity, developmental level, functioning, and experience.

b. Knowledge of societal standards for what is being proposed.

c. Awareness of potential consequences and alternatives.

d. Assumption that agreement or disagreement will be accepted equally.

e. Voluntary decision.

f. Mental competence.

Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts.

(34) "Legal custody" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

(35) "Licensed child-caring agency" means a person, society, association, or agency licensed by the Department of Children and Family Services to care for, receive, and board children.

(36) "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under chapter 464, a physician assistant certified under chapter 458, or a dentist licensed under chapter 466.

(37) "Likely to injure oneself" means that, as evidenced by violent or other actively self-destructive behavior, it is more likely than not that within a 24-hour period the child will attempt to commit suicide or inflict serious bodily harm on himself or herself.

(38) "Likely to injure others" means that it is more likely than not that within a 24-hour period the child will inflict serious and unjustified bodily harm on another person.

(39) "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decisionmaking authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

(40) "Necessary medical treatment" means care which is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child's condition or to alleviate immediate pain of a child.

(41) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. 39.4051(7) or s. 63.062(1)(b).

(42) "Preliminary screening" means the gathering of preliminary information to be used in determining a child's need for further evaluation or assessment or for referral for other substance abuse services through means such as psychosocial interviews; urine and breathalyzer screenings; and reviews of available educational, delinquency, and dependency records of the child.

(43) "Preventive services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal guardian of the child, or the custodian of the child and to the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child's need for a safe, continuous, stable living environment and shall promote family autonomy and shall strengthen family life as the first priority whenever possible.

(44) "Relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

(45) "Restrictiveness level" means the level of custody provided by programs that service the custody and care needs of committed children. There shall be five restrictiveness levels:

(a) Minimum-risk nonresidential.—Youth assessed and classified for placement in programs at this restrictiveness level represent a minimum

risk to themselves and public safety and do not require placement and services in residential settings. Programs or program models in this restrictiveness level include: community counselor supervision programs, special intensive group programs, nonresidential marine programs, nonresidential training and rehabilitation centers, and other local community nonresidential programs.

(b) Low-risk residential.—Youth assessed and classified for placement in programs at this level represent a low risk to themselves and public safety and do require placement and services in residential settings. Programs or program models in this restrictiveness level include: Short Term Offender Programs (STOP), group treatment homes, family group homes, proctor homes, and Short Term Environmental Programs (STEP). Section 944.401 applies to children placed in programs in this restrictiveness level.

(c) Moderate-risk residential.—Youth assessed and classified for placement in programs in this restrictiveness level represent a moderate risk to public safety. Programs are designed for children who require close supervision but do not need placement in facilities that are physically secure. Programs in the moderate-risk residential restrictiveness level provide 24-hour awake supervision, custody, care, and treatment. Upon specific appropriation, a facility at this restrictiveness level may have a security fence around the perimeter of the grounds of the facility and may be hardware-secure or staff-secure. The staff at a facility at this restrictiveness level may seclude a child who is a physical threat to himself or others. Mechanical restraint may also be used when necessary. Programs or program models in this restrictiveness level include: halfway houses, START Centers, the Dade Intensive Control Program, licensed substance abuse residential programs, and moderate-term wilderness programs designed for committed delinquent youth that are operated or contracted by the Department of Juvenile Justice. Section 944.401 applies to children in moderate-risk residential programs.

(d) High-risk residential.—Youth assessed and classified for this level of placement require close supervision in a structured residential setting that provides 24-hour-per-day secure custody, care, and supervision. Placement in programs in this level is prompted by a concern for public safety that outweighs placement in programs at lower restrictiveness levels. Programs or program models in this level are staff-secure or physically secure residential commitment facilities and include: training schools, intensive halfway houses, residential sex offender programs, long-term wilderness programs designed exclusively for committed delinquent youth, boot camps, secure halfway house programs, and the Broward Control Treatment Center. Section 944.401 applies to children placed in programs in this restrictiveness level.

(e) Maximum-risk residential.—Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting that provides 24-hour-per-day secure custody, care, and supervision. Placement in a program in this level is prompted by a demonstrated need to protect the public. Programs or program models in this level are maximum-secure-custody, long-term residential commitment facilities that are intended to provide a moderate overlay of educational, vocational, and

behavioral-modification services and include programs for serious and habitual juvenile offenders and other maximum-security program models authorized by the Legislature and established by rule.

(46) "Secure detention center or facility" means a physically restricting facility for the temporary care of children, pending adjudication, disposition, or placement.

(47) "Serious or habitual juvenile offender," for purposes of commitment to a residential facility and for purposes of records retention, means a child who has been found to have committed a delinquent act or a violation of law, in the case currently before the court, and who meets at least one of the following criteria:

(a) The youth is at least 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:

1. Arson;

2. Sexual battery;

3. Robbery;

4. Kidnapping;

5. Aggravated child abuse;

6. Aggravated assault;

7. Aggravated stalking;

8. Murder;

9. Manslaughter;

10. Unlawful throwing, placing, or discharging of a destructive device or bomb;

11. Armed burglary;

12. Aggravated battery;

13. Lewd or lascivious assault or act in the presence of a child; or

14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.

(b) The youth is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least two times to a delinquency commitment program.

(c) The youth is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.

(48) "Serious or habitual juvenile offender program" means the program established in s. 985.31.

(49) "Shelter" means a place for the temporary care of a child who is alleged to be or who has been found to be delinquent.

(50) "Shelter hearing" means a hearing provided for under s. 984.14 in family-in-need-of-services cases or child-in-need-of-services cases.

(51) "Staff-secure shelter" means a facility in which a child is supervised 24 hours a day by staff members who are awake while on duty. The facility is for the temporary care and assessment of a child who has been found to be dependent, who has violated a court order and been found in contempt of court, or whom the Department of Children and Family Services is unable to properly assess or place for assistance within the continuum of services provided for dependent children.

(52) "Substance abuse" means using, without medical reason, any psychoactive or mood-altering drug, including alcohol, in such a manner as to induce impairment resulting in dysfunctional social behavior.

(53) "Taken into custody" means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child's release, detention, placement, or other disposition as authorized by law.

(54) "Temporary legal custody" means the relationship that a juvenile court creates between a child and an adult relative of the child, adult nonrelative approved by the court, or other person until a more permanent arrangement is ordered. Temporary legal custody confers upon the custodian the right to have temporary physical custody of the child and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the temporary legal custody relationship.

(55) "Temporary release" means the terms and conditions under which a child is temporarily released from a commitment facility or allowed home visits. If the temporary release is from a moderate-risk residential facility, a high-risk residential facility, or a maximum-risk residential facility, the terms and conditions of the temporary release must be approved by the child, the court, and the facility. The term includes periods during which the child is supervised pursuant to a reentry program or an aftercare program or a period during which the child is supervised by a case manager or other nonresidential staff of the department or staff employed by an entity under contract with the department. A child placed in a postcommitment community control program by order of the court is not considered to be on temporary release and is not subject to the terms and conditions of temporary release.

(56) "Training school" means one of the following facilities: the Arthur G. Dozier School or the Eckerd Youth Development Center.

(57) "Violation of law" or "delinquent act" means a violation of any law of this state, the United States, or any other state which is a misdemeanor or a felony or a violation of a county or municipal ordinance which would be punishable by incarceration if the violation were committed by an adult.

(58) "Waiver hearing" means a hearing provided for under s. 985.226(3).

Section 4. Section 39.045, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.04, Florida Statutes, and amended to read:

985.04 ~~39.045~~ Oaths; records; confidential information.—

(1) Authorized agents of the Department of Juvenile Justice may administer oaths and affirmations.

~~(2) The clerk of the court shall make and keep records of all cases brought before it pursuant to this part. The court shall preserve the records pertaining to a child charged with committing a delinquent act or violation of law until the child reaches 24 years of age or reaches 26 years of age if he or she is a serious or habitual delinquent child, until 5 years after the last entry was made, or until 3 years after the death of the child, whichever is earlier, and may then destroy them, except that records made of traffic offenses in which there is no allegation of delinquency may be destroyed as soon as this can be reasonably accomplished. The court shall make official records of all petitions and orders filed in a case arising pursuant to this part and of any other pleadings, certificates, proofs of publication, summonses, warrants, and writs that are filed pursuant to the case.~~

(2)~~(3)~~ Records maintained by the Department of Juvenile Justice, including copies of records maintained by the court, which pertain to a child found to have committed a delinquent act which, if committed by an adult, would be a crime specified in ss. 110.1127, 393.0655, 394.457, 397.451, 402.305(2), 409.175, and 409.176 may not be destroyed pursuant to this section, except in cases of the death of the child. Such records, however, shall be sealed by the court for use only in meeting the screening requirements for personnel in s. 402.3055 and the other sections cited above, or pursuant to departmental rule; however, current criminal history information must be obtained from the Department of Law Enforcement in accordance with s. 943.053. The information shall be released to those persons specified in the above cited sections for the purposes of complying with those sections. The court may punish by contempt any person who releases or uses the records for any unauthorized purpose.

~~(4) The clerk shall keep all official records required by this section separate from other records of the circuit court, except those records pertaining to motor vehicle violations, which shall be forwarded to the Department of Highway Safety and Motor Vehicles. Except as provided in subsection (9) and s. 943.053, official records required by this part are not open to inspection by the public, but may be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents, guardians, or legal custodians of the child and their attorneys, law enforcement agencies, the Department of Juvenile Justice~~

~~and its designees, the Parole Commission, and the Department of Corrections shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect, and make abstracts from, official records under whatever conditions upon the use and disposition of such records the court may deem proper and may punish by contempt proceedings any violation of those conditions.~~

~~(3)~~(5) Except as provided in subsections (2), (4), (5), and (6) ~~(3), (8), (9), and (10)~~, and s. 943.053, all information obtained under this part in the discharge of official duty by any judge, any employee of the court, any authorized agent of the Department of Juvenile Justice, the Parole Commission, the Juvenile Justice Advisory Board, the Department of Corrections, the district juvenile justice boards, any law enforcement agent, or any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile is confidential and may be disclosed only to the authorized personnel of the court, the Department of Juvenile Justice and its designees, the Department of Corrections, the Parole Commission, the Juvenile Justice Advisory Board, law enforcement agents, school superintendents and their designees, any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile, and others entitled under this chapter ~~part~~ to receive that information, or upon order of the court. Within each county, the sheriff, the chiefs of police, the district school superintendent, and the department shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders among all parties. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel, and the conditions under which school records are to be made available to appropriate department personnel. The agencies entering into such agreement must comply with s. 943.0525, and must maintain the confidentiality of information that is otherwise exempt from s. 119.07(1), as provided by law.

~~(6) All orders of the court entered pursuant to this part must be in writing and signed by the judge, except that the clerk or deputy clerk may sign a summons or notice to appear.~~

~~(7) A court record of proceedings under this part is not admissible in evidence in any other civil or criminal proceeding, except that:~~

~~(a) Orders transferring a child for trial as an adult are admissible in evidence in the court in which he or she is tried, but create no presumption as to the guilt of the child; nor may such orders be read to, or commented upon in the presence of, the jury in any trial.~~

~~(b) Orders binding an adult over for trial on a criminal charge, made by the judge as a committing magistrate, are admissible in evidence in the court to which the adult is bound over.~~

~~(c) Records of proceedings under this part forming a part of the record on appeal must be used in the appellate court in the manner provided in s. 39.069(4).~~

~~(d) Records are admissible in evidence in any case in which a person is being tried upon a charge of having committed perjury, to the extent such records are necessary to prove the charge.~~

~~(e) Records of proceedings under this part may be used to prove disqualification pursuant to ss. 39.076, 110.1127, 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, and 409.176, and for proof in a chapter 120 proceeding pursuant to s. 415.1075.~~

(4)~~(8)~~(a) Records in the custody of the Department of Juvenile Justice regarding children are not open to inspection by the public. Such records may be inspected only upon order of the Secretary of Juvenile Justice or his or her authorized agent by persons who have sufficient reason and upon such conditions for their use and disposition as the secretary or his or her authorized agent deems proper. The information in such records may be disclosed only to other employees of the Department of Juvenile Justice who have a need therefor in order to perform their official duty; to other persons as authorized by rule of the Department of Juvenile Justice; and, upon request, to the Juvenile Justice Advisory Board and the Department of Corrections. The secretary or his or her authorized agent may permit properly qualified persons to inspect and make abstracts from records for statistical purposes under whatever conditions upon their use and disposition the secretary or his or her authorized agent deems proper, provided adequate assurances are given that children's names and other identifying information will not be disclosed by the applicant.

(b) The destruction of records pertaining to children committed to or supervised by the Department of Juvenile Justice pursuant to a court order, which records are retained until a child reaches the age of 24 years or until a serious or habitual delinquent child reaches the age of 26 years, shall be subject to chapter 943.

(5)~~(9)~~ Notwithstanding any other provisions of this part, the name, photograph, address, and crime or arrest report of a child:

(a) Taken into custody if the child has been taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony; or

(b) Found by a court to have committed three or more violations of law which, if committed by an adult, would be misdemeanors

shall not be considered confidential and exempt from the provisions of s. 119.07(1) solely because of the child's age.

(6)~~(10)~~ This part does not prohibit the release of the juvenile offense report by a law enforcement agency to the victim of the offense. However, information gained by the victim pursuant to this chapter, including the next of kin of a homicide victim, regarding any case handled in juvenile court, must not be revealed to any outside party, except as is reasonably necessary in pursuit of legal remedies.

(7)~~(11)~~(a) Notwithstanding any other provision of this section, when a child of any age is taken into custody by a law enforcement officer for an offense that would have been a felony if committed by an adult, or a crime of violence, the law enforcement agency must notify the superintendent of schools that the child is alleged to have committed the delinquent act.

(b) Notwithstanding paragraph (a) or any other provision of this section, when a child of any age is formally charged by a state attorney with a felony or a delinquent act that would be a felony if committed by an adult, the state attorney shall notify the superintendent of the child's school that the child has been charged with such felony or delinquent act. The information obtained by the superintendent of schools pursuant to this section must be released within 48 hours after receipt to appropriate school personnel, including the principal of the school of the child. The principal must immediately notify the child's immediate classroom teachers. Upon notification, the principal is authorized to begin disciplinary actions pursuant to s. 232.26.

(8)~~(12)~~ Criminal history information made available to governmental agencies by the Department of Law Enforcement or other criminal justice agencies shall not be used for any purpose other than that specified in the provision authorizing the releases.

Section 5. Section 985.05, Florida Statutes, is created to read:

985.05 Court records.—

(1) The clerk of the court shall make and keep records of all cases brought before it pursuant to this part. The court shall preserve the records pertaining to a child charged with committing a delinquent act or violation of law until the child reaches 24 years of age or reaches 26 years of age if he or she is a serious or habitual delinquent child, until 5 years after the last entry was made, or until 3 years after the death of the child, whichever is earlier, and may then destroy them, except that records made of traffic offenses in which there is no allegation of delinquency may be destroyed as soon as this can be reasonably accomplished. The court shall make official records of all petitions and orders filed in a case arising pursuant to this part and of any other pleadings, certificates, proofs of publication, summonses, warrants, and writs that are filed pursuant to the case.

(2) The clerk shall keep all official records required by this section separate from other records of the circuit court, except those records pertaining to motor vehicle violations, which shall be forwarded to the Department of Highway Safety and Motor Vehicles. Except as provided in ss. 943.053 and 985.04(4), official records required by this part are not open to inspection by the public, but may be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents, guardians, or legal custodians of the child and their attorneys, law enforcement agencies, the Department of Juvenile Justice and its designees, the Parole Commission, and the Department of Corrections shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect, and make abstracts from, official records under whatever conditions upon the use and

disposition of such records the court may deem proper and may punish by contempt proceedings any violation of those conditions.

(3) All orders of the court entered pursuant to this part must be in writing and signed by the judge, except that the clerk or deputy clerk may sign a summons or notice to appear.

(4) A court record of proceedings under this part is not admissible in evidence in any other civil or criminal proceeding, except that:

(a) Orders transferring a child for trial as an adult are admissible in evidence in the court in which he or she is tried, but create no presumption as to the guilt of the child; nor may such orders be read to, or commented upon in the presence of, the jury in any trial.

(b) Orders binding an adult over for trial on a criminal charge, made by the judge as a committing magistrate, are admissible in evidence in the court to which the adult is bound over.

(c) Records of proceedings under this part forming a part of the record on appeal must be used in the appellate court in the manner provided in s. 985.234.

(d) Records are admissible in evidence in any case in which a person is being tried upon a charge of having committed perjury, to the extent such records are necessary to prove the charge.

(e) Records of proceedings under this part may be used to prove disqualification pursuant to ss. 110.1127, 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and 985.407, and for proof in a chapter 120 proceeding pursuant to s. 415.1075.

Section 6. Section 39.0573, Florida Statutes, is transferred, renumbered as section 985.06, Florida Statutes, and amended to read:

985.06 ~~39.0573~~ Statewide information sharing system; interagency workgroup.—

(1) The Department of Education, the Department of Juvenile Justice, and the Department of Law Enforcement shall create an information-sharing workgroup for the purpose of developing and implementing a workable statewide system of sharing information among school districts, state and local law enforcement agencies, providers, the Department of Juvenile Justice, and the Department of Education. The system shall build on processes previously authorized in statute and on any revisions to federal statutes on confidentiality. The information to be shared shall focus on youth who are involved in the juvenile justice system, youth who have been tried as adults and found guilty of felonies, and students who have been serious discipline problems in schools. The participating agencies shall implement improvements that maximize the sharing of information within applicable state and federal statutes and rules and that utilize statewide databases and data delivery systems to streamline access to the information needed to provide joint services to disruptive, violent, and delinquent youth.

(2) The interagency workgroup shall be coordinated through the Department of Education and shall include representatives from the state agencies specified in subsection (1), school superintendents, school district information system directors, principals, teachers, juvenile court judges, police chiefs, county sheriffs, clerks of the circuit court, the Department of Children and Family ~~Health and Rehabilitative~~ Services, providers of juvenile services including a provider from a juvenile substance abuse program, and district juvenile justice managers.

(3) The interagency workgroup shall, at a minimum, address the following:

(a) The use of the Florida Information Resource Network and other statewide information access systems as means of delivering information to school personnel or providing an initial screening for purposes of determining whether further access to information is warranted.

(b) A statewide information delivery system that will provide local access by participating agencies and schools.

(c) The need for cooperative agreements among agencies which may access information.

(d) Legal considerations and the need for legislative action necessary for accessing information by participating agencies.

(e) Guidelines for how the information shall be accessed, used, and disseminated.

(f) The organizational level at which information may be accessed and shared.

(g) The specific information to be maintained and shared through the system.

(h) The cost implications of an improved system.

(4) The Department of Education, the Department of Juvenile Justice, and the Department of Law Enforcement shall implement improvements leading to the statewide information access and delivery system, to the extent feasible, and shall develop a cooperative agreement specifying their roles in such a system.

(5) By December 31, 1995, the interagency workgroup shall make an interim report to the President of the Senate, the Speaker of the House of Representatives, the Governor, and the Cabinet on its progress toward designing and implementing improvements in the access and delivery of information.

(6) Members of the interagency workgroup shall serve without added compensation and each participating agency shall support the travel, per diem, and other expenses of its representatives.

Section 7. Section 39.0574, Florida Statutes, is transferred and renumbered as section 985.07, Florida Statutes.

Section 8. Section 39.0585, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.08, Florida Statutes, and amended to read:

985.08 ~~39.0585~~ Information systems.—

(1)(a) For the purpose of assisting in law enforcement administration and decisionmaking, such as juvenile diversion from continued involvement with the law enforcement and judicial systems, the sheriff of the county in which juveniles are taken into custody is encouraged to maintain a central identification file on serious habitual juvenile offenders and on juveniles who are at risk of becoming serious habitual juvenile offenders by virtue of having an arrest record.

(b) The central identification file shall contain, but not be limited to, pertinent dependency record information maintained by the Department of Children and Family ~~Health and Rehabilitative~~ Services and delinquency record information maintained by the Department of Juvenile Justice; pertinent school records, including information on behavior, attendance, and achievement; pertinent information on delinquency and dependency maintained by law enforcement agencies and the state attorney; and pertinent information on delinquency and dependency maintained by those agencies charged with screening, assessment, planning, and treatment responsibilities. The information obtained shall be used to develop a multiagency information sheet on serious habitual juvenile offenders or juveniles who are at risk of becoming serious habitual juvenile offenders. The agencies and persons specified in this paragraph shall cooperate with the law enforcement agency or county in providing needed information and in developing the multiagency information sheet to the greatest extent possible.

(c) As used in this section, "a juvenile who is at risk of becoming a serious habitual juvenile offender" means a juvenile who has been adjudicated delinquent and who meets one or more of the following criteria:

1. Is arrested for a capital, life, or first degree felony offense or sexual battery.

2. Has five or more arrests, at least three of which are for felony offenses. Three of such arrests must have occurred within the preceding 12-month period.

3. Has 10 or more arrests, at least 2 of which are for felony offenses. Three of such arrests must have occurred within the preceding 12-month period.

4. Has four or more arrests, at least one of which is for a felony offense and occurred within the preceding 12-month period.

5. Has 10 or more arrests, at least 8 of which are for any of the following offenses:

a. Petit theft;

b. Misdemeanor assault;

c. Possession of a controlled substance;

d. Weapon or firearm violation; or

e. Substance abuse.

Four of such arrests must have occurred within the preceding 12-month period.

6. Meets at least one of the criteria for youth and street gang membership.

(2)(a) Notwithstanding any provision of law to the contrary, confidentiality of records information does not apply to juveniles who have been arrested for an offense that would be a crime if committed by an adult, regarding the sharing of the information on the juvenile with the law enforcement agency or county and any agency or person providing information for the development of the multiagency information sheet as well as the courts, the child, the parents or legal custodians of the child, their attorneys, or any other person authorized by the court to have access. A public or private educational agency shall provide pertinent records to and cooperate with the law enforcement agency or county in providing needed information and developing the multiagency information sheet to the greatest extent possible. Neither these records provided to the law enforcement agency or county nor the records developed from these records for serious habitual juvenile offenders nor the records provided or developed from records provided to the law enforcement agency or county on juveniles at risk of becoming serious habitual juvenile offenders shall be available for public disclosure and inspection under s. 119.07.

(b) The department shall notify the sheriffs of both the prior county of residence and the new county of residence immediately upon learning of the move or other relocation of a juvenile offender who has been adjudicated or had adjudication withheld for a violent misdemeanor or violent felony.

(3) In order to assist in the integration of the information to be shared, the sharing of information obtained, the joint planning on diversion and early intervention strategies for juveniles at risk of becoming serious habitual juvenile offenders, and the intervention strategies for serious habitual juvenile offenders, a multiagency task force should be organized and utilized by the law enforcement agency or county in conjunction with the initiation of the information system described in subsections (1) and (2). The multiagency task force shall be composed of representatives of those agencies and persons providing information for the central identification file and the multiagency information sheet.

(4) This multiagency task force shall develop a plan for the information system that includes measures which identify and address any disproportionate representation of ethnic or racial minorities in the information sys-

tems and shall develop strategies that address the protection of individual constitutional rights.

(5) Any law enforcement agency, or county which implements a juvenile offender information system and the multiagency task force which maintain the information system must annually provide any information gathered during the previous year to the delinquency and gang prevention council of the judicial circuit in which the county is located. This information shall include the number, types, and patterns of delinquency tracked by the juvenile offender information system.

Section 9. Section 39.022, Florida Statutes, is transferred, renumbered as section 985.201, Florida Statutes, and amended to read:

985.201 ~~39.022~~ Jurisdiction.—

(1) The circuit court has exclusive original jurisdiction of proceedings in which a child is alleged to have committed a delinquent act or violation of law.

(2) During the prosecution of any violation of law against any person who has been presumed to be an adult, if it is shown that the person was a child at the time the offense was committed and that the person does not meet the criteria for prosecution and sentencing as an adult, the court shall immediately transfer the case, together with the physical custody of the person and all physical evidence, papers, documents, and testimony, original and duplicate, connected therewith, to the appropriate court for proceedings under this chapter. The circuit court is exclusively authorized to assume jurisdiction over any juvenile offender who is arrested and charged with violating a federal law or a law of the District of Columbia, who is found or is living or domiciled in a county in which the circuit court is established, and who is surrendered to the circuit court as provided in 18 U.S.C. s. 5001.

(3)(a) Petitions filed under this part shall be filed in the county where the delinquent act or violation of law occurred, but the circuit court for that county may transfer the case to the circuit court of the circuit in which the child resides or will reside at the time of detention or placement for dispositional purposes. A child who has been detained shall be transferred to the appropriate detention center or facility or other placement directed by the receiving court.

(b) The jurisdiction to be exercised by the court when a child is taken into custody before the filing of a petition under s. 985.219(7) ~~39.049(7)~~ shall be exercised by the circuit court for the county in which the child is taken into custody, which court shall have personal jurisdiction of the child and the child's parent or legal guardian. Upon the filing of a petition in the appropriate circuit court, the court that is exercising initial jurisdiction of the person of the child shall, if the child has been detained, immediately order the child to be transferred to the detention center or facility or other placement as ordered by the court having subject matter jurisdiction of the case.

(4)(a) Notwithstanding ss. 985.229, 985.23, 985.231, ~~39.054(4)~~ and 743.07, and except as provided in ss. 985.31 and 985.313 ~~39.058 and 39.0581~~,

when the jurisdiction of any child who is alleged to have committed a delinquent act or violation of law is obtained, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 19 years of age, with the same power over the child that the court had prior to the child becoming an adult.

(b) The court may retain jurisdiction over a child committed to the department for placement in an intensive residential treatment program for 10-year-old to 13-year-old offenders or in a program for serious or habitual juvenile offenders as provided in s. 985.311 or s. 985.31 ~~s. 39.0582 or s. 39.058~~ until the child reaches the age of 21. If the court exercises this jurisdiction retention, it shall do so solely for the purpose of the child completing the intensive residential treatment program for 10-year-old to 13-year-old offenders or the program for serious or habitual juvenile offenders. Such jurisdiction retention does not apply for other programs, other purposes, or new offenses.

(c) The court may retain jurisdiction over a child and the child's parent or legal guardian whom the court has ordered to pay restitution until the restitution order is satisfied or until the court orders otherwise. If the court retains such jurisdiction after the date upon which the court's jurisdiction would cease under this section, it shall do so solely for the purpose of enforcing the restitution order. The terms of the restitution order are subject to the provisions of s. 775.089(6).

(d) This subsection does not prevent the exercise of jurisdiction by any court having jurisdiction of the child if the child, after becoming an adult, commits a violation of law.

Section 10. Section 39.014, Florida Statutes, is transferred, renumbered as section 985.202, Florida Statutes, and amended to read:

985.202 ~~39.014~~ Legal representation for delinquency cases ~~under this chapter~~.—For cases arising under ~~part II of~~ this chapter, the state attorney shall represent the state. ~~For cases arising under parts III, V, and VI of this chapter, an attorney for the Department of Health and Rehabilitative Services shall represent the state. For cases arising under part IV of this chapter, an attorney for the Department of Juvenile Justice shall represent the state. The Department of Health and Rehabilitative Services may contract with outside counsel or the state attorney, pursuant to s. 287.059, for legal representation for cases arising under parts III, V, and VI of this chapter, and the Department of Juvenile Justice may contract with outside counsel or the state attorney, pursuant to s. 287.059, for legal representation for cases arising under part IV of this chapter. The Attorney General shall exercise general oversight of legal services provided to the Department of Juvenile Justice and the Department of Health and Rehabilitative Services under this chapter. This oversight responsibility shall require the Attorney General to assess, on a periodic basis, the extent to which the Department of Juvenile Justice or the Department of Health and Rehabilitative Services, as appropriate, is complying with the mandates of the Florida Supreme Court in cases arising under parts III, IV, V, and VI of this chapter. If at any time the Attorney General determines that the Department of Juvenile~~

~~Justice or the Department of Health and Rehabilitative Services is not complying with the mandates of the Supreme Court, the Attorney General shall notify the Legislature. Notwithstanding the provisions of this chapter or chapter 415 to the contrary, the Attorney General shall have access to confidential information necessary to carry out the oversight responsibility. However, public disclosure of information by the Attorney General may not contain information that identifies a client of the Department of Juvenile Justice or the Department of Health and Rehabilitative Services.~~

Section 11. Section 39.041, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.203, Florida Statutes, and amended to read:

985.203 ~~39.041~~ Right to counsel.—

(1) A child is entitled to representation by legal counsel at all stages of any proceedings under this part. If the child and the parents or other legal guardian are indigent and unable to employ counsel for the child, the court shall appoint counsel pursuant to s. 27.52. Determination of indigency and costs of representation shall be as provided by ss. 27.52 and 27.56. Legal counsel representing a child who exercises the right to counsel shall be allowed to provide advice and counsel to the child at any time subsequent to the child's arrest, including prior to a detention hearing while in secure detention care. A child shall be represented by legal counsel at all stages of all court proceedings unless the right to counsel is freely, knowingly, and intelligently waived by the child. If the child appears without counsel, the court shall advise the child of his or her rights with respect to representation of court-appointed counsel.

(2) If the parents or legal guardian of an indigent child are not indigent but refuse to employ counsel, the court shall appoint counsel pursuant to s. 27.52(2)(e)~~(d)~~ to represent the child at the detention hearing and until counsel is provided. Costs of representation shall be assessed as provided by ss. 27.52(2)(e)~~(d)~~ and 27.56. Thereafter, the court shall not appoint counsel for an indigent child with nonindigent parents or legal guardian but shall order the parents or legal guardian to obtain private counsel. A parent or legal guardian of an indigent child who has been ordered to obtain private counsel for the child and who willfully fails to follow the court order shall be punished by the court in civil contempt proceedings.

(3) An indigent child with nonindigent parents or legal guardian may have counsel appointed pursuant to s. 27.52(2)(e)~~(d)~~ if the parents or legal guardian have willfully refused to obey the court order to obtain counsel for the child and have been punished by civil contempt and then still have willfully refused to obey the court order. Costs of representation shall be assessed as provided by ss. 27.52(2)(e)~~(d)~~ and 27.56.

(4) Notwithstanding any provision of this section or any other law to the contrary, if a child is transferred for criminal prosecution pursuant to this chapter, a nonindigent or indigent-but-able-to-contribute parent or legal guardian of the child pursuant to s. 27.52 is liable for necessary legal fees and costs incident to the criminal prosecution of the child as an adult.

Section 12. Section 39.0476, Florida Statutes, is transferred and renumbered as section 985.204, Florida Statutes.

Section 13. Section 985.205, Florida Statutes, is created to read:

985.205 Opening hearings.—

(1) All hearings, except as provided in this section, must be open to the public, and no person may be excluded except on special order of the court. The court, in its discretion, may close any hearing to the public when the public interest and the welfare of the child are best served by so doing. Hearings involving more than one child may be held simultaneously when the children were involved in the same transactions.

(2) Except as provided in subsection (1), nothing in this section shall prohibit the publication of proceedings in a hearing.

Section 14. Section 39.0515, Florida Statutes, is transferred, renumbered as section 985.206, Florida Statutes, and amended to read:

985.206 ~~39.0515~~ Rights of victims; juvenile proceedings.—Nothing in this chapter ~~part~~ prohibits:

(1) The victim of the offense;

(2) The victim's parent or guardian if the victim is a minor;

(3) The lawful representative of the victim or of the victim's parent or guardian if the victim is a minor; or

(4) The next of kin if the victim is a homicide victim,

from the right to be informed of, to be present during, and to be heard when relevant at, all crucial stages of the proceedings involving the juvenile offender, to the extent that such rights do not interfere with the constitutional rights of the juvenile offender. A person enumerated in this section may not reveal to any outside party any confidential information obtained pursuant to this paragraph regarding a case involving a juvenile offense, except as is reasonably necessary to pursue legal remedies.

Section 15. Section 39.037, Florida Statutes, is transferred, renumbered as section 985.207, Florida Statutes, and amended to read:

985.207 ~~39.037~~ Taking a child into custody.—

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

(a) Pursuant to an order of the circuit court issued under this part, based upon sworn testimony, either before or after a petition is filed.

(b) For a delinquent act or violation of law, pursuant to Florida law pertaining to a lawful arrest. If such delinquent act or violation of law would be a felony if committed by an adult or involves a crime of violence, the

arresting authority shall immediately notify the district school superintendent, or the superintendent's designee, of the school district with educational jurisdiction of the child. Such notification shall include other education providers such as the Florida School for the Deaf and the Blind, university developmental research schools, and private elementary and secondary schools. The information obtained by the superintendent of schools pursuant to this section must be released within 48 hours after receipt to appropriate school personnel, including the principal of the child's school, or as otherwise provided by law. The principal must immediately notify the child's immediate classroom teachers. Information provided by an arresting authority pursuant to this paragraph may not be placed in the student's permanent record and shall be removed from all school records no later than 9 months after the date of the arrest.

(c) For failing to appear at a court hearing after being properly noticed.

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child's community control, furlough, or aftercare supervision.

Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in s. 985.215 ~~39.044~~.

(2) When a child is taken into custody as provided in this section, the person taking the child into custody shall attempt to notify the parent, guardian, or legal custodian of the child. The person taking the child into custody shall continue such attempt until the parent, guardian, or legal custodian of the child is notified or the child is delivered to an intake counselor pursuant to s. 985.21 ~~39.047~~, whichever occurs first. If the child is delivered to an intake counselor before the parent, guardian, or legal custodian is notified, the intake counselor or case manager shall continue the attempt to notify until the parent, guardian, or legal custodian of the child is notified.

(3) Taking a child into custody is not an arrest except for the purpose of determining whether the taking into custody or the obtaining of any evidence in conjunction therewith is lawful.

Section 16. Section 39.064, Florida Statutes, is transferred, renumbered as section 985.208, Florida Statutes, and amended to read:

985.208 ~~39.064~~ Detention of furloughed child or escapee on authority of the department.—

(1) If an authorized agent of the department has reasonable grounds to believe that any delinquent child committed to the department has escaped from a facility of the department or from being lawfully transported thereto or therefrom, the agent may take the child into active custody and may deliver the child to the facility or, if it is closer, to a detention center for return to the facility. However, a child may not be held in detention longer than 24 hours, excluding Saturdays, Sundays, and legal holidays, unless a special order so directing is made by the judge after a detention hearing

resulting in a finding that detention is required based on the criteria in s. 985.215(2) ~~39.044(2)~~. The order shall state the reasons for such finding. The reasons shall be reviewable by appeal or in habeas corpus proceedings in the district court of appeal.

(2) Any sheriff or other law enforcement officer, upon the request of the secretary of the department or duly authorized agent, shall take a child who has escaped or absconded from a department facility for committed delinquent children, or from being lawfully transported thereto or therefrom, into custody and deliver the child to the appropriate intake counselor or case manager of the department.

Section 17. Section 39.0471, Florida Statutes, is transferred and renumbered as section 985.209, Florida Statutes.

Section 18. Section 39.047, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.21, Florida Statutes, and amended to read:

985.21 ~~39.047~~ Intake and case management.—

(1)(a) During the intake process, the intake counselor shall screen each child to determine:

1. Appropriateness for release, referral to a diversionary program including, but not limited to, a teen-court program, referral for community arbitration, or referral to some other program or agency for the purpose of nonofficial or nonjudicial handling.

2. The presence of medical, psychiatric, psychological, substance abuse, educational problems, or other conditions that may have caused the child to come to the attention of law enforcement or the Department of Juvenile Justice. In cases where such conditions are identified, and a nonjudicial handling of the case is chosen, the intake counselor shall attempt to refer the child to a program or agency, together with all available and relevant assessment information concerning the child's precipitating condition.

3. The Department of Juvenile Justice shall develop a case management system whereby a child brought into intake is assigned a case manager if the child was not released, referred to a diversionary program, referred for community arbitration, or referred to some other program or agency for the purpose of nonofficial or nonjudicial handling, and shall make every reasonable effort to provide continuity of case management for the child; provided, however, that case management for children committed to residential programs may be transferred as provided in s. 985.316 ~~39.067~~.

4. In addition to duties specified in other sections and through departmental rules, the assigned case manager shall be responsible for the following:

a. Ensuring that a risk assessment instrument establishing the child's eligibility for detention has been accurately completed and that the appropriate recommendation was made to the court.

b. Inquiring as to whether the child understands his or her rights to counsel and against self-incrimination.

c. Performing the preliminary screening and making referrals for comprehensive assessment regarding the child's need for substance abuse treatment services, mental health services, retardation services, literacy services, or other educational or treatment services.

d. Coordinating the multidisciplinary assessment when required, which includes the classification and placement process that determines the child's priority needs, risk classification, and treatment plan. When sufficient evidence exists to warrant a comprehensive assessment and the child fails to voluntarily participate in the assessment efforts, it is the responsibility of the case manager to inform the court of the need for the assessment and the refusal of the child to participate in such assessment. This assessment, classification, and placement process shall develop into the predisposition report.

e. Making recommendations for services and facilitating the delivery of those services to the child, including any mental health services, educational services, family counseling services, family assistance services, and substance abuse services. The delinquency case manager shall serve as the primary case manager for the purpose of managing, coordinating, and monitoring the services provided to the child. Each program administrator within the Department of Children and Family ~~Health and Rehabilitative~~ Services shall cooperate with the primary case manager in carrying out the duties and responsibilities described in this section.

The Department of Juvenile Justice shall annually advise the Legislature and the Executive Office of the Governor of the resources needed in order for the case management system to maintain a staff-to-client ratio that is consistent with accepted standards and allows the necessary supervision and services for each child. The intake process and case management system shall provide a comprehensive approach to assessing the child's needs, relative risks, and most appropriate handling, and shall be based on an individualized treatment plan.

(b) The intake and case management system shall facilitate consistency in the recommended placement of each child, and in the assessment, classification, and placement process, with the following purposes:

1. An individualized, multidisciplinary assessment process that identifies the priority needs of each individual child for rehabilitation and treatment and identifies any needs of the child's parents or guardians for services that would enhance their ability to provide adequate support, guidance, and supervision for the child. This process shall begin with the detention risk assessment instrument and decision, shall include the intake preliminary screening and comprehensive assessment for substance abuse treatment services, mental health services, retardation services, literacy services, and other educational and treatment services as components, additional assessment of the child's treatment needs, and classification regarding the child's risks to the community and, for a serious or habitual delinquent child, shall

include the assessment for placement in a serious or habitual delinquent children program pursuant to s. 985.31 ~~39.058~~. The completed multidisciplinary assessment process shall result in the predisposition report.

2. A classification system that assigns a relative risk to the child and the community based upon assessments including the detention risk assessment results when available to classify the child's risk as it relates to placement and supervision alternatives.

3. An admissions process that facilitates for each child the utilization of the treatment plan and setting most appropriate to meet the child's programmatic needs and provide the minimum program security needed to ensure public safety.

(2) The intake process shall be performed by the department through a case management system. The purpose of the intake process is to assess the child's needs and risks and to determine the most appropriate treatment plan and setting for the child's programmatic needs and risks. The intake process shall result in choosing the most appropriate services through a balancing of the interests and needs of the child with those of the family and the public. The intake counselor or case manager is responsible for making informed decisions and recommendations to other agencies, the state attorney, and the courts so that the child and family may receive the least intrusive service alternative throughout the judicial process. The department shall establish uniform procedures for the intake counselor or case manager to provide, prior to the filing of a petition or as soon as possible thereafter and prior to a disposition hearing, a preliminary screening of the child and family for substance abuse and mental health services.

(3) A report, affidavit, or complaint alleging that a child has committed a delinquent act or violation of law shall be made to the intake office operating in the county in which the child is found or in which the delinquent act or violation of law occurred. Any person or agency having knowledge of the facts may make such a written report, affidavit, or complaint and shall furnish to the intake office facts sufficient to establish the jurisdiction of the court and to support a finding by the court that the child has committed a delinquent act or violation of law.

(4) The intake counselor or case manager shall make a preliminary determination as to whether the report, affidavit, or complaint is complete, consulting with the state attorney as may be necessary. In any case where the intake counselor or case manager or the state attorney finds that the report, affidavit, or complaint is insufficient by the standards for a probable cause affidavit, the intake counselor or case manager or state attorney shall return the report, affidavit, or complaint, without delay, to the person or agency originating the report, affidavit, or complaint or having knowledge of the facts or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and shall request, and the person or agency shall promptly furnish, additional information in order to comply with the standards for a probable cause affidavit.

(a) The intake counselor or case manager, upon determining that the report, affidavit, or complaint is complete, may, in the case of a child who

is alleged to have committed a delinquent act or violation of law, recommend that the state attorney file a petition of delinquency or an information or seek an indictment by the grand jury. However, such a recommendation is not a prerequisite for any action taken by the state attorney.

(b) The intake counselor or case manager, upon determining that the report, affidavit, or complaint is complete, pursuant to uniform procedures established by the department, shall:

1. When indicated by the preliminary screening, provide for a comprehensive assessment of the child and family for substance abuse problems, using community-based licensed programs with clinical expertise and experience in the assessment of substance abuse problems.

2. When indicated by the preliminary screening, provide for a comprehensive assessment of the child and family for mental health problems, using community-based psychologists, psychiatrists, or other licensed mental health professionals with clinical expertise and experience in the assessment of mental health problems.

When indicated by the comprehensive assessment, the department is authorized to contract within appropriated funds for services with a local nonprofit community mental health or substance abuse agency licensed or authorized under chapter 394, or chapter 397, or other authorized nonprofit social service agency providing related services. The determination of mental health or substance abuse services shall be conducted in coordination with existing programs providing mental health or substance abuse services in conjunction with the intake office. Client information resulting from the screening and evaluation shall be documented pursuant to rules established by the department and shall serve to assist the intake counselor or case manager in providing the most appropriate services and recommendations in the least intrusive manner. Such client information shall be used in the multidisciplinary assessment and classification of the child, but such information, and any information obtained directly or indirectly through the assessment process, is inadmissible in court prior to the disposition hearing, unless the child's written consent is obtained. At the disposition hearing, documented client information shall serve to assist the court in making the most appropriate custody, adjudicatory, and dispositional decision. If the screening and assessment indicate that the interest of the child and the public will be best served thereby, the intake counselor or case manager, with the approval of the state attorney, may refer the child for care, diagnostic and evaluation services, substance abuse treatment services, mental health services, retardation services, a diversionary or arbitration or mediation program, community service work, or other programs or treatment services voluntarily accepted by the child and the child's parents or legal guardians. The victim, if any, and the law enforcement agency which investigated the offense shall be notified immediately by the state attorney of the action taken under this paragraph. Whenever a child volunteers to participate in any work program under this chapter or volunteers to work in a specified state, county, municipal, or community service organization supervised work program or to work for the victim, the child shall be considered an employee of the state for the purposes of liability. In determining the

child's average weekly wage, unless otherwise determined by a specific funding program, all remuneration received from the employer is considered a gratuity, and the child is not entitled to any benefits otherwise payable under s. 440.15, regardless of whether the child may be receiving wages and remuneration from other employment with another employer and regardless of the child's future wage-earning capacity.

(c) The intake counselor or case manager, upon determining that the report, affidavit, or complaint complies with the standards of a probable cause affidavit and that the interest of the child and the public will be best served, may recommend that a delinquency petition not be filed. If such a recommendation is made, the intake counselor or case manager shall advise in writing the person or agency making the report, affidavit, or complaint, the victim, if any, and the law enforcement agency having investigative jurisdiction of the offense of the recommendation and the reasons therefor; and that the person or agency may submit, within 10 days after the receipt of such notice, the report, affidavit, or complaint to the state attorney for special review. The state attorney, upon receiving a request for special review, shall consider the facts presented by the report, affidavit, or complaint, and by the intake counselor or case manager who made the recommendation that no petition be filed, before making a final decision as to whether a petition or information should or should not be filed.

(d) In all cases in which the child is alleged to have committed a violation of law or delinquent act and is not detained, the intake counselor or case manager shall submit a written report to the state attorney, including the original report, complaint, or affidavit, or a copy thereof, including a copy of the child's prior juvenile record, within 20 days after the date the child is taken into custody. In cases in which the child is in detention, the intake office report must be submitted within 24 hours after the child is placed into detention. The intake office report must recommend either that a petition or information be filed or that no petition or information be filed, and must set forth reasons for the recommendation.

(e) The state attorney may in all cases take action independent of the action or lack of action of the intake counselor or case manager, and shall determine the action which is in the best interest of the public and the child. If the child meets the criteria requiring prosecution as an adult pursuant to s. 985.226 ~~39.052~~, the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request. In all other cases, the state attorney may:

1. File a petition for dependency;

2. File a petition pursuant to chapter 984 ~~part IV~~;

3. File a petition for delinquency;

4. File a petition for delinquency with a motion to transfer and certify the child for prosecution as an adult;

5. File an information pursuant to s. 985.227 ~~39.052(3)~~;

6. Refer the case to a grand jury;

7. Refer the child to a diversionary, pretrial intervention, arbitration, or mediation program, or to some other treatment or care program if such program commitment is voluntarily accepted by the child or the child's parents or legal guardians; or

8. Decline to file.

(f) In cases in which a delinquency report, affidavit, or complaint is filed by a law enforcement agency and the state attorney determines not to file a petition, the state attorney shall advise the clerk of the circuit court in writing that no petition will be filed thereon.

(5) Prior to requesting that a delinquency petition be filed or prior to filing a dependency petition, the intake officer may request the parent or legal guardian of the child to attend a course of instruction in parenting skills, training in conflict resolution, and the practice of nonviolence; to accept counseling; or to receive other assistance from any agency in the community which notifies the clerk of the court of the availability of its services. Where appropriate, the intake officer shall request both parents or guardians to receive such parental assistance. The intake officer may, in determining whether to request that a delinquency petition be filed, take into consideration the willingness of the parent or legal guardian to comply with such request.

Section 19. Section 39.038, Florida Statutes, is transferred, renumbered as section 985.211, Florida Statutes, and amended to read:

985.211 ~~39.038~~ Release or delivery from custody.—

(1) A child taken into custody shall be released from custody as soon as is reasonably possible.

(2) Unless otherwise ordered by the court pursuant to s. 985.215 ~~39.044~~, and unless there is a need to hold the child, a person taking a child into custody shall attempt to release the child as follows:

(a) To the child's parent, guardian, or legal custodian or, if the child's parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, to any responsible adult. Prior to releasing the child to a responsible adult, other than the parent, guardian, or legal custodian, the person taking the child into custody may conduct a criminal history background check of the person to whom the child is to be released. If the person has a prior felony conviction, or a conviction for child abuse, drug trafficking, or prostitution, that person is not a responsible adult for the purposes of this section. The person to whom the child is released shall agree to inform the department or the person releasing the child of the child's subsequent change of address and to produce the child in court at such time as the court may direct, and the child shall join in the agreement.

(b) Contingent upon specific appropriation, to a shelter approved by the department or to an authorized agent ~~a protective investigator~~ pursuant to s. 39.401(2)(b).

(c) If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, to a law enforcement officer who shall deliver the child to a hospital for necessary evaluation and treatment.

(d) If the child is believed to be mentally ill as defined in s. 394.463(1), to a law enforcement officer who shall take the child to a designated public receiving facility as defined in s. 394.455 for examination pursuant to the provisions of s. 394.463.

(e) If the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse, to a law enforcement officer who shall deliver the child to a hospital, addictions receiving facility, or treatment resource.

(f) If available, to a juvenile assessment center equipped and staffed to assume custody of the child for the purpose of assessing the needs of the child in custody. The center may then release or deliver the child pursuant to this section with a copy of the assessment.

(3) If the child is released, the person taking the child into custody shall make a written report or probable cause affidavit to the appropriate intake counselor or case manager within 3 days, stating the facts and the reason for taking the child into custody. Such written report or probable cause affidavit shall:

(a) Identify the child, the parents, guardian, or legal custodian, and the person to whom the child was released.

(b) Contain sufficient information to establish the jurisdiction of the court and to make a prima facie showing that the child has committed a violation of law or a delinquent act.

(4) A person taking a child into custody who determines, pursuant to s. 985.215 ~~39.044~~, that the child should be detained or released to a shelter designated by the department, shall make a reasonable effort to immediately notify the parent, guardian, or legal custodian of the child and shall, without unreasonable delay, deliver the child to the appropriate intake counselor or case manager or, if the court has so ordered pursuant to s. 985.215 ~~39.044~~, to a detention center or facility. Upon delivery of the child, the person taking the child into custody shall make a written report or probable cause affidavit to the appropriate intake counselor or case manager. Such written report or probable cause affidavit must:

(a) Identify the child and, if known, the parents, guardian, or legal custodian.

(b) Establish that the child was legally taken into custody, with sufficient information to establish the jurisdiction of the court and to make a prima facie showing that the child has committed a violation of law.

(5) Upon taking a child into custody, a law enforcement officer may deliver the child, for temporary custody not to exceed 6 hours, to a secure booking area of a jail or other facility intended or used for the detention of adults, for the purpose of fingerprinting or photographing the child or awaiting appropriate transport to the department or as provided in subsection (4), provided no regular sight and sound contact between the child and adult inmates or trustees is permitted and the receiving facility has adequate staff to supervise and monitor the child's activities at all times.

(6)(a) A copy of the probable cause affidavit or written report by a law enforcement agency shall be filed, by the law enforcement agency making such affidavit or written report, with the clerk of the circuit court for the county in which the child is taken into custody or in which the affidavit or report is made within 24 hours after the child is taken into custody and detained, within 1 week after the child is taken into custody and released, or within 1 week after the affidavit or report is made, excluding Saturdays, Sundays, and legal holidays. Such affidavit or report is a case for the purpose of assigning a uniform case number pursuant to this subsection.

(b) Upon the filing of a copy of a probable cause affidavit or written report by a law enforcement agency with the clerk of the circuit court, the clerk shall immediately assign a uniform case number to the affidavit or report, forward a copy to the state attorney, and forward a copy to the intake office of the department which serves the county in which the case arose.

(c) Each letter of recommendation, written notice, report, or other paper required by law pertaining to the case shall bear the uniform case number of the case, and a copy shall be filed with the clerk of the circuit court by the issuing agency. The issuing agency shall furnish copies to the intake counselor or case manager and the state attorney.

(d) Upon the filing of a petition based on the allegations of a previously filed probable cause affidavit or written report, the agency filing the petition shall include the appropriate uniform case number on the petition.

(7) Nothing in this section shall prohibit the proper use of law enforcement diversion programs. Law enforcement agencies may initiate and conduct diversion programs designed to divert a child from the need for department custody or judicial handling. Such programs may be cooperative projects with local community service agencies.

Section 20. Section 39.039, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.212, Florida Statutes, and amended to read:

985.212 ~~39.039~~ Fingerprinting and photographing.—

(1)(a) A child who is charged with or found to have committed an offense that would be a felony if committed by an adult shall be fingerprinted and the fingerprints must be submitted to the Department of Law Enforcement as provided in s. 943.051(3)(a).

(b) A child who is charged with or found to have committed one of the following misdemeanors shall be fingerprinted and the fingerprints shall be

submitted to the Department of Law Enforcement as provided in s. 943.051(3)(b):

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(1).

4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

5. Negligent treatment of children, as defined in former s. 827.05.

6. Assault on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a).

7. Open carrying of a weapon, as defined in s. 790.053.

8. Exposure of sexual organs, as defined in s. 800.03.

9. Unlawful possession of a firearm, as defined in s. 790.22(5).

10. Petit theft, as defined in s. 812.014.

11. Cruelty to animals, as defined in s. 828.12(1).

12. Arson, resulting in bodily harm to a firefighter, as defined in s. 806.031(1).

A law enforcement agency may fingerprint and photograph a child taken into custody upon probable cause that such child has committed any other violation of law, as the agency deems appropriate. Such fingerprint records and photographs shall be retained by the law enforcement agency in a separate file, and these records and all copies thereof must be marked "Juvenile Confidential." These records shall not be available for public disclosure and inspection under s. 119.07(1) except as provided in ss. ~~39.045(9) and~~ 943.053 and 985.04(5), but shall be available to other law enforcement agencies, criminal justice agencies, state attorneys, the courts, the child, the parents or legal custodians of the child, their attorneys, and any other person authorized by the court to have access to such records. These records may, in the discretion of the court, be open to inspection by anyone upon a showing of cause. The fingerprint and photograph records shall be produced in the court whenever directed by the court. Any photograph taken pursuant to this section may be shown by a law enforcement officer to any victim or witness of a crime for the purpose of identifying the person who committed such crime.

(c) The court shall be responsible for the fingerprinting of any child at the disposition hearing if the child has been adjudicated or had adjudication withheld for any felony in the case currently before the court.

(2) If the child is not referred to the court, or if the child is found not to have committed a violation of law, the court may, after notice to the law

enforcement agency involved, order the originals and copies of the fingerprints and photographs destroyed. Unless otherwise ordered by the court, if the child is found to have committed an offense which would be a felony if it had been committed by an adult, then the law enforcement agency having custody of the fingerprint and photograph records shall retain the originals and immediately thereafter forward adequate duplicate copies to the court along with the written offense report relating to the matter for which the child was taken into custody. Except as otherwise provided by this subsection, the clerk of the court, after the disposition hearing on the case, shall forward duplicate copies of the fingerprints and photographs, together with the child's name, address, date of birth, age, and sex, to:

(a) The sheriff of the county in which the child was taken into custody, in order to maintain a central child identification file in that county.

(b) The law enforcement agency of each municipality having a population in excess of 50,000 persons and located in the county of arrest, if so requested specifically or by a general request by that agency.

(3) This section does not prohibit the fingerprinting or photographing of child traffic violators. All records of such traffic violations shall be kept in the full name of the violator and shall be open to inspection and publication in the same manner as adult traffic violations. This section does not apply to the photographing of children by the Department of Juvenile Justice or the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 21. Section 39.042, Florida Statutes, is transferred, renumbered as section 985.213, Florida Statutes, and amended to read:

985.213 ~~39.042~~ Use of detention.—

(1) All determinations and court orders regarding the use of secure, nonsecure, or home detention shall be based primarily upon findings that the child:

(a) Presents a substantial risk of not appearing at a subsequent hearing;

(b) Presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior;

(c) Presents a history of committing a property offense prior to adjudication, disposition, or placement;

(d) Has committed contempt of court by:

1. Intentionally disrupting the administration of the court;

2. Intentionally disobeying a court order; or

3. Engaging in a punishable act or speech in the court's presence which shows disrespect for the authority and dignity of the court; or

(e) Requests protection from imminent bodily harm.

(2)(a) All determinations and court orders regarding placement of a child into detention care shall comply with all requirements and criteria provided in this part and shall be based on a risk assessment of the child, unless the child is placed into detention care as provided in subparagraph (b)3.

(b)1. The risk assessment instrument for detention care placement determinations and orders shall be developed by the Department of Juvenile Justice in agreement with representatives appointed by the following associations: the Conference of Circuit Judges of Florida, the Prosecuting Attorneys Association, and the Public Defenders Association. Each association shall appoint two individuals, one representing an urban area and one representing a rural area. The parties involved shall evaluate and revise the risk assessment instrument as is considered necessary using the method for revision as agreed by the parties. The risk assessment instrument shall take into consideration, but need not be limited to, prior history of failure to appear, prior offenses, offenses committed pending adjudication, any unlawful possession of a firearm, theft of a motor vehicle or possession of a stolen motor vehicle, and community control status at the time the child is taken into custody. The risk assessment instrument shall also take into consideration appropriate aggravating and mitigating circumstances, and shall be designed to target a narrower population of children than s. 985.215(2) ~~39.044(2)~~. The risk assessment instrument shall also include any information concerning the child's history of abuse and neglect. The risk assessment shall indicate whether detention care is warranted, and, if detention care is warranted, whether the child should be placed into secure, nonsecure, or home detention care.

2. If, at the detention hearing, the court finds a material error in the scoring of the risk assessment instrument, the court may amend the score to reflect factual accuracy.

3. A child who is charged with committing an offense of domestic violence as defined in s. 741.28(1) and who does not meet detention criteria may be held in secure detention if the court makes specific written findings that:

a. The offense of domestic violence which the child is charged with committing caused physical injury to the victim;

b. Respite care for the child is not available; and

c. It is necessary to place the child in secure detention in order to protect the victim from further injury. ~~for up to 48 hours if a respite home or similar authorized residential facility is not available. The court may order that the child continue to be held in secure detention provided that a hearing is held at the end of each 48-hour period, excluding Saturdays, Sundays, and legal holidays, in which the state attorney and the department may recommend to the court that the child continue to be held in secure detention.~~

The child may not be held in secure detention under this subparagraph for more than 48 hours unless ordered by the court. After 48 hours, the court shall hold a hearing if the state attorney or victim requests that secure detention be continued. The child may continue to be held in secure detention if the court makes a specific, written finding that secure detention is

necessary to protect the victim from further injury. However, the child may not be held in secure detention beyond the time limits set forth in s. 39.044.

(3)(a) While a child who is currently enrolled in school is in nonsecure or home detention care, the child shall continue to attend school unless otherwise ordered by the court.

(b) While a child is in secure detention care, the child shall receive education commensurate with his or her grade level and educational ability.

(4) The Department of Juvenile Justice shall continue to identify alternatives to secure detention care and shall develop such alternatives and annually submit them to the Legislature for authorization and appropriation.

Section 22. Section 39.043, Florida Statutes, is transferred and renumbered as section 985.214, Florida Statutes.

Section 23. Section 39.044, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.215, Florida Statutes, and amended to read:

985.215 ~~39.044~~ Detention.—

(1) The intake counselor or case manager shall receive custody of a child who has been taken into custody from the law enforcement agency and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is required.

(a) During the period of time from the taking of the child into custody to the date of the detention hearing, the initial decision as to the child's placement into secure detention care, nonsecure detention care, or home detention care shall be made by the intake counselor or case manager pursuant to ss. 985.213 and 985.214 ~~39.042 and 39.043~~.

(b) The intake counselor or case manager shall base the decision whether or not to place the child into secure detention care, home detention care, or nonsecure detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the Department of Juvenile Justice under s. 985.213 ~~39.042~~.

(c) If the intake counselor or case manager determines that a child who is eligible for detention based upon the results of the risk assessment instrument should be released, the intake counselor or case manager shall contact the state attorney, who may authorize release. If detention is not authorized, the child may be released by the intake counselor or case manager in accordance with s. 985.211 ~~39.038~~.

Under no circumstances shall the intake counselor or case manager or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

(2) Subject to the provisions of subsection (1), a child taken into custody and placed into nonsecure or home detention care or detained in secure detention care prior to a detention hearing may continue to be detained by the court if:

(a) The child is alleged to be an escapee or an absconder from a commitment program, a community control program, furlough, or aftercare supervision, or is alleged to have escaped while being lawfully transported to or from such program or supervision.~~;~~

(b) The child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony.~~;~~

(c) The child is charged with a delinquent act or violation of law and requests in writing through legal counsel to be detained for protection from an imminent physical threat to his or her personal safety.~~;~~

(d) The child is charged with committing an offense of domestic violence as defined in s. 741.28(1) and is detained as provided in s. 985.213(2)(b)3. ~~39.042(2)(b)3.;~~

(e) The child is charged with a capital felony, a life felony, a felony of the first degree, a felony of the second degree that does not involve a violation of chapter 893, or a felony of the third degree that is also a crime of violence, including any such offense involving the use or possession of a firearm.~~; or~~

(f) The child is charged with any second degree or third degree felony involving a violation of chapter 893 or any third degree felony that is not also a crime of violence, and the child:

1. Has a record of failure to appear at court hearings after being properly notified in accordance with the Rules of Juvenile Procedure;

2. Has a record of law violations prior to court hearings;

3. Has already been detained or has been released and is awaiting final disposition of the case;

4. Has a record of violent conduct resulting in physical injury to others; or

5. Is found to have been in possession of a firearm.

(g) The child is alleged to have violated the conditions of the child's community control or aftercare supervision. However, a child detained under this paragraph may be held only in a consequence unit as provided in s. 985.231(1)(a)1.c. If a consequence unit is not available, the child shall be placed on home detention with electronic monitoring.

A child who meets any of these criteria and who is ordered to be detained pursuant to this subsection shall be given a hearing within 24 hours after being taken into custody. The purpose of the detention hearing is to determine the existence of probable cause that the child has committed the

delinquent act or violation of law with which he or she is charged and the need for continued detention. Unless a child is detained under paragraph (d), the court shall utilize the results of the risk assessment performed by the intake counselor or case manager and, based on the criteria in this subsection, shall determine the need for continued detention. A child placed into secure, nonsecure, or home detention care may continue to be so detained by the court pursuant to this subsection. If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement. Except as provided in s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c), or paragraph (10)(d), when a child is placed into secure or nonsecure detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in paragraph (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1., whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted pursuant to paragraph (5)(d).

(3) Except in emergency situations, a child may not be placed into or transported in any police car or similar vehicle that at the same time contains an adult under arrest, unless the adult is alleged or believed to be involved in the same offense or transaction as the child.

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

(a) When the child has been transferred or indicted for criminal prosecution as an adult pursuant to this part, except that the court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for criminal prosecution pursuant to either s. 985.226 or s. 985.227 ~~s. 39.059~~ to be detained or held in a jail or other facility intended or used for the detention of adults; however, such child may be held temporarily in a detention facility; or

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

The child shall be housed separately from adult inmates to prohibit a child from having regular contact with incarcerated adults, including trustees. “Regular contact” means sight and sound contact. Separation of children from adults shall permit no more than haphazard or accidental contact. The receiving jail or other facility shall contain a separate section for children and shall have an adequate staff to supervise and monitor the child’s activities at all times. Supervision and monitoring of children includes physical observation and documented checks by jail or receiving facility supervisory personnel at intervals not to exceed 15 minutes. This paragraph does not prohibit placing two or more children in the same cell. Under no circumstances shall a child be placed in the same cell with an adult.

(5)(a) A child may not be placed into or held in secure, nonsecure, or home detention care for longer than 24 hours unless the court orders such deten-

tion care, and the order includes specific instructions that direct the release of the child from such detention care, in accordance with subsection (2). The order shall be a final order, reviewable by appeal pursuant to s. 985.234 ~~39.069~~ and the Florida Rules of Appellate Procedure. Appeals of such orders shall take precedence over other appeals and other pending matters.

(b) A child may not be held in secure, nonsecure, or home detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced by the court.

(c) A child may not be held in secure, nonsecure, or home detention care for more than 15 days following the entry of an order of adjudication.

(d) The time limits in paragraphs (b) and (c) do not include periods of delay resulting from a continuance granted by the court for cause on motion of the child or his or her counsel or of the state. Upon the issuance of an order granting a continuance for cause on a motion by either the child, the child's counsel, or the state, the court shall conduct a hearing at the end of each 72-hour period, excluding Saturdays, Sundays, and legal holidays, to determine the need for continued detention of the child and the need for further continuance of proceedings for the child or the state.

(6) When any child is placed into secure, nonsecure, or home detention care or into other placement pursuant to a court order following a detention hearing, the court shall order the natural or adoptive parents of such child, the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay to the Department of Juvenile Justice, or institution having custody of the child, fees equal to the actual cost of the care, support, and maintenance of the child, as established by the Department of Juvenile Justice, unless the court determines that the parent or guardian of the child is indigent. The court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the full cost of the care, support, and maintenance of the child. In addition, the court may waive the fees if it finds that the child's parent or guardian was the victim of the child's delinquent act or violation of law or if the court finds that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law. With respect to a child who has been found to have committed a delinquent act or violation of law, whether or not adjudication is withheld, and whose parent or guardian receives public assistance for any portion of that child's care, the department must seek a federal waiver to garnish or otherwise order the payments of the portion of the public assistance relating to that child to offset the costs of providing care, custody, maintenance, rehabilitation, intervention, or corrective services to the child. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(7) If a child is detained and a petition for delinquency is filed, the child shall be arraigned in accordance with the Florida Rules of Juvenile Procedure within 48 hours after the filing of the petition for delinquency.

(8) If a child is detained pursuant to this section, the Department of Juvenile Justice may transfer the child from nonsecure or home detention care to secure detention care only if significantly changed circumstances warrant such transfer.

(9) If a child is on release status and not detained pursuant to this section, the child may be placed into secure, nonsecure, or home detention care only pursuant to a court hearing in which the original risk assessment instrument, rescored based on newly discovered evidence or changed circumstances with the results recommending detention, is introduced into evidence.

(10)(a)1. When a child is committed to the Department of Juvenile Justice awaiting dispositional placement, removal of the child from detention care shall occur within 5 days, excluding Saturdays, Sundays, and legal holidays. If the child is committed to a low-risk residential program or a moderate-risk residential program, the department may seek an order from the court authorizing continued detention for a specific period of time necessary for the appropriate residential placement of the child. However, such continued detention in secure detention care may not exceed 15 days after commitment, excluding Saturdays, Sundays, and legal holidays, and except as otherwise provided in this subsection.

2. The court must place all children who are adjudicated and awaiting placement in a residential commitment program in detention care. Children who are in home detention care or nonsecure detention care may be placed on electronic monitoring. A child committed to a moderate-risk residential program may be held in a juvenile assignment center pursuant to s. 985.307 ~~39.0551~~ until placement or commitment is accomplished.

(b) A child who is placed in home detention care, nonsecure detention care, or home or nonsecure detention care with electronic monitoring, while awaiting placement in a low-risk or moderate-risk program, may be held in secure detention care for 5 days, if the child violates the conditions of the home detention care, the nonsecure detention care, or the electronic monitoring agreement. For any subsequent violation, the court may impose an additional 5 days in secure detention care.

(c) If the child is committed to a high-risk residential program, the child must be held in detention care or in a juvenile assignment center pursuant to s. 985.307 ~~39.0551~~ until placement or commitment is accomplished.

(d) If the child is committed to a maximum-risk residential program, the child must be held in detention care or in an assignment center pursuant to s. 985.307 ~~39.0551~~ until placement or commitment is accomplished.

(e) Upon specific appropriation, the department may obtain comprehensive evaluations, including, but not limited to, medical, academic, psychological, behavioral, sociological, and vocational needs of a youth with multiple arrests for all level criminal acts or a youth committed to a minimum-risk or low-risk commitment program.

(11)(a) When a juvenile sexual offender is placed in detention, detention staff shall provide appropriate monitoring and supervision to ensure the safety of other children in the facility.

(b) When a juvenile sexual offender, pursuant to this subsection, is released from detention or transferred to home detention or nonsecure detention, detention staff shall immediately notify the appropriate law enforcement agency and school personnel.

Section 24. Section 39.0145, Florida Statutes, is transferred, renumbered as section 985.216, Florida Statutes, and amended to read:

985.216 ~~39.0145~~ Punishment for contempt of court; alternative sanctions.—

(1) CONTEMPT OF COURT; LEGISLATIVE INTENT.—The court may punish any child for contempt for interfering with the court or with court administration, or for violating any provision of this chapter or order of the court relative thereto. It is the intent of the Legislature that the court restrict and limit the use of contempt powers with respect to commitment of a child to a secure facility. A child who commits direct contempt of court or indirect contempt of a valid court order may be taken into custody and ordered to serve an alternative sanction or placed in a secure facility, as authorized in this section, by order of the court.

(2) PLACEMENT IN A SECURE FACILITY.—A child may be placed in a secure facility for purposes of punishment for contempt of court if alternative sanctions are unavailable or inappropriate, or if the child has already been ordered to serve an alternative sanction but failed to comply with the sanction.

(a) A delinquent child who has been held in direct or indirect contempt may be placed in a secure detention facility for 5 days for a first offense or 15 days for a second or subsequent offense, or in a secure residential commitment facility.

(b) A child in need of services who has been held in direct contempt or indirect contempt may be placed, for 5 days for a first offense or 15 days for a second or subsequent offense, in a staff-secure shelter or a staff-secure residential facility solely for children in need of services if such placement is available, or, if such placement is not available, the child may be placed in an appropriate mental health facility or substance abuse facility for assessment.

(3) ALTERNATIVE SANCTIONS.—Each judicial circuit shall have an alternative sanctions coordinator who shall serve under the chief administrative judge of the juvenile division of the circuit court, and who shall coordinate and maintain a spectrum of contempt sanction alternatives in conjunction with the circuit plan implemented in accordance with s. 790.22(4)(c). Upon determining that a child has committed direct contempt of court or indirect contempt of a valid court order, the court may immediately request the alternative sanctions coordinator to recommend the most

appropriate available alternative sanction and shall order the child to perform up to 50 hours of community-service manual labor or a similar alternative sanction, unless an alternative sanction is unavailable or inappropriate, or unless the child has failed to comply with a prior alternative sanction. Alternative contempt sanctions may be provided by local industry or by any nonprofit organization or any public or private business or service entity that has entered into a contract with the Department of Juvenile Justice to act as an agent of the state to provide voluntary supervision of children on behalf of the state in exchange for the manual labor of children and limited immunity in accordance with s. 768.28(11).

(4) CONTEMPT OF COURT SANCTIONS; PROCEDURE AND DUE PROCESS.—

(a) If a child is charged with direct contempt of court, including traffic court, the court may impose an authorized sanction immediately.

(b) If a child is charged with indirect contempt of court, the court must hold a hearing within 24 hours to determine whether the child committed indirect contempt of a valid court order. At the hearing, the following due process rights must be provided to the child:

1. Right to a copy of the order to show cause alleging facts supporting the contempt charge.

2. Right to an explanation of the nature and the consequences of the proceedings.

3. Right to legal counsel and the right to have legal counsel appointed by the court if the juvenile is indigent, pursuant to s. 985.203 ~~39.041~~.

4. Right to confront witnesses.

5. Right to present witnesses.

6. Right to have a transcript or record of the proceeding.

7. Right to appeal to an appropriate court.

The child's parent or guardian may address the court regarding the due process rights of the child. The court shall review the placement of the child every 72 hours to determine whether it is appropriate for the child to remain in the facility.

(c) The court may not order that a child be placed in a secure facility for punishment for contempt unless the court determines that an alternative sanction is inappropriate or unavailable or that the child was initially ordered to an alternative sanction and did not comply with the alternative sanction. The court is encouraged to order a child to perform community service, up to the maximum number of hours, where appropriate before ordering that the child be placed in a secure facility as punishment for contempt of court.

(5) ALTERNATIVE SANCTIONS COORDINATOR.—Effective July 1, 1995, there is created the position of alternative sanctions coordinator within each judicial circuit, pursuant to subsection (3). Each alternative sanctions coordinator shall serve under the direction of the chief administrative judge of the juvenile division as directed by the chief judge of the circuit. The alternative sanctions coordinator shall act as the liaison between the judiciary and county juvenile justice councils, the local department officials, district school board employees, and local law enforcement agencies. The alternative sanctions coordinator shall coordinate within the circuit community-based alternative sanctions, including nonsecure detention programs, community service projects, and other juvenile sanctions, in conjunction with the circuit plan implemented in accordance with s. 790.22(4)(c).

Section 25. Section 39.0445, Florida Statutes, is repealed.

Section 26. Section 39.048, Florida Statutes, is transferred and renumbered as section 985.218, Florida Statutes.

Section 27. Section 39.049, Florida Statutes, is transferred, renumbered as section 985.219, Florida Statutes, and amended to read:

985.219 ~~39.049~~ Process and service.—

(1) Personal appearance of any person in a hearing before the court obviates the necessity of serving process on that person.

(2) Upon the filing of a petition containing allegations of facts which, if true, would establish that the child committed a delinquent act or violation of law, and upon the request of the petitioner, the clerk or deputy clerk shall issue a summons.

(3) The summons shall have a copy of the petition attached and shall require the person on whom it is served to appear for a hearing at a time and place specified. Except in cases of medical emergency, the time may not be less than 24 hours after service of the summons. If the child is not detained by an order of the court, the summons shall require the custodian of the child to produce the child at the said time and place.

(4) The summons shall be directed to, and shall be served upon, the following persons:

(a) The child, in the same manner as an adult;

(b) The parents of the child; and

(c) Any legal custodians, actual custodians, guardians, and guardians ad litem of the child.

(5) If the petition alleges that the child has committed a delinquent act or violation of law and the judge deems it advisable to do so, pursuant to the criteria of s. 985.215 ~~39.044~~, the judge may, by endorsement upon the summons and after the entry of an order in which valid reasons are specified, order the child to be taken into custody immediately, and in such case the person serving the summons shall immediately take the child into custody.

(6) If the identity or residence of the parents, custodians, or guardians of the child is unknown after a diligent search and inquiry, if the parents, custodians, or guardians are residents of a state other than Florida, or if the parents, custodians, or guardians evade service, the person who made the search and inquiry shall file in the case a certificate of those facts, and the court shall appoint a guardian ad litem for the child, if appropriate. If the parent, custodian, or guardian of the child fails to obey a summons, the court may, by endorsement upon the summons and after the entry of an order in which valid reasons are specified, order the parent, custodian, or guardian to be taken into custody immediately to show cause why the parent, guardian, or custodian should not be held in contempt for failing to obey the summons. The court may appoint a guardian ad litem for the child, if appropriate.

(7) The jurisdiction of the court shall attach to the child and the case when the summons is served upon the child and a parent or legal or actual custodian or guardian of the child, or when the child is taken into custody with or without service of summons and before or after the filing of a petition, whichever first occurs, and thereafter the court may control the child and the case in accordance with this part.

(8) Upon the application of the child or the state attorney, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing.

(9) All process and orders issued by the court shall be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the Department of Juvenile Justice at the department's discretion.

(10) Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding.

(11) No fee shall be paid for service of any process or other papers by an agent of the department. If any process, orders, or other papers are served or executed by any sheriff, the sheriff's fees shall be paid by the county.

Section 28. Section 39.0495, Florida Statutes, is transferred, renumbered as section 985.22, Florida Statutes, and amended to read:

985.22 ~~39.0495~~ Threatening or dismissing an employee prohibited.—

(1) An employer, or the employer's agent, may not dismiss from employment an employee who is summoned to appear before the court under s. 985.219 ~~39.049~~ solely because of the nature of the summons or because the employee complies with the summons.

(2) If an employer, or the employer's agent, threatens an employee with dismissal, or dismisses an employee, who is summoned to appear under s. 985.219 ~~39.049~~, the court may hold the employer in contempt.

Section 29. Section 39.073, Florida Statutes, is transferred and renumbered as section 985.221, Florida Statutes.

Section 30. Section 39.051, Florida Statutes, is transferred and renumbered as section 985.222, Florida Statutes.

Section 31. Section 39.0517, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.223, Florida Statutes, and amended to read:

985.223 ~~39.0517~~ Incompetency in juvenile delinquency cases.—

(1) If, at any time prior to or during a delinquency case involving a delinquent act or violation of law that would be a felony if committed by an adult, the court has reason to believe that the child named in the petition may be incompetent to proceed with the hearing, the court on its own motion may, or on the motion of the child's attorney or state attorney must, stay all proceedings and order an evaluation of the child's mental condition.

(a) All determinations of competency shall be made at a hearing, with findings of fact based on an evaluation of the child's mental condition by not less than two nor more than three experts appointed by the court. If the determination of incompetency is based on the presence of a mental illness or mental retardation, this must be stated in the evaluation. In addition, a recommendation as to whether residential or nonresidential treatment or training is required must be included in the evaluation. All court orders determining incompetency must include specific findings by the court as to the nature of the incompetency.

(b) For incompetency evaluations related to mental illness, the Department of Children and Family ~~Health and Rehabilitative~~ Services shall annually provide the courts with a list of mental health professionals who have completed a training program approved by the Department of Children and Family ~~Health and Rehabilitative~~ Services to perform the evaluations.

(c) For incompetency evaluations related to mental retardation, the court shall order the Developmental Services Program Office within the Department of Children and Family ~~Health and Rehabilitative~~ Services to examine the child to determine if the child meets the definition of "retardation" in s. 393.063 and, if so, whether the child is competent to proceed with delinquency proceedings.

(d) A child is competent to proceed if the child has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and the child has a rational and factual understanding of the present proceedings. The report must address the child's capacity to:

1. Appreciate the charges or allegations against the child.

2. Appreciate the range and nature of possible penalties that may be imposed in the proceedings against the child, if applicable.

3. Understand the adversarial nature of the legal process.

4. Disclose to counsel facts pertinent to the proceedings at issue.

5. Display appropriate courtroom behavior.

6. Testify relevantly.

(2) Every child who is adjudicated incompetent to proceed may be involuntarily committed to the Department of Children and Family ~~Health and Rehabilitative~~ Services for treatment upon a finding by the court of clear and convincing evidence that:

(a) The child is mentally ill and because of the mental illness; or the child is mentally retarded and because of the mental retardation:

1. The child is manifestly incapable of surviving with the help of willing and responsible family or friends, including available alternative services, and without treatment the child is likely to either suffer from neglect or refuse to care for self, and such neglect or refusal poses a real and present threat of substantial harm to the child's well-being; or

2. There is a substantial likelihood that in the near future the child will inflict serious bodily harm on self or others, as evidenced by recent behavior causing, attempting, or threatening such harm; and

(b) All available less restrictive alternatives, including treatment in community residential facilities or community inpatient or outpatient settings which would offer an opportunity for improvement of the child's condition, are inappropriate.

(3) Each child who has been adjudicated incompetent to proceed and who meets the criteria for commitment in subsection (2), must be committed to the Department of Children and Family ~~Health and Rehabilitative~~ Services, and that department may retain, and if it retains must treat, the child in the least restrictive alternative consistent with public safety. Any commitment of a child to a residential program must be separate from adult forensic programs. If the child attains competency, case management and supervision of the child will be transferred to the department in order to continue delinquency proceedings; however, the court retains authority to order the Department of Children and Family ~~Health and Rehabilitative~~ Services to provide continued treatment to maintain competency.

(a) A child adjudicated incompetent due to mental retardation may be ordered into a program designated by the Department of Children and Family ~~Health and Rehabilitative~~ Services for retarded children.

(b) A child adjudicated incompetent due to mental illness may be ordered into a program designated by the Department of Children and Family ~~Health and Rehabilitative~~ Services for mentally ill children.

(c) Not later than 6 months after the date of commitment, or at the end of any period of extended treatment or training, or at any time the service provider determines the child has attained competency or no longer meets the criteria for commitment, the service provider must file a report with the court pursuant to the applicable Rules of Juvenile Procedure.

(4) If a child is determined to be incompetent to proceed, the court shall retain jurisdiction of the child for up to 2 years after the date of the order of incompetency, with reviews at least every 6 months to determine competency. If the court determines at any time that the child will never become competent to proceed, the court may dismiss the delinquency petition. If, at the end of the 2-year period following the date of the order of incompetency, the child has not attained competency and there is no evidence that the child will attain competency within a year, the court must dismiss the delinquency petition. If necessary, the court may order that proceedings under chapter 393 or chapter 394 be instituted. Such proceedings must be instituted not less than 60 days prior to the dismissal of the delinquency petition.

(5) If a child who is found to be incompetent does not meet the commitment criteria of subsection (2), the court may order the Department of Children and Family ~~Health and Rehabilitative~~ Services to provide appropriate treatment and training in the community. All court-ordered treatment or training must be the least restrictive alternative that is consistent with public safety. Any commitment to a residential program must be separate from adult forensic programs. If a child is ordered to receive such services, the services shall be provided by the Department of Children and Family ~~Health and Rehabilitative~~ Services. The department shall continue to provide case management services to the child and receive notice of the competency status of the child. The competency determination must be reviewed at least every 6 months by the service provider, and a copy of a written report evaluating the child's competency must be filed by the provider with the court and with the Department of Children and Family ~~Health and Rehabilitative~~ Services and the department.

(6) The provisions of this section shall be implemented only subject to specific appropriation.

~~(7) The Department of Health and Rehabilitative Services and the department must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 15, 1996, on the issue of children who are incompetent for the purposes of juvenile delinquency proceedings. The report must contain the findings of a study group that includes five representatives, one each appointed by the President of the Senate, the Speaker of the House of Representatives, the Florida Conference of Circuit Court Judges, the Florida Prosecuting Attorneys Association, and the Florida Public Defenders Association. The report shall include recommendations concerning the implementation of this act and recommendations for changes to this act.~~

Section 32. Section 39.046, Florida Statutes, is transferred, renumbered as section 985.224, Florida Statutes, and amended to read:

985.224 ~~39.046~~ Medical, psychiatric, psychological, substance abuse, and educational examination and treatment.—

(1) After a detention petition or a petition for delinquency has been filed, the court may order the child named in the petition to be examined by a physician. The court may also order the child to be evaluated by a psychiatrist or a psychologist, by a district school board educational needs assess-

ment team, or, if a developmental disability is suspected or alleged, by the developmental disabilities diagnostic and evaluation team of the Department of Children and Family ~~Health and Rehabilitative~~ Services. If it is necessary to place a child in a residential facility for such evaluation, the criteria and procedures established in chapter 393, chapter 394, or chapter 397, whichever is applicable, shall be used.

(2) Whenever a child has been found to have committed a delinquent act, or before such finding with the consent of any parent or legal custodian of the child, the court may order the child to be treated by a physician. The court may also order the child to receive mental health, substance abuse, or retardation services from a psychiatrist, psychologist, or other appropriate service provider. If it is necessary to place the child in a residential facility for such services, the procedures and criteria established in chapter 393, chapter 394, or chapter 397, whichever is applicable, shall be used. After a child has been adjudicated delinquent, if an educational needs assessment by the district school board or the Department of Children and Family ~~Health and Rehabilitative~~ Services has been previously conducted, the court shall order the report of such needs assessment included in the child's court record in lieu of a new assessment. For purposes of this section, an educational needs assessment includes, but is not limited to, reports of intelligence and achievement tests, screening for learning disabilities and other handicaps, and screening for the need for alternative education.

(3) When any child is detained pending a hearing, the person in charge of the detention center or facility or his or her designated representative may authorize a triage examination as a preliminary screening device to determine if the child is in need of medical care or isolation or provide or cause to be provided such medical or surgical services as may be deemed necessary by a physician.

(4) Whenever a child found to have committed a delinquent act is placed by order of the court within the care and custody or under the supervision of the Department of Juvenile Justice and it appears to the court that there is no parent, guardian, or person standing in loco parentis who is capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment for the child, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that a representative of the Department of Juvenile Justice may authorize such medical, surgical, dental, or other remedial care for the child by licensed practitioners as may from time to time appear necessary.

(5) A physician shall be immediately notified by the person taking the child into custody or the person having custody if there are indications of physical injury or illness, or the child shall be taken to the nearest available hospital for emergency care. A child may be provided mental health, substance abuse, or retardation services, in emergency situations, pursuant to chapter 393, chapter 394, or chapter 397, whichever is applicable. After a hearing, the court may order the custodial parent or parents, guardian, or other custodian, if found able to do so, to reimburse the county or state for the expense involved in such emergency treatment or care.

(6) Nothing in this section shall be deemed to eliminate the right of the parents or the child to consent to examination or treatment for the child, except that consent of a parent shall not be required if the physician determines there is an injury or illness requiring immediate treatment and the child consents to such treatment or an ex parte court order is obtained authorizing treatment.

(7) Nothing in this section shall be construed to authorize the permanent sterilization of any child unless such sterilization is the result of or incidental to medically necessary treatment to protect or preserve the life of the child.

(8) Except as provided in this section, nothing in this section shall be deemed to preclude a court from ordering services or treatment to be provided to a child by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization, when requested by the child.

Section 33. Section 985.225, Florida Statutes, is created to read:

985.225 Indictment of a juvenile.—

(1) A child of any age who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the court as set forth in s. 985.219(7) unless and until an indictment on the charge is returned by the grand jury. When such indictment is returned, the petition for delinquency, if any, must be dismissed and the child must be tried and handled in every respect as an adult:

(a) On the offense punishable by death or by life imprisonment; and

(b) On all other felonies or misdemeanors charged in the indictment which are based on the same act or transaction as the offense punishable by death or by life imprisonment or on one or more acts or transactions connected with the offense punishable by death or by life imprisonment.

(2) An adjudicatory hearing may not be held until 21 days after the child is taken into custody and charged with having committed an offense punishable by death or by life imprisonment, unless the state attorney advises the court in writing that he or she does not intend to present the case to the grand jury, or has presented the case to the grand jury and the grand jury has not returned an indictment. If the court receives such a notice from the state attorney, or if the grand jury fails to act within the 21-day period, the court may proceed as otherwise authorized under this part.

(3) If the child is found to have committed the offense punishable by death or by life imprisonment, the child shall be sentenced as an adult. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence pursuant to s. 985.233.

(4) Once a child has been indicted pursuant to this subsection and has been found to have committed any offense for which he or she was indicted

as a part of the criminal episode, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.233.

Section 34. Section 985.226, Florida Statutes, is created to read:

985.226 Criteria for waiver of juvenile court jurisdiction; hearing on motion to transfer for prosecution as an adult.—

(1) VOLUNTARY WAIVER.—The court shall transfer and certify a child's criminal case for trial as an adult if the child is alleged to have committed a violation of law and, prior to the commencement of an adjudicatory hearing, the child, joined by a parent or, in the absence of a parent, by the guardian or guardian ad litem, demands in writing to be tried as an adult. Once a child has been transferred for criminal prosecution pursuant to a voluntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.233(4)(b).

(2) INVOLUNTARY WAIVER.—

(a) Discretionary involuntary waiver.—The state attorney may file a motion requesting the court to transfer the child for criminal prosecution if the child was 14 years of age or older at the time the alleged delinquent act or violation of law was committed. If the child has been previously adjudicated delinquent for murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, and is currently charged with a second or subsequent violent crime against a person, the state attorney shall file a motion requesting the court to transfer and certify the juvenile for prosecution as an adult, or proceed pursuant to s. 985.227(1).

(b) Mandatory involuntary waiver.—If the child was 14 years of age or older at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for or was found to have committed, or to have attempted or conspired to commit, three offenses that are felony offenses if committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person, the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request, or proceed pursuant to s. 985.227(1). Upon the state attorney's request, the court shall either enter an order transferring the case and certifying the case for trial as if the child were an adult or provide written reasons for not issuing such an order.

(3) WAIVER HEARING.—

(a) Within 7 days, excluding Saturdays, Sundays, and legal holidays, after the date a petition alleging that a child has committed a delinquent act or violation of law has been filed, or later with the approval of the court, but before an adjudicatory hearing and after considering the recommendation

of the intake counselor or case manager, the state attorney may file a motion requesting the court to transfer the child for criminal prosecution.

(b) After the filing of the motion of the state attorney, summonses must be issued and served in conformity with s. 985.219. A copy of the motion and a copy of the delinquency petition, if not already served, must be attached to each summons.

(c) The court shall conduct a hearing on all transfer request motions for the purpose of determining whether a child should be transferred. In making its determination, the court shall consider:

1. The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child for adult sanctions.

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

3. Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.

4. The probable cause as found in the report, affidavit, or complaint.

5. The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults.

6. The sophistication and maturity of the child.

7. The record and previous history of the child, including:

a. Previous contacts with the department, the Department of Corrections, the former Department of Health and Rehabilitative Services, the Department of Children and Family Services, other law enforcement agencies, and courts;

b. Prior periods of probation or community control;

c. Prior adjudications that the child committed a delinquent act or violation of law, greater weight being given if the child has previously been found by a court to have committed a delinquent act or violation of law involving an offense classified as a felony or has twice previously been found to have committed a delinquent act or violation of law involving an offense classified as a misdemeanor; and

d. Prior commitments to institutions.

8. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if the child is found to have committed the alleged offense, by the use of procedures, services, and facilities currently available to the court.

(d) Prior to a hearing on the transfer request motion by the state attorney, a study and report to the court relevant to the factors in paragraph (c) must be made in writing by an authorized agent of the department. The child and the child's parents or legal guardians and counsel and the state attorney shall have the right to examine these reports and to question the parties responsible for them at the hearing.

(e) Any decision to transfer a child for criminal prosecution must be in writing and include consideration of, and findings of fact with respect to, all criteria in paragraph (c). The court shall render an order including a specific finding of fact and the reasons for a decision to impose adult sanctions. The order shall be reviewable on appeal under s. 985.234 and the Florida Rules of Appellate Procedure.

(4) EFFECT OF ORDER WAIVING JURISDICTION.—If the court finds, after a waiver hearing under subsection (3), that a juvenile who was 14 years of age or older at the time the alleged violation of state law was committed should be charged and tried as an adult, the court shall enter an order transferring the case and certifying the case for trial as if the child were an adult. The child shall thereafter be subject to prosecution, trial, and sentencing as if the child were an adult but subject to the provisions of s. 985.233. Once a child has been transferred for criminal prosecution pursuant to an involuntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall thereafter be handled in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.233.

Section 35. Section 985.227, Florida Statutes, is created to read:

985.227 Prosecution of juveniles as adults by the direct filing of an information in the criminal division of the circuit court; discretionary criteria; mandatory criteria.—

(1) DISCRETIONARY DIRECT FILE; CRITERIA.—

(a) With respect to any child who was 14 or 15 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed and when the offense charged is:

1. Arson;

2. Sexual battery;

3. Robbery;

4. Kidnapping;

5. Aggravated child abuse;

6. Aggravated assault;

7. Aggravated stalking;

8. Murder;

9. Manslaughter;

10. Unlawful throwing, placing, or discharging of a destructive device or bomb;

11. Armed burglary in violation of s. 810.02(2)(b) or specified burglary of a dwelling or structure in violation of s. 810.02(2)(c);

12. Aggravated battery;

13. Lewd or lascivious assault or act in the presence of a child;

14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony; or

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

(b) With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed. However, the state attorney may not file an information on a child charged with a misdemeanor, unless the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which involved an offense classified as a felony under state law.

(2) MANDATORY DIRECT FILE.—

(a) With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney shall file an information if the child has been previously adjudicated delinquent for murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, and is currently charged with a second or subsequent violent crime against a person.

(b) Notwithstanding subsection (1), regardless of the child's age at the time the alleged offense was committed, the state attorney must file an information with respect to any child who previously has been adjudicated for offenses which, if committed by an adult, would be felonies and such adjudications occurred at three or more separate delinquency adjudicatory hearings, and three of which resulted in residential commitments as defined in s. 985.03(45).

(c) The state attorney must file an information if a child, regardless of the child's age at the time the alleged offense was committed, is alleged to have committed an act that would be a violation of law if the child were an adult, that involves stealing a motor vehicle, including, but not limited to, a violation of s. 812.133, relating to carjacking, or s. 812.014(2)(c)6., relating to grand theft of a motor vehicle, and while the child was in possession of the stolen motor vehicle the child caused serious bodily injury to or the death

of a person who was not involved in the underlying offense. For purposes of this section, the driver and all willing passengers in the stolen motor vehicle at the time such serious bodily injury or death is inflicted shall also be subject to mandatory transfer to adult court. "Stolen motor vehicle," for the purposes of this section, means a motor vehicle that has been the subject of any criminal wrongful taking. For purposes of this section, "willing passengers" means all willing passengers who have participated in the underlying offense.

(3) EFFECT OF DIRECT FILE.—

(a) Once a child has been transferred for criminal prosecution pursuant to information and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.233.

(b) When a child is transferred for criminal prosecution as an adult, the court shall immediately transfer and certify to the appropriate court all preadjudicatory cases that pertain to that child which are pending in juvenile court, including, but not limited to, all cases involving offenses that occur or are referred between the date of transfer and sentencing in adult court and all outstanding juvenile disposition orders. The juvenile court shall make every effort to dispose of all predispositional cases and transfer those cases to the adult court prior to adult sentencing. It is the intent of the Legislature to require all cases occurring prior to the sentencing hearing in adult court to be handled by the adult court for final resolution with the original transfer case.

(c) When a child has been transferred for criminal prosecution as an adult and has been found to have committed a violation of state law, the disposition of the case may be made under s. 985.233 and may include the enforcement of any restitution ordered in any juvenile proceeding.

(4) DIRECT-FILE POLICIES AND GUIDELINES.—Each state attorney shall develop and annually update written policies and guidelines to govern determinations for filing an information on a juvenile, to be submitted to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Juvenile Justice Advisory Board not later than January 1 of each year.

Section 36. Section 985.228, Florida Statutes, is created to read:

985.228 Adjudicatory hearings; withheld adjudications; orders of adjudication.—

(1) The adjudicatory hearing must be held as soon as practicable after the petition alleging that a child has committed a delinquent act or violation of law is filed and in accordance with the Florida Rules of Juvenile Procedure; but reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall be granted. If the child is being detained, the time limitations provided for in s. 985.215(5)(b) and (c) apply.

(2) Adjudicatory hearings shall be conducted without a jury by the court, applying in delinquency cases the rules of evidence in use in criminal cases; adjourning the hearings from time to time as necessary; and conducting a fundamentally fair hearing in language understandable, to the fullest extent practicable, to the child before the court.

(a) In a hearing on a petition alleging that a child has committed a delinquent act or violation of law, the evidence must establish the findings beyond a reasonable doubt.

(b) The child is entitled to the opportunity to introduce evidence and otherwise be heard in the child's own behalf and to cross-examine witnesses.

(c) A child charged with a delinquent act or violation of law must be afforded all rights against self-incrimination. Evidence illegally seized or obtained may not be received to establish the allegations against the child.

(3) If the court finds that the child named in a petition has not committed a delinquent act or violation of law, it shall enter an order so finding and dismissing the case.

(4) If the court finds that the child named in the petition has committed a delinquent act or violation of law, it may, in its discretion, enter an order stating the facts upon which its finding is based but withholding adjudication of delinquency and placing the child in a community control program under the supervision of the department or under the supervision of any other person or agency specifically authorized and appointed by the court. The court may, as a condition of the program, impose as a penalty component restitution in money or in kind, community service, a curfew, urine monitoring, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense, and may impose as a rehabilitative component a requirement of participation in substance abuse treatment, or school or other educational program attendance. If the court later finds that the child has not complied with the rules, restrictions, or conditions of the community-based program, the court may, after a hearing to establish the lack of compliance, but without further evidence of the state of delinquency, enter an adjudication of delinquency and shall thereafter have full authority under this chapter to deal with the child as adjudicated.

(5) If the court finds that the child named in a petition has committed a delinquent act or violation of law, but elects not to proceed under subsection (4), it shall incorporate that finding in an order of adjudication of delinquency entered in the case, briefly stating the facts upon which the finding is made, and the court shall thereafter have full authority under this chapter to deal with the child as adjudicated.

(6) Except as the term "conviction" is used in chapter 322, and except for use in a subsequent proceeding under this chapter, an adjudication of delinquency by a court with respect to any child who has committed a delinquent act or violation of law shall not be deemed a conviction; nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication; nor shall that adjudication operate to impose upon the child

any of the civil disabilities ordinarily imposed by or resulting from conviction or to disqualify or prejudice the child in any civil service application or appointment, with the exception of the use of records of proceedings under this part as provided in s. 985.05(4).

Section 37. Section 985.229, Florida Statutes, is created to read:

985.229 Predisposition report; other evaluations.—

(1) At the disposition hearing, the court shall order a predisposition report regarding the eligibility of the child for disposition other than by adjudication and commitment to the department. The predisposition report shall be the result of the multidisciplinary assessment when such assessment is needed, and of the classification and placement process, and it shall indicate and report the child's priority needs, recommendations as to a classification of risk for the child in the context of his or her program and supervision needs, and a plan for treatment that recommends the most appropriate placement setting to meet the child's needs with the minimum program security that reasonably ensures public safety. The report shall be submitted to the court prior to the disposition hearing, but shall not be reviewed by the court without the consent of the child and his or her legal counsel until the child has been found to have committed a delinquent act.

(2) The court shall consider the child's entire assessment and predisposition report and shall review the records of earlier judicial proceedings prior to making a final disposition of the case. The court may, by order, require additional evaluations and studies to be performed by the department, by the county school system, or by any social, psychological, or psychiatric agencies of the state. The court shall order the educational needs assessment completed pursuant to s. 985.224(2) to be included in the assessment and predisposition report.

(3) The predisposition report shall be made available to the child's legal counsel and the state attorney upon completion of the report and at a reasonable time prior to the disposition hearing.

Section 38. Section 985.23, Florida Statutes, is created to read:

985.23 Disposition hearings in delinquency cases.—When a child has been found to have committed a delinquent act, the following procedures shall be applicable to the disposition of the case:

(1) Before the court determines and announces the disposition to be imposed, it shall:

(a) State clearly, using common terminology, the purpose of the hearing and the right of persons present as parties to comment at the appropriate time on the issues before the court;

(b) Discuss with the child his or her compliance with any home release plan or other plan imposed since the date of the offense;

(c) Discuss with the child his or her feelings about the offense committed, the harm caused to the victim or others, and what penalty he or she should be required to pay for such transgression; and

(d) Give all parties present at the hearing an opportunity to comment on the issue of disposition and any proposed rehabilitative plan. Parties to the case shall include the parents, legal custodians, or guardians of the child; the child's counsel; the state attorney; representatives of the department; the victim if any, or his or her representative; representatives of the school system; and the law enforcement officers involved in the case.

(2) The first determination to be made by the court is a determination of the suitability or nonsuitability for adjudication and commitment of the child to the department. This determination shall be based upon the predisposition report which shall include, whether as part of the child's multidisciplinary assessment, classification, and placement process components or separately, evaluation of the following criteria:

(a) The seriousness of the offense to the community. If the court determines that the child was a member of a criminal street gang at the time of the commission of the offense, which determination shall be made pursuant to chapter 874, the seriousness of the offense to the community shall be given great weight.

(b) Whether the protection of the community requires adjudication and commitment to the department.

(c) Whether the offense was committed in an aggressive, violent, premeditated, or willful manner.

(d) Whether the offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.

(e) The sophistication and maturity of the child.

(f) The record and previous criminal history of the child, including without limitations:

1. Previous contacts with the department, the former Department of Health and Rehabilitative Services, the Department of Children and Family Services, the Department of Corrections, other law enforcement agencies, and courts;

2. Prior periods of probation or community control;

3. Prior adjudications of delinquency; and

4. Prior commitments to institutions.

(g) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child if committed to a community services program or facility.

(3)(a) 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. The determination shall include a specific finding of the reasons for the

decision to adjudicate and to commit the child to the department, including any determination that the child was a member of a criminal street gang.

(b) If the court determines that commitment to the department is appropriate, the intake counselor or case manager shall recommend to the court the most appropriate placement and treatment plan, specifically identifying the restrictiveness level most appropriate for the child. If the court has determined that the child was a member of a criminal street gang, that determination shall be given great weight in identifying the most appropriate restrictiveness level for the child. The court shall consider the department's recommendation in making its commitment decision.

(c) The court shall commit the child to the department at the restrictiveness level identified or may order placement at a different restrictiveness level. The court shall state for the record the reasons which establish by a preponderance of the evidence why the court is disregarding the assessment of the child and the restrictiveness level recommended by the department. Any party may appeal the court's findings resulting in a modified level of restrictiveness pursuant to this paragraph.

(d) The court may also require that the child be placed in a community control program following the child's discharge from commitment. Community-based sanctions pursuant to subsection (4) may be imposed by the court at the disposition hearing or at any time prior to the child's release from commitment.

(e) The court shall be responsible for the fingerprinting of any child at the disposition hearing if the child has been adjudicated or had adjudication withheld for any felony in the case currently before the court.

(4) If the court determines not to adjudicate and commit to the department, then the court shall determine what community-based sanctions it will impose in a community control program for the child. Community-based sanctions may include, but are not limited to, participation in substance abuse treatment, restitution in money or in kind, a curfew, revocation or suspension of the driver's license of the child, community service, and appropriate educational programs as determined by the district school board.

(5) After appropriate sanctions for the offense are determined, the court shall develop, approve, and order a plan of community control which will contain rules, requirements, conditions, and rehabilitative programs that are designed to encourage responsible and acceptable behavior and to promote both the rehabilitation of the child and the protection of the community.

(6) The court may receive and consider any other relevant and material evidence, including other written or oral reports or statements, in its effort to determine the appropriate disposition to be made with regard to the child. The court may rely upon such evidence to the extent of its probative value, even though such evidence may not be technically competent in an adjudicatory hearing.

(7) The court shall notify any victim of the offense, if such person is known and within the jurisdiction of the court, of the hearing and shall notify and summon or subpoena, if necessary, the parents, legal custodians, or guardians of the child to attend the disposition hearing if they reside in the state.

It is the intent of the Legislature that the criteria set forth in subsection (2) are general guidelines to be followed at the discretion of the court and not mandatory requirements of procedure. It is not the intent of the Legislature to provide for the appeal of the disposition made pursuant to this subsection.

Section 39. Section 985.231, Florida Statutes, is created to read:

985.231 Powers of disposition in delinquency cases.—

(1)(a) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

1. Place the child in a community control program or an aftercare program under the supervision of an authorized agent of the Department of Juvenile Justice or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct. A community control program for an adjudicated delinquent child must include a penalty component such as restitution in money or in kind, community service, a curfew, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense and must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in school or other educational program.

a. A restrictiveness level classification scale for levels of supervision shall be provided by the department, taking into account the child's needs and risks relative to community control supervision requirements to reasonably ensure the public safety. Community control programs for children shall be supervised by the department or by any other person or agency specifically authorized by the court. These programs must include, but are not limited to, structured or restricted activities as described in this subparagraph, and shall be designed to encourage the child toward acceptable and functional social behavior. If supervision or a program of community service is ordered by the court, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. When restitution is ordered by the court, the amount of restitution may not exceed an amount the child and the parent or guardian could reasonably be expected to pay or make. A child who participates in any work program under this part is considered an employee of the state for purposes of liability, unless otherwise provided by law.

b. The court may conduct judicial review hearings for a child placed on community control for the purpose of fostering accountability to the judge and compliance with other requirements, such as restitution and community service. The court may allow early termination of community control for a child who has substantially complied with the terms and conditions of community control.

c. If the conditions of the community control program or the aftercare program are violated, the agent supervising the program as it relates to the child involved, or the state attorney, may bring the child before the court on a petition alleging a violation of the program. Any child who violates the conditions of community control or aftercare must be brought before the court if sanctions are sought. A child taken into custody under s. 39.037 for violating the conditions of community control or aftercare shall be held in a consequence unit if such a unit is available. The child shall be afforded a hearing within 24 hours after being taken into custody to determine the existence of probable cause that the child violated the conditions of community control or aftercare. A consequence unit is a secure facility specifically designated by the department for children who are taken into custody under s. 985.207 for violating community control or aftercare, or who have been found by the court to have violated the conditions of community control or aftercare. If the violation involves a new charge of delinquency, the child may be detained under s. 985.215 in a facility other than a consequence unit. If the child is not eligible for detention for the new charge of delinquency, the child may be held in the consequence unit pending a hearing and is subject to the time limitations specified in s. 985.215. If the child denies violating the conditions of community control or aftercare, the court shall appoint counsel to represent the child at the child's request. Upon the child's admission, or if the court finds after a hearing that the child has violated the conditions of community control or aftercare, the court shall enter an order revoking, modifying, or continuing community control or aftercare. In each such case, the court shall enter a new disposition order and, in addition to the sanctions set forth in this paragraph, may impose any sanction the court could have imposed at the original disposition hearing. If the child is found to have violated the conditions of community control or aftercare, the court may:

(I) Place the child in a consequence unit in that judicial circuit, if available, for up to 5 days for a first violation, and up to 15 days for a second or subsequent violation.

(II) Place the child on home detention with electronic monitoring. However, this sanction may be used only if a consequence unit is not available.

(III) Modify or continue the child's community control program or aftercare program.

(IV) Revoke community control or aftercare and commit the child to the department.

d. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of any order placing a child in a community control

program must be until the child's 19th birthday unless he or she is released by the court, on the motion of an interested party or on its own motion.

2. Commit the child to a licensed child-caring agency willing to receive the child, but the court may not commit the child to a jail or to a facility used primarily as a detention center or facility or shelter.

3. Commit the child to the Department of Juvenile Justice at a restrictiveness level defined in s. 985.03(45). Such commitment must be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, urine monitoring, and treatment of the child and furlough of the child into the community. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of the commitment must be until the child is discharged by the department or until he or she reaches the age of 21.

4. Revoke or suspend the driver's license of the child.

5. Require the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to render community service in a public service program.

6. As part of the community control program to be implemented by the Department of Juvenile Justice, or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment, order the child to make restitution in money, through a promissory note cosigned by the child's parent or guardian, or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. The clerk of the circuit court shall be the receiving and dispensing agent. In such case, the court shall order the child or the child's parent or guardian to pay to the office of the clerk of the circuit court an amount not to exceed the actual cost incurred by the clerk as a result of receiving and dispensing restitution payments. The clerk shall notify the court if restitution is not made and the court shall take any further action that is necessary against the child or the child's parent or guardian. A finding by the court, after a hearing, that the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts absolves the parent or guardian of liability for restitution under this subparagraph.

7. Order the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or community control program.

8. Commit the child to the Department of Juvenile Justice for placement in a program or facility for serious or habitual juvenile offenders in accordance with s. 985.31. Any commitment of a child to a program or facility for serious or habitual juvenile offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over such child until the child reaches the age of 21, specifically for the purpose of the child completing the program.

9. In addition to the sanctions imposed on the child, order the parent or guardian of the child to perform community service if the court finds that the parent or guardian did not make a diligent and good-faith effort to prevent the child from engaging in delinquent acts. The court may also order the parent or guardian to make restitution in money or in kind for any damage or loss caused by the child's offense. The court shall determine a reasonable amount or manner of restitution, and payment shall be made to the clerk of the circuit court as provided in subparagraph 6.

10. Subject to specific appropriation, commit the juvenile sexual offender to the Department of Juvenile Justice for placement in a program or facility for juvenile sexual offenders in accordance with s. 985.308. Any commitment of a juvenile sexual offender to a program or facility for juvenile sexual offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over a juvenile sexual offender until the juvenile sexual offender reaches the age of 21, specifically for the purpose of completing the program.

(b) When any child is adjudicated by the court to have committed a delinquent act and temporary legal custody of the child has been placed with a licensed child-caring agency or the Department of Juvenile Justice, the court shall order the natural or adoptive parents of such child, the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets that under law may be disbursed for the care, support, and maintenance of the child, to pay fees to the licensed child-caring agency or the Department of Juvenile Justice equal to the actual cost of the care, support, and maintenance of the child, unless the court determines that the parent or guardian of the child is indigent. The court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the full cost of the care, support, and maintenance of the child. In addition, the court may waive the fees if it finds that the child's parent or guardian was the victim of the child's delinquent act or violation of law or if the court finds that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(c) Any order made pursuant to paragraph (a) may thereafter be modified or set aside by the court.

(d) Any commitment of a delinquent child to the Department of Juvenile Justice must be for an indeterminate period of time, which may include periods of temporary release, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. Any temporary release for a period greater than 3 days must be approved by the court. Any child so committed may be discharged from institutional confinement or a program upon the direction of the department with the concurrence of the court. Notwithstanding s. 743.07 and this subsection, and except as provided in s. 985.31, a child may not be held under a commitment from a court pursuant to this section after becoming 21 years of age. The depart-

ment shall give the court that committed the child to the department reasonable notice, in writing, of its desire to discharge the child from a commitment facility. The court that committed the child may thereafter accept or reject the request. If the court does not respond within 10 days after receipt of the notice, the request of the department shall be deemed granted. This section does not limit the department's authority to revoke a child's temporary release status and return the child to a commitment facility for any violation of the terms and conditions of the temporary release.

(e) In carrying out the provisions of this part, the court may order the natural parents or legal custodian or guardian of a child who is found to have committed a delinquent act to participate in family counseling and other professional counseling activities deemed necessary for the rehabilitation of the child or to enhance their ability to provide the child with adequate support, guidance, and supervision. The court may also order that the parent, custodian, or guardian support the child and participate with the child in fulfilling a court-imposed sanction. In addition, the court may use its contempt powers to enforce a court-imposed sanction.

(f) The court may at any time enter an order ending its jurisdiction over any child.

(g) Whenever a child is required by the court to participate in any work program under this part or whenever a child volunteers to work in a specified state, county, municipal, or community service organization supervised work program or to work for the victim, either as an alternative to monetary restitution or as a part of the rehabilitative or community control program, the child is an employee of the state for the purposes of liability. In determining the child's average weekly wage unless otherwise determined by a specific funding program, all remuneration received from the employer is a gratuity, and the child is not entitled to any benefits otherwise payable under s. 440.15, regardless of whether the child may be receiving wages and remuneration from other employment with another employer and regardless of the child's future wage-earning capacity.

(h) The court may, upon motion of the child or upon its own motion, within 60 days after imposition of a disposition of commitment, suspend the further execution of the disposition and place the child on probation in a community control program upon such terms and conditions as the court may require. The department shall forward to the court all relevant material on the child's progress while in custody not later than 3 working days prior to the hearing on the motion to suspend the disposition.

(i) The nonconsent of the child to commitment or treatment in a substance abuse treatment program in no way precludes the court from ordering such commitment or treatment.

(j) If the offense committed by the child was grand theft of a motor vehicle, the court:

1. Upon a first adjudication for a grand theft of a motor vehicle, may place the youth in a boot camp, unless the child is ineligible pursuant to s.

985.309, and shall order the youth to complete a minimum of 50 hours of community service.

2. Upon a second adjudication for grand theft of a motor vehicle which is separate and unrelated to the previous adjudication, may place the youth in a boot camp, unless the child is ineligible pursuant to s. 985.309, and shall order the youth to complete a minimum of 100 hours of community service.

3. Upon a third adjudication for grand theft of a motor vehicle which is separate and unrelated to the previous adjudications, shall place the youth in a boot camp or other treatment program, unless the child is ineligible pursuant to s. 985.309, and shall order the youth to complete a minimum of 250 hours of community service.

(2) Following a delinquency adjudicatory hearing pursuant to s. 985.228 and a delinquency disposition hearing pursuant to section 985.23 which results in a commitment determination, the court shall, on its own or upon request by the state or the department, determine whether the protection of the public requires that the child be placed in a program for serious or habitual juvenile offenders and whether the particular needs of the child would be best served by a program for serious or habitual juvenile offenders as provided in s. 985.31. The determination shall be made pursuant to ss. 985.03(47) and 985.23(3).

(3) Following a delinquency adjudicatory hearing pursuant to s. 985.228, the court may on its own or upon request by the state or the department and subject to specific appropriation, determine whether a juvenile sexual offender placement is required for the protection of the public and what would be the best approach to address the treatment needs of the juvenile sexual offender. When the court determines that a juvenile has no history of a recent comprehensive assessment focused on sexually deviant behavior, the court may, subject to specific appropriation, order the department to conduct or arrange for an examination to determine whether the juvenile sexual offender is amenable to community-based treatment.

(a) The report of the examination shall include, at a minimum, the following:

1. The juvenile sexual offender's account of the incident and the official report of the investigation.

2. The juvenile sexual offender's offense history.

3. A multidisciplinary assessment of the sexually deviant behaviors, including an assessment by a certified psychologist, therapist, or psychiatrist.

4. An assessment of the juvenile sexual offender's family, social, educational, and employment situation. The report shall set forth the sources of the evaluator's information.

(b) The report shall assess the juvenile sexual offender's amenability to treatment and relative risk to the victim and the community.

(c) The department shall provide a proposed plan to the court that shall include, at a minimum:

1. The frequency and type of contact between the offender and therapist.

2. The specific issues and behaviors to be addressed in the treatment and description of planned treatment methods.

3. Monitoring plans, including any requirements regarding living conditions, school attendance and participation, lifestyle, and monitoring by family members, legal guardians, or others.

4. Anticipated length of treatment.

5. Recommended crime-related prohibitions and curfew.

6. Reasonable restrictions on the contact between the juvenile sexual offender and either the victim or alleged victim.

(d) After receipt of the report on the proposed plan of treatment, the court shall consider whether the community and the offender will benefit from use of juvenile sexual offender community-based treatment alternative disposition and consider the opinion of the victim or the victim's family as to whether the offender should receive a community-based treatment alternative disposition under this subsection.

(e) If the court determines that this juvenile sexual offender community-based treatment alternative is appropriate, the court may place the offender on community supervision for up to 3 years. As a condition of community treatment and supervision, the court may order the offender to:

1. Undergo available outpatient juvenile sexual offender treatment for up to 3 years. A program or provider may not be used for such treatment unless it has an appropriate program designed for sexual offender treatment. The department shall not change the treatment provider without first notifying the state attorney's office.

2. Remain within described geographical boundaries and notify the court or the department counselor prior to any change in the offender's address, educational program, or employment.

3. Comply with all requirements of the treatment plan.

(f) The juvenile sexual offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties to the proceedings. The juvenile sexual offender reports shall reference the treatment plan and include, at a minimum, the following:

1. Dates of attendance.

2. The juvenile sexual offender's compliance with the requirements of treatment.

3. A description of the treatment activities.

4. The sexual offender's relative progress in treatment.

5. The offender's family support of the treatment objectives.

6. Any other material specified by the court at the time of the disposition.

(g) At the disposition hearing, the court may set case review hearings as the court considers appropriate.

(h) If the juvenile sexual offender violates any condition of the disposition or the court finds that the juvenile sexual offender is failing to make satisfactory progress in treatment, the court may revoke the community-based treatment alternative and order commitment to the department pursuant to subsection (1).

(i) If the court determines that the juvenile sexual offender is not amenable to community-based treatment, the court shall proceed with a juvenile sexual offender disposition hearing pursuant to subsection (1).

Section 40. Section 39.078, Florida Statutes, is transferred and renumbered as section 985.232, Florida Statutes.

Section 41. Section 985.233, Florida Statutes, is created to read:

985.233 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(1) POWERS OF DISPOSITION.—

(a) A child who is found to have committed a violation of law may, as an alternative to adult dispositions, be committed to the department for treatment in an appropriate program for children outside the adult correctional system or be placed in a community control program for juveniles.

(b) In determining whether to impose juvenile sanctions instead of adult sanctions, the court shall consider the following criteria:

1. The seriousness of the offense to the community and whether the community would best be protected by juvenile or adult sanctions.

2. Whether the offense was committed in an aggressive, violent, premeditated, or willful manner.

3. Whether the offense was against persons or against property, with greater weight being given to offenses against persons, especially if personal injury resulted.

4. The sophistication and maturity of the offender.

5. The record and previous history of the offender, including:

a. Previous contacts with the Department of Corrections, the Department of Juvenile Justice, the former Department of Health and Rehabilitative Services, the Department of Children and Family Services, law enforcement agencies, and the courts.

b. Prior periods of probation or community control.

c. Prior adjudications that the offender committed a delinquent act or violation of law as a child.

d. Prior commitments to the Department of Juvenile Justice, the former Department of Health and Rehabilitative Services, the Department of Children and Family Services, or other facilities or institutions.

6. The prospects for adequate protection of the public and the likelihood of deterrence and reasonable rehabilitation of the offender if assigned to services and facilities of the Department of Juvenile Justice.

7. Whether the Department of Juvenile Justice has appropriate programs, facilities, and services immediately available.

8. Whether adult sanctions would provide more appropriate punishment and deterrence to further violations of law than the imposition of juvenile sanctions.

(2) PRESENTENCE INVESTIGATION REPORT.—

(a) Upon a plea of guilty, the court may refer the case to the department for investigation and recommendation as to the suitability of its programs for the child.

(b) Upon completion of the presentence investigation report, it must be made available to the child's counsel and the state attorney by the department prior to the disposition hearing.

(3) SENTENCING HEARING.—

(a) At the sentencing hearing the court shall receive and consider a presentence investigation report by the Department of Corrections regarding the suitability of the offender for disposition as an adult or as a juvenile. The presentence investigation report must include a comments section prepared by the Department of Juvenile Justice, with its recommendations as to disposition. This report requirement may be waived by the offender.

(b) After considering the presentence investigation report, the court shall give all parties present at the hearing an opportunity to comment on the issue of sentence and any proposed rehabilitative plan. Parties to the case include the parent, guardian, or legal custodian of the offender; the offender's counsel; the state attorney; representatives of the Department of Corrections and the Department of Juvenile Justice; the victim or victim's representative; representatives of the school system; and the law enforcement officers involved in the case.

(c) The court may receive and consider any other relevant and material evidence, including other reports, written or oral, in its effort to determine the action to be taken with regard to the child, and may rely upon such evidence to the extent of its probative value even if the evidence would not be competent in an adjudicatory hearing.

(d) The court shall notify any victim of the offense of the hearing and shall notify, or subpoena if appropriate, the parents, guardians, or legal custodians of the child to attend the disposition hearing.

(4) SENTENCING ALTERNATIVES.—

(a) Sentencing to adult sanctions.—

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

a. As an adult pursuant to this section;

b. Pursuant to chapter 958, notwithstanding any other provision of that chapter to the contrary; or

c. As a juvenile pursuant to this section.

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

a. As an adult pursuant to this section;

b. Pursuant to chapter 958, notwithstanding any other provision of that chapter to the contrary; or

c. As a juvenile pursuant to this section.

3. Any decision to impose adult sanctions must be in writing, but is presumed appropriate, and the court is not required to set forth specific findings or enumerate the criteria in this subsection as any basis for its decision to impose adult sanctions.

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

(b) Sentencing to juvenile sanctions.—In order to use this paragraph, the court shall stay adjudication of guilt and instead shall adjudge the child to have committed a delinquent act. Adjudication of delinquency shall not be deemed a conviction, nor shall it operate to impose any of the civil disabilities ordinarily resulting from a conviction. The court shall impose an adult sanction or a juvenile sanction and may not sentence the child to a combination of adult and juvenile punishments. An adult sanction or a juvenile sanction may include enforcement of an order of restitution or community control previously ordered in any juvenile proceeding. However, if the court

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

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

2. Commit the child to the department for an indeterminate period of time until the child is 19 years of age, or 21 years of age if the child is committed to a maximum-risk program or a serious or habitual juvenile offender program, or until the child is discharged by the department. The department shall notify the court of its intent to discharge no later than 14 days prior to discharge. Failure of the court to timely respond to the department's notice shall be considered approval for discharge.

3. Order disposition pursuant to s. 985.231 as an alternative to youthful offender or adult sentencing if the court determines not to impose youthful offender or adult sanctions.

4. Develop, approve, and order a plan of community control after appropriate sanctions for the offense are determined. The community control plan shall contain rules, requirements, conditions, and programs designed to encourage responsible and acceptable behavior and to promote the rehabilitation of the child and the protection of the community.

(c) Imposition of adult sanctions upon failure of juvenile sanctions.—If a child proves not to be suitable to a community control program or for a treatment program under the provisions of subparagraph (b)2., the court may revoke the previous adjudication, impose an adjudication of guilt, classify the child as a youthful offender when appropriate, and impose any sentence which it may lawfully impose, giving credit for all time spent by the child in the department.

(d) Recoupment of cost of care in juvenile justice facilities.—When the court orders commitment of a child to the Department of Juvenile Justice for treatment in any of the department's programs for children, the court shall order the natural or adoptive parents of such child, the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay fees to the department equal to the actual cost of the care, support, and maintenance of the child, unless the court determines that the parent or legal guardian of the child is indigent. The court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the full cost of the care, support, and maintenance of the child. In addition, the court may waive the fees if it finds that the child's parent or guardian was the victim of the child's delinquent act or violation of law or if the court finds that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law. When the order affects the guardianship estate, a

certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(e) Further proceedings heard in adult court.—When a child is sentenced to juvenile sanctions, further proceedings involving those sanctions shall continue to be heard in the adult court.

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.234.

Section 42. Section 39.069, Florida Statutes, is transferred and renumbered as section 985.234, Florida Statutes.

Section 43. Section 39.0711, Florida Statutes, is transferred and renumbered as section 985.235, Florida Statutes.

Section 44. Section 39.072, Florida Statutes, is transferred and renumbered as section 985.236, Florida Statutes.

Section 45. Section 39.0255, Florida Statutes, is transferred, renumbered as section 985.301, Florida Statutes, and amended to read:

985.301 ~~39.0255~~ Civil citation.—

(1) There is established a juvenile civil citation process for the purpose of providing an efficient and innovative alternative to custody by the Department of Juvenile Justice of children who commit nonserious delinquent acts and to ensure swift and appropriate consequences. The civil citation program may be established at the local level with the concurrence of the chief judge of the circuit, state attorney, public defender, and the head of each local law enforcement agency involved. Under such a juvenile civil citation program, any law enforcement officer upon making contact with a juvenile who admits having committed a misdemeanor, may issue a civil citation assessing not more than 50 community service hours, and may require participation in intervention services appropriate to identified needs of the juvenile, including family counseling, urinalysis monitoring, and substance abuse and mental health treatment services. A copy of each citation issued under this section shall be provided to the department, and the department shall enter appropriate information into the juvenile offender information system.

(2) Upon issuing such citation, the law enforcement officer shall send a copy to the county sheriff, state attorney, the appropriate intake office of the department, the community service performance monitor designated by the department, the parent or guardian of the child, and the victim.

(3) The child shall report to the community service performance monitor within 7 working days after the date of issuance of the citation. The work assignment shall be accomplished at a rate of not less than 5 hours per week. The monitor shall advise the intake office immediately upon reporting by the

child to the monitor, that the child has in fact reported and the expected date upon which completion of the work assignment will be accomplished.

(4) If the juvenile fails to report timely for a work assignment, complete a work assignment, or comply with assigned intervention services within the prescribed time, or if the juvenile commits a third or subsequent misdemeanor, the law enforcement officer shall issue a report alleging the child has committed a delinquent act, at which point an intake counselor or case manager shall perform a preliminary determination as provided under s. 985.21(4) ~~39.047(4)~~.

(5) At the time of issuance of the citation by the law enforcement officer, such officer shall advise the child that the child has the option to refuse the citation and to be referred to the intake office of the department. That option may be exercised at any time prior to completion of the work assignment.

Section 46. Section 39.019, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 985.302, Florida Statutes.

Section 47. Section 39.0361, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.303, Florida Statutes, and amended to read:

985.303 ~~39.0361~~ Neighborhood Restorative Justice Act.—

~~(1) SHORT TITLE.—This section shall be known and may be cited as the "Neighborhood Restorative Justice Act."~~

(1)~~(2)~~ DEFINITIONS.—For purposes of this section ~~act~~, the term:

(a) "Board" means a Restorative Justice Board established by the state attorney pursuant to subsection (3) ~~(4)~~.

(b) "Center" means a Neighborhood Restorative Justice Center established by the state attorney pursuant to subsection (2) ~~(3)~~.

(c) "First-time, nonviolent juvenile offender" means a minor who allegedly has committed a delinquent act or violation of law that would not be a crime of violence providing grounds for detention or incarceration and who does not have a previous record of being found to have committed a criminal or delinquent act or other violation of law.

(2)~~(3)~~ NEIGHBORHOOD RESTORATIVE JUSTICE CENTER.—

(a) The state attorney may establish at least one Neighborhood Restorative Justice Center in designated geographical areas in the county for the purposes of operating a deferred prosecution program for first-time, nonviolent juvenile offenders.

(b) The state attorney may refer any first-time, nonviolent juvenile offender accused of committing a delinquent act to a Neighborhood Restorative Justice Center.

(3)~~(4)~~ RESTORATIVE JUSTICE BOARD.—

(a) The state attorney may establish Restorative Justice Boards consisting of five volunteer members, of which: two are appointed by the state attorney; two are appointed by the public defender; and one is appointed by the chief judge of the circuit. The state attorney shall appoint a chairman for each board.

(b) The board has jurisdiction to hear all matters involving first-time, nonviolent juvenile offenders who are alleged to have committed a delinquent act within the geographical area covered by the board.

(4)~~(5)~~ DEFERRED PROSECUTION PROGRAM; PROCEDURES.—

(a) The participation by a juvenile in the deferred prosecution program through a Neighborhood Restorative Justice Center is voluntary. To participate in the deferred prosecution program, the juvenile who is referred to a Neighborhood Restorative Justice Center must take responsibility for the actions which led to the current accusation. The juvenile and the juvenile's parent or legal guardian must waive the juvenile's right to a speedy trial and the right to be represented by a public defender while in the Neighborhood Restorative Justice program. This waiver and acknowledgement of responsibility shall not be construed as an admission of guilt in future proceedings. The board or the board's representative must inform the juvenile and the parent or legal guardian of the juvenile's legal rights prior to the signing of the waiver.

(b) If the state attorney refers a juvenile matter to a Neighborhood Restorative Justice Center, the board shall convene a meeting within 15 days after receiving the referral.

(c) The board shall require the parent or legal guardian of the juvenile who is referred to a Neighborhood Restorative Justice Center to appear with the juvenile before the board at the time set by the board. In scheduling board meetings, the board shall be cognizant of a parent's or legal guardian's other obligations. The failure of a parent or legal guardian to appear at the scheduled board meeting with his or her child or ward may be considered by the juvenile court as an act of child neglect as defined by s. 415.503(3), and the board may refer the matter to the Department of Children and Family ~~Health and Rehabilitative~~ Services for investigation under the provisions of chapter 415.

(d) The board shall serve notice of a board meeting on the juvenile referred to the Neighborhood Restorative Justice Center, the juvenile's parent or guardian, and the victim or family of the victim of the alleged offense. These persons and their representatives have the right to appear and participate in any meeting conducted by the board relative to the alleged offense in which they were the alleged juvenile offender or parent or guardian of the alleged juvenile offender, or victim or family of the victim of the alleged juvenile offender. The victim or a person representing the victim may vote with the board.

(5)~~(6)~~ SANCTIONS.—After holding a meeting pursuant to paragraph (4)(d) ~~(5)(d)~~, the board may impose any of the following sanctions alone or in any combination:

(a) Require the juvenile to make restitution to the victim.

(b) Require the juvenile to perform work for the victim.

(c) Require the juvenile to make restitution to the community.

(d) Require the juvenile to perform work for the community.

(e) Recommend that the juvenile participate in counseling, education, or treatment services that are coordinated by the state attorney.

(f) Require the juvenile to surrender the juvenile's driver's license and forward a copy of the board's resolution to the Department of Highway Safety and Motor Vehicles. The department, upon receipt of the license, shall suspend the driving privileges of the juvenile, or the juvenile may be restricted to travel between the juvenile's home, school, and place of employment during specified periods of time according to the juvenile's school and employment schedule.

(g) Refer the matter to the state attorney for the filing of a petition with the juvenile court.

(h) Impose any other sanction except detention that the board determines is necessary to fully and fairly resolve the matter.

(6)~~(7)~~ WRITTEN CONTRACT.—

(a) The board, on behalf of the community, and the juvenile, the juvenile's parent or guardian, and the victim or representative of the victim, shall sign a written contract in which the parties agree to the board's resolution of the matter and in which the juvenile's parent or guardian agrees to ensure that the juvenile complies with the contract. The contract may provide that the parent or guardian shall post a bond payable to this state to secure the performance of any sanction imposed upon the juvenile pursuant to subsection (5) ~~(6)~~.

(b) A breach of the contract by any party may be sanctioned by the juvenile court as it deems appropriate upon motion by any party.

(c) If the juvenile disagrees with the resolution of the board, the juvenile may file a notice with the board within 3 working days after the board makes its resolution that the juvenile has rejected the board's resolution. After receiving notice of the juvenile's rejection, the state attorney shall file a petition in juvenile court.

(7)~~(8)~~ COMPLETION OF SANCTIONS.—

(a) If the juvenile accepts the resolution of the board and successfully completes the sanctions imposed by the board, the state attorney shall not file a petition in juvenile court and the board's resolution shall not be used against the juvenile in any further proceeding and is not an adjudication of delinquency. The resolution of the board is not a conviction of a crime, does not impose any civil disabilities ordinarily resulting from a conviction, and

does not disqualify the juvenile in any civil service application or appointment.

(b) If the juvenile accepts the resolution reached by the board but fails to successfully complete the sanctions imposed by it, the state attorney may file the matter with the juvenile court.

(c) Upon successful completion of the sanctions imposed by the board, the juvenile shall submit to the board proof of completion. The board shall determine the form and manner in which a juvenile presents proof of completion.

(8)~~(9)~~ CONSTRUCTION.—This section shall not be construed to diminish, impair, or otherwise affect any rights conferred on victims of crimes under chapter 960, relating to victim assistance, or any other provisions of law.

(9)~~(10)~~ SEVERABILITY.—If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared severable.

Section 48. Section 39.026, Florida Statutes, is transferred, renumbered as section 985.304, Florida Statutes, and amended to read:

985.304 ~~39.026~~ Community arbitration~~; purpose~~.—

(1) PURPOSE.—The purpose of community arbitration is to provide a system by which children who commit delinquent acts may be dealt with in a speedy and informal manner at the community or neighborhood level, in an attempt to reduce the ever-increasing instances of delinquent acts and permit the judicial system to deal effectively with cases which are more serious in nature.

(2) PROGRAMS.—

(a) Each county may establish community arbitration programs designed to complement the department's intake process provided in this chapter. Community arbitration programs shall provide one or more community arbitrators or community arbitration panels to hear informally cases which involve alleged commissions of certain delinquent acts by children.

(b) Cases which may be referred to a community arbitrator or community arbitration panel are limited to those which involve violations of local ordinances, those which involve misdemeanors, and those which involve third degree felonies, exclusive of third degree felonies involving personal violence, grand theft auto, or the use of a weapon.

(c) A child who has been the subject of at least one prior adjudication or adjudication withheld for any first or second degree felony offense, any third degree felony offense involving personal violence, grand theft auto, or the use of a weapon, or any other offense not eligible for arbitration, shall not

be eligible for resolution of any current offense through community arbitration.

(d) Cases resolved through community arbitration shall be limited pursuant to this subsection.

1. For each child referred to community arbitration, the primary offense shall be assigned a point value.

a. Misdemeanor offenses shall be assigned two points for a misdemeanor of the second degree, four points for a nonviolent misdemeanor of the first degree, and six points for a misdemeanor of the first degree involving violence.

b. Eligible third degree felony offenses shall be assigned eight points.

2. There is not a restriction on the limit of separate incidents for which a law enforcement officer may refer a child to community arbitration, but a child who has accrued a point value of 12 or more points through community arbitration prior to the current offense shall no longer be eligible for community arbitration.

3. The point values provided in this paragraph shall also be assigned to a child's prior adjudications or adjudications withheld on eligible offenses for cases not referred to community arbitration.

(3) COMMUNITY ARBITRATORS.—The chief judge of each judicial circuit shall maintain a list of qualified persons who have agreed to serve as community arbitrators for the purpose of carrying out the provisions of this part. Community arbitrators shall meet the qualification and training requirements adopted in rule by the Supreme Court. Whenever possible, qualified volunteers shall be used as community arbitrators.

(a) Each community arbitrator or member of a community arbitration panel shall be selected by the chief judge of the circuit, the senior circuit court judge assigned to juvenile cases in the circuit, and the state attorney. A community arbitrator or, in the case of a panel, the chief arbitrator shall have such powers as are necessary to conduct the proceedings in a fair and expeditious manner.

(b) A community arbitrator or member of a community arbitration panel shall be trained or experienced in juvenile causes and shall be:

1. Either a graduate of an accredited law school or of an accredited school with a degree in behavioral social work or trained in conflict resolution techniques; and

2. A person of the temperament necessary to deal properly with cases involving children and with the family crises likely to be presented to him or her.

(4) PROCEDURE FOR INITIATING CASES FOR COMMUNITY ARBITRATION.—

(a) Any law enforcement officer may issue a complaint, along with a recommendation for community arbitration, against any child who such officer has reason to believe has committed any offense that is eligible for community arbitration. The complaint shall specify the offense and the reasons why the law enforcement officer feels that the offense should be handled by community arbitration. Any intake counselor or case manager or, at the request of the child's parent or legal custodian or guardian, the state attorney or the court having jurisdiction, with the concurrence of the state attorney, may refer a complaint to be handled by community arbitration when appropriate. A copy of the complaint shall be forwarded to the appropriate intake counselor or case manager and the parent or legal custodian or guardian of the child within 48 hours after issuance of the complaint. In addition to the complaint, the child and the parent or legal custodian or guardian shall be informed of the objectives of the community arbitration process; the conditions, procedures, and timeframes under which it will be conducted; and the fact that it is not obligatory. The intake counselor shall contact the child and the parent or legal custodian or guardian within 2 days after the date on which the complaint was received. At this time, the child or the parent or legal custodian or guardian shall inform the intake counselor of the decision to approve or reject the handling of the complaint through community arbitration.

(b) The intake counselor shall verify accurate identification of the child and determine whether or not the child has any prior adjudications or adjudications withheld for an offense eligible for community arbitration for consideration in the point value structure. If the child has at least one prior adjudication or adjudication withheld for an offense which is not eligible for community arbitration, or if the child has already surpassed the accepted level of points on prior community arbitration resolutions, the intake counselor or case manager shall consult with the state attorney regarding the filing of formal juvenile proceedings.

(c) If the child or the parent or legal custodian or guardian rejects the handling of the complaint through community arbitration, the intake counselor shall consult with the state attorney for the filing of formal juvenile proceedings.

(d) If the child or the parent or legal custodian or guardian accepts the handling of the complaint through community arbitration, the intake counselor shall provide copies of the complaint to the arbitrator or panel within 24 hours.

(e) The community arbitrator or community arbitration panel shall, upon receipt of the complaint, set a time and date for a hearing within 7 days and shall inform the child's parent or legal custodian or guardian, the complaining witness, and any victims of the time, date, and place of the hearing.

(5) HEARINGS.—

(a) The law enforcement officer who issued the complaint need not appear at the scheduled hearing. However, prior to the hearing, the officer shall file with the community arbitrator or the community arbitration panel

a comprehensive report setting forth the facts and circumstances surrounding the allegation.

(b) Records and reports submitted by interested agencies and parties, including, but not limited to, complaining witnesses and victims, may be received in evidence before the community arbitrator or the community arbitration panel without the necessity of formal proof.

(c) The testimony of the complaining witness and any alleged victim may be received when available.

(d) Any statement or admission made by the child appearing before the community arbitrator or the community arbitration panel relating to the offense for which he or she was cited is privileged and may not be used as evidence against the child either in a subsequent juvenile proceeding or in any subsequent civil or criminal action.

(e) If a child fails to appear on the original hearing date, the matter shall be referred back to the intake counselor who shall consult with the state attorney regarding the filing of formal juvenile proceedings.

(6) DISPOSITION OF CASES.—

(a) Subsequent to any hearing held as provided in subsection (5), the community arbitrator or community arbitration panel may:

1. Recommend that the state attorney decline to prosecute the child.

2. Issue a warning to the child or the child's family and recommend that the state attorney decline to prosecute the child.

3. Refer the child for placement in a community-based nonresidential program.

4. Refer the child or the family to community counseling.

5. Refer the child to a safety and education program related to delinquent children.

6. Refer the child to a work program related to delinquent children and require up to 100 hours of work by the child.

7. Refer the child to a nonprofit organization for volunteer work in the community and require up to 100 hours of work by the child.

8. Order restitution in money or in kind in a case involving property damage; however, the amount of restitution shall not exceed the amount of actual damage to property.

9. Continue the case for further investigation.

10. Require the child to undergo urinalysis monitoring.

11. Impose any other restrictions or sanctions that are designed to encourage responsible and acceptable behavior and are agreed upon by the participants of the community arbitration proceedings.

The community arbitrator or community arbitration panel shall determine an appropriate timeframe in which the disposition must be completed. The community arbitrator or community arbitration panel shall report the disposition of the case to the intake counselor or case manager.

(b) Any person or agency to whom a child is referred pursuant to this section shall periodically report the progress of the child to the referring community arbitrator or community arbitration panel in the manner prescribed by such arbitrator or panel.

(c) Any child who is referred by the community arbitrator or community arbitration panel to a work program related to delinquent children or to a nonprofit organization for volunteer work in the community, and who is also ordered to pay restitution to the victim, may be paid a reasonable hourly wage for work, to the extent that funds are specifically appropriated or authorized for this purpose; provided, however, that such payments shall not, in total, exceed the amount of restitution ordered and that such payments shall be turned over by the child to the victim.

(d) If a child consents to an informal resolution and, in the presence of the parent or legal custodian or guardian and the community arbitrator or community arbitration panel, agrees to comply with any disposition suggested or ordered by such arbitrator or panel and subsequently fails to abide by the terms of such agreement, the community arbitrator or community arbitration panel may, after a careful review of the circumstances, forward the case back to the intake counselor, who shall consult with the state attorney regarding the filing of formal juvenile proceedings.

(7) REVIEW.—Any child or his or her parent or legal custodian or guardian who is dissatisfied with the disposition provided by the community arbitrator or the community arbitration panel may request a review of the disposition to the appropriate intake counselor within 15 days after the community arbitration hearing. Upon receipt of the request for review, the intake counselor shall consult with the state attorney who shall consider the request for review and may file formal juvenile proceedings or take such other action as may be warranted.

(8) FUNDING.—Funding for the provisions of community arbitration may be provided through appropriations from the state or from local governments, through federal or other public or private grants, through any appropriations as authorized by the county participating in the community arbitration program, and through donations.

Section 49. Section 39.055, Florida Statutes, is transferred, renumbered as section 985.305, Florida Statutes, and amended to read:

985.305 ~~39.055~~ Early delinquency intervention program; criteria.—

(1) The Department of Juvenile Justice shall, contingent upon specific appropriation and with the cooperation of local law enforcement agencies, the judiciary, district school board personnel, the office of the state attorney, the office of the public defender, the Department of Children and Family ~~Health and Rehabilitative~~ Services, and community service agencies that

work with children, establish an early delinquency intervention program, the components of which shall include, but not be limited to:

(a) Case management services.

(b) Treatment modalities, including substance abuse treatment services, mental health services, and retardation services.

(c) Prevocational education and career education services.

(d) Diagnostic evaluation services.

(e) Educational services.

(f) Self-sufficiency planning.

(g) Independent living skills.

(h) Parenting skills.

(i) Recreational and leisure time activities.

(j) Program evaluation.

(k) Medical screening.

(2) The early delinquency intervention program shall consist of intensive residential treatment in a secure facility for 7 days to 6 weeks, followed by 6 to 9 months of aftercare. An early delinquency intervention program facility shall be designed to accommodate the placement of a maximum of 10 children, except that the facility may accommodate up to 2 children in excess of that maximum if the additional children have previously been released from the residential portion of the program and are later found to need additional residential treatment.

(3) A copy of the arrest report of any child 15 years of age or younger who is taken into custody for committing a delinquent act or any violation of law shall be forwarded to the local service district office of the Department of Juvenile Justice. Upon receiving the second arrest report of any such child from the judicial circuit in which the program is located, the Department of Juvenile Justice shall initiate an intensive review of the child's social and educational history to determine the likelihood of further significant delinquent behavior. In making this determination, the Department of Juvenile Justice shall consider, without limitation, the following factors:

(a) Any prior allegation that the child is dependent or a child in need of services.

(b) The physical, emotional, and intellectual status and developmental level of the child.

(c) The child's academic history, including school attendance, school achievements, grade level, and involvement in school-sponsored activities.

(d) The nature and quality of the child's peer group relationships.

(e) The child's history of substance abuse or behavioral problems.

(f) The child's family status, including the capability of the child's family members to participate in a family-centered intervention program.

(g) The child's family history of substance abuse or criminal activity.

(h) The supervision that is available in the child's home.

(i) The nature of the relationship between the parents and the child and any siblings and the child.

(4) Upon determination that a child is likely to continue to exhibit significant delinquent behavior, the department may recommend to the court that the child be placed in an early delinquency intervention program, and the court may order the program as the dispositional placement for the child. At the discretion of the department or its designee, or upon order of the court, a child who is 11 years of age or younger may be excused from the residential portion of treatment.

(5) Not later than 18 months after the initiation of an early delinquency intervention program, the department shall prepare and submit a progress report to the chairs of the appropriate House and Senate fiscal committees and the appropriate House and Senate substantive committees on the development and implementation of the program, including:

(a) Factors determining placement of a child in the program.

(b) Services provided in each component of the program.

(c) Costs associated with each component of the program.

(d) Problems or difficulties encountered in the implementation and operation of the program.

Section 50. Section 39.0475, Florida Statutes, is transferred and renumbered as section 985.306, Florida Statutes.

Section 51. Section 39.0551, Florida Statutes, is transferred and renumbered as section 985.307, Florida Statutes.

Section 52. Section 39.0571, Florida Statutes, is transferred and renumbered as section 985.308, Florida Statutes.

Section 53. Section 39.057, Florida Statutes, is transferred, renumbered as section 985.309, Florida Statutes, and amended to read:

985.309 ~~39.057~~ Boot camp for children.—

(1) Contingent upon specific appropriation, the department shall implement and operate a boot camp program to provide an intensive educational and physical training and rehabilitative program for appropriate children.

(2) Contingent upon local funding, a county or municipal government may implement and operate a boot camp program to provide an intensive educational and physical training and rehabilitative program for appropriate children.

(3) A child may be placed in a boot camp program if he or she is at least 14 years of age but less than 18 years of age at the time of adjudication and has been committed to the department for any offense that, if committed by an adult, would be a felony, other than a capital felony, a life felony, or a violent felony of the first degree.

(4) The department, county, or municipality operating the boot camp program shall screen children sent to the boot camp program, so that only those children who have medical and psychological profiles conducive to successfully completing an intensive work, educational, and disciplinary program may be admitted to the program. The department shall adopt rules for use by the department, county, or municipality operating the boot camp program for screening such admissions.

(5) The program shall include educational assignments, work assignments, and physical training exercises. Children shall be required to participate in educational, vocational, and substance abuse programs and to receive additional training in techniques of appropriate decisionmaking, as well as in life skills and job skills. The program shall include counseling that is directed at replacing the criminal thinking, beliefs, and values of the child with moral thinking, beliefs, and values.

(6) A boot camp operated by the department, a county, or a municipality must provide for the following minimum periods of participation:

(a) A participant in a low-risk residential program must spend at least 2 months in the boot camp component of the program and 2 months in aftercare.

(b) A participant in a moderate-risk residential program ~~or a high-risk residential program~~ must spend at least 4 months in the boot camp component of the program and 4 months in aftercare.

This subsection does not preclude the operation of a program that requires the participants to spend more than 4 months in the boot camp component of the program or that requires the participants to complete two sequential programs of 4 months each in the boot camp component of the program.

(7) The department shall adopt rules for use by the department, county, or municipality operating the boot camp program which provide for disciplinary sanctions and restrictions on the privileges of the general population of children in the program.

(8) The department shall conduct quarterly inspections and evaluations of each county or municipal government boot camp program to determine whether the program complies with department rules for continued operation of the program. The department shall charge, and the county or municipal government shall pay, a monitoring fee equal to 0.5 percent of the direct

operating costs of the boot camp program. The operation of a boot camp program that fails to pass the department's quarterly inspection and evaluation, if the deficiency causing the failure is material, must be terminated if the deficiency is not corrected by the next quarterly inspection.

(9) The department shall keep records and monitor criminal activity, educational progress, and employment placement of all boot camp program participants in department, county, and municipal boot camp programs after their release from the program. The department must publish an outcome evaluation study of each boot camp program within 18 months after the fourth platoon has graduated ~~program becomes operational, which includes a comparison of criminal activity, educational progress, and employment placements of children completing the program with the criminal activity, educational progress, and employment records of children completing other types of programs~~.

(10) A child in any boot camp program who becomes unmanageable or medically or psychologically ineligible must be removed from the program.

(11)(a) The department may contract with private organizations for the operation of its boot camp program and aftercare.

(b) A county or municipality may contract with private organizations for the operation of its boot camp program and aftercare.

(12)(a) The Juvenile Justice Standards and Training Commission shall either establish criteria for training all contract staff or provide a special training program for department, county, and municipal boot camp program staff, which shall include appropriate methods of dealing with children who have been placed in such a stringent program.

(b) Administrative staff must successfully complete a minimum of 120 contact hours of commission-approved training. Staff who have direct contact with children must successfully complete a minimum of 200 contact hours of commission-approved training, which must include training in the counseling techniques that are used in the boot camp program, basic cardiopulmonary resuscitation and choke-relief, and the control of aggression.

(c) All training courses must be taught by persons who are certified as instructors by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement and who have prior experience in a juvenile boot camp program. A training course in counseling techniques need not be taught by a certified instructor but must be taught by a person who has at least a bachelor's degree in social work, counseling, psychology, or a related field.

(d) A person may not have direct contact with a child in the boot camp program until he or she has successfully completed the training requirements specified in paragraph (b), unless he or she is under the direct supervision of a certified drill instructor or camp commander.

(13)(a) The department may institute injunctive proceedings in a court of competent jurisdiction against a county or a municipality to:

1. Enforce the provisions of this chapter or a minimum standard, rule, regulation, or order issued or entered pursuant thereto; or

2. Terminate the operation of a facility operated pursuant to this section.

(b) The department may institute proceedings against a county or a municipality to terminate the operation of a facility when any of the following conditions exist:

1. The facility fails to take preventive or corrective measures in accordance with any order of the department.

2. The facility fails to abide by any final order of the department once it has become effective and binding.

3. The facility commits any violation of this section constituting an emergency requiring immediate action as provided in this chapter.

4. The facility has willfully and knowingly refused to comply with the screening requirement for personnel pursuant to s. 985.01 ~~39.001~~ or has refused to dismiss personnel found to be in noncompliance with the requirements for good moral character.

(c) Injunctive relief may include temporary and permanent injunctions.

Section 54. Section 39.058, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.31, Florida Statutes, and amended to read:

985.31 ~~39.058~~ Serious or habitual juvenile offender.—

(1) ASSESSMENT AND TREATMENT SERVICES.—Pursuant to the provisions of this chapter and the establishment of appropriate program guidelines and standards, contractual instruments, which shall include safeguards of all constitutional rights, shall be developed as follows:

(a) The department shall provide for:

1. The oversight of implementation of assessment and treatment approaches.

2. The identification and prequalification of appropriate individuals or not-for-profit organizations, including minority individuals or organizations when possible, to provide assessment and treatment services to serious or habitual delinquent children.

3. The monitoring and evaluation of assessment and treatment services for compliance with the provisions of this chapter and all applicable rules and guidelines pursuant thereto.

4. The development of an annual report on the performance of assessment and treatment to be presented to the Governor, the Attorney General, the President of the Senate, the Speaker of the House of Representatives, and the Auditor General no later than January 1 of each year.

(b) Assessment shall generally comprise the first 30 days of treatment and be provided by the same provider as treatment, but assessment and treatment services may be provided by separate providers, where warranted. Providers shall be selected who have the capacity to assess and treat the unique problems presented by children with different racial and ethnic backgrounds. The department shall retain contractual authority to reject any assessment or treatment provider for lack of qualification.

(2) SERIOUS OR HABITUAL JUVENILE OFFENDER PROGRAM.—

(a) There is created the serious or habitual juvenile offender program. The program shall combine 9 to 12 months of intensive secure residential treatment followed by a minimum of 9 months of aftercare. The components of the program shall include, but not be limited to:

1. Diagnostic evaluation services.

2. Appropriate treatment modalities, including substance abuse intervention, mental health services, and sexual behavior dysfunction interventions and gang-related behavior interventions.

3. Prevocational and vocational services.

4. Job training, job placement, and employability-skills training.

5. Case management services.

6. Educational services, including special education and pre-GED literacy.

7. Self-sufficiency planning.

8. Independent living skills.

9. Parenting skills.

10. Recreational and leisure time activities.

11. Community involvement opportunities commencing, where appropriate, with the direct and timely payment of restitution to the victim.

12. Intensive aftercare.

13. Graduated reentry into the community.

14. A diversity of forms of individual and family treatment appropriate to and consistent with the child's needs.

15. Consistent and clear consequences for misconduct.

(b) The department is authorized to contract with private companies to provide some or all of the components indicated in paragraph (a).

(c) The department shall involve local law enforcement agencies, the judiciary, school board personnel, the office of the state attorney, the office

of the public defender, and community service agencies interested in or currently working with juveniles, in planning and developing this program.

(d) The department is authorized to accept funds or in-kind contributions from public or private sources to be used for the purposes of this section.

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(a) Assessment and treatment shall be conducted by treatment professionals with expertise in specific treatment procedures, which professionals shall exercise all professional judgment independently of the department.

(b) Treatment provided to children in designated facilities shall be suited to the assessed needs of each individual child and shall be administered safely and humanely, with respect for human dignity.

(c) The department may promulgate rules for the implementation and operation of programs and facilities for serious or habitual juvenile offenders.

(d) Any provider who acts in good faith is immune from civil or criminal liability for his or her actions in connection with the assessment, treatment, or transportation of a serious or habitual juvenile offender under the provisions of this chapter.

(e) After a child has been adjudicated delinquent pursuant to s. 985.228 ~~39.053(3)~~, the court shall determine whether the child meets the criteria for a serious or habitual juvenile offender pursuant to s. 985.03(47) ~~39.01(62)~~. If the court determines that the child does not meet such criteria, the provisions of s. 985.231(1) ~~39.054~~ shall apply.

(f) After a child has been transferred for criminal prosecution, a circuit court judge may direct an intake counselor or case manager to consult with designated staff from an appropriate serious or habitual juvenile offender program for the purpose of making recommendations to the court regarding the child's placement in such program.

(g) Recommendations as to a child's placement in a serious or habitual juvenile offender program shall be presented to the court within 72 hours after the adjudication or conviction, and may be based on a preliminary screening of the child at appropriate sites, considering the child's location while court action is pending, which may include the nearest regional detention center or facility or jail.

(h) Based on the recommendations of the multidisciplinary assessment, the intake counselor or case manager shall make the following recommendations to the court:

1. For each child who has not been transferred for criminal prosecution, the intake counselor or case manager shall recommend whether placement in such program is appropriate and needed.

2. For each child who has been transferred for criminal prosecution, the intake counselor or case manager shall recommend whether the most appropriate placement for the child is a juvenile justice system program, including a serious or habitual juvenile offender program or facility, or placement in the adult correctional system.

If treatment provided by a serious or habitual juvenile offender program or facility is determined to be appropriate and needed and placement is available, the intake counselor or case manager and the court shall identify the appropriate serious or habitual juvenile offender program or facility best suited to the needs of the child.

(i) The treatment and placement recommendations shall be submitted to the court for further action pursuant to this paragraph:

1. If it is recommended that placement in a serious or habitual juvenile offender program or facility is inappropriate, the court shall make an alternative disposition pursuant to s. 985.309 ~~39.057~~ or other alternative sentencing as applicable, utilizing the recommendation as a guide.

2. If it is recommended that placement in a serious or habitual juvenile offender program or facility is appropriate, the court may commit the child to the department for placement in the restrictiveness level designated for serious or habitual delinquent children programs.

(j) The following provisions shall apply to children in serious or habitual juvenile offender programs and facilities:

1. A child shall begin participation in the reentry component of the program based upon a determination made by the treatment provider and approved by the department.

2. A child shall begin participation in the community supervision component of aftercare based upon a determination made by the treatment provider and approved by the department. The treatment provider shall give written notice of the determination to the circuit court having jurisdiction over the child. If the court does not respond with a written objection within 10 days, the child shall begin the aftercare component.

3. A child shall be discharged from the program based upon a determination made by the treatment provider with the approval of the department.

4. In situations where the department does not agree with the decision of the treatment provider, a reassessment shall be performed, and the department shall utilize the reassessment determination to resolve the disagreement and make a final decision.

(k) Any commitment of a child to the department for placement in a serious or habitual juvenile offender program or facility shall be for an indeterminate period of time, but the time shall not exceed the maximum term of imprisonment which an adult may serve for the same offense. Notwithstanding the provisions of ss. ~~39.054(4) and~~ 743.07 and 985.231(1)(d), a serious or habitual juvenile offender shall not be held under commitment

from a court pursuant to this section, s. 985.231 ~~39.054~~, or s. 985.233 ~~39.059~~ after becoming 21 years of age. This provision shall apply only for the purpose of completing the serious or habitual juvenile offender program pursuant to this chapter and shall be used solely for the purpose of treatment.

(4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.—

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of serious or habitual juvenile offenders and for the assessment, which assessment shall include the criteria under s. 985.03(47) ~~39.01(62)~~ and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.

2. Proclivity toward violence.

3. Tendency toward gang involvement.

4. Substance abuse or addiction and the level thereof.

5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.

6. Number and type of previous adjudications, findings of guilt, and convictions.

7. Potential for rehabilitation.

(b) The department shall contract with multiple individuals or not-for-profit organizations to perform the assessments and treatment, and shall ensure that the staff of each provider are appropriately trained.

(c) Assessment and treatment providers shall have a written procedure developed, in consultation with licensed treatment professionals, establishing conditions under which a child's blood and urine samples will be tested for substance abuse indications. It is not unlawful for the person receiving the test results to divulge the test results to the relevant facility staff and department personnel. However, such information is exempt from the provisions of ss. 119.01 and 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d) Serologic blood test and urinalysis results obtained pursuant to paragraph (c) are confidential, except that they may be shared with employees or officers of the department, the court, and any assessment or treatment provider and designated facility treating the child. No person to whom the results of a test have been disclosed under this section may disclose the test results to another person not authorized under this section.

(e) The results of any serologic blood or urine test on a serious or habitual juvenile offender shall become a part of that child's permanent medical file. Upon transfer of the child to any other designated treatment facility, such file shall be transferred in an envelope marked confidential. The results of any test designed to identify the human immunodeficiency virus, or its

antigen or antibody, shall be accessible only to persons designated by rule of the department. The provisions of such rule shall be consistent with the guidelines established by the Centers for Disease Control.

(f) A record of the assessment and treatment of each serious or habitual juvenile offender shall be maintained by the provider, which shall include data pertaining to the child's treatment and such other information as may be required under rules of the department. Unless waived by express and informed consent by the child or the guardian or, if the child is deceased, by the child's personal representative or by the person who stands next in line of intestate succession, the privileged and confidential status of the clinical assessment and treatment record shall not be lost by either authorized or unauthorized disclosure to any person, organization, or agency.

(g) The assessment and treatment record shall not be a public record, and no part of it shall be released, except that:

1. The record shall be released to such persons and agencies as are designated by the child or the guardian.

2. The record shall be released to persons authorized by order of court, excluding matters privileged by other provisions of law.

3. The record or any part thereof shall be disclosed to a qualified researcher, as defined by rule; a staff member of the designated treatment facility; or an employee of the department when the administrator of the facility or the Secretary of Juvenile Justice deems it necessary for treatment of the child, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

4. Information from the assessment and treatment record may be used for statistical and research purposes if the information is abstracted in such a way as to protect the identity of individuals.

(h) Notwithstanding other provisions of this section, the department may request, receive, and provide assessment and treatment information to facilitate treatment, rehabilitation, and continuity of care of any serious or habitual juvenile offender from any of the following:

1. The Social Security Administration and the United States Department of Veterans Affairs.

2. Law enforcement agencies, state attorneys, defense attorneys, and judges in regard to the child's status.

3. Personnel in any facility in which the child may be placed.

4. Community agencies and others expected to provide services to the child upon his or her return to the community.

(i) Any law enforcement agency, designated treatment facility, governmental or community agency, or other entity that receives information pursuant to this section shall maintain such information as a nonpublic record as otherwise provided herein.

(j) Any agency, not-for-profit organization, or treatment professional who acts in good faith in releasing information pursuant to this subsection shall not be subject to civil or criminal liability for such release.

(k) Assessment and treatment records are confidential as described in this paragraph and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. The department shall have full access to the assessment and treatment records to ensure coordination of services to the child.

2. The principles of confidentiality of records as provided in s. 985.04 ~~39.045~~ shall apply to the assessment and treatment records of serious or habitual juvenile offenders.

(l) For purposes of effective administration, accurate tracking and recordkeeping, and optimal treatment decisions, each assessment and treatment provider shall maintain a central identification file on the serious or habitual juvenile offenders it treats.

(m) The file of each serious or habitual juvenile offender shall contain, but is not limited to, pertinent children-in-need-of-services and delinquency record information maintained by the department; pertinent school records information on behavior, attendance, and achievement; and pertinent information on delinquency or children in need of services maintained by law enforcement agencies and the state attorney.

(n) All providers under this section shall, as part of their contractual duties, collect, maintain, and report to the department all information necessary to comply with mandatory reporting pursuant to the promulgation of rules by the department for the implementation of serious or habitual juvenile offender programs and the monitoring and evaluation thereof.

(o) The department is responsible for the development and maintenance of a statewide automated tracking system for serious or habitual juvenile offenders.

(5) DESIGNATED TREATMENT FACILITIES.—

(a) Designated facilities shall be sited and constructed by the department, directly or by contract, pursuant to departmental rules, to ensure that facility design is compatible with treatment. The department is authorized to contract for the construction of the facilities and may also lease facilities. The number of beds per facility shall not exceed 25. An assessment of need for additional facilities shall be conducted prior to the siting or construction of more than one facility in any judicial circuit.

(b) Designated facilities for serious or habitual juvenile offenders shall be separate and secure facilities established under the authority of the department for the treatment of such children.

(c) Security for designated facilities for serious or habitual juvenile offenders shall be determined by the department. The department is authorized to contract for the provision of security.

(d) With respect to the treatment of serious or habitual juvenile offenders under this section, designated facilities shall be immune from liability for civil damages except in instances when the failure to act in good faith results in serious injury or death, in which case liability shall be governed by s. 768.28.

(e) Minimum standards and requirements for designated treatment facilities shall be contractually prescribed pursuant to subsection (1).

Section 55. Section 39.0582, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.311, Florida Statutes, and amended to read:

985.311 ~~39.0582~~ Intensive residential treatment program for offenders less than 13 years of age.—

(1) ASSESSMENT AND TREATMENT SERVICES.—Pursuant to the provisions of this chapter and the establishment of appropriate program guidelines and standards, contractual instruments, which shall include safeguards of all constitutional rights, shall be developed for intensive residential treatment programs for offenders less than 13 years of age as follows:

(a) The department shall provide for:

1. The oversight of implementation of assessment and treatment approaches.

2. The identification and prequalification of appropriate individuals or not-for-profit organizations, including minority individuals or organizations when possible, to provide assessment and treatment services to intensive offenders less than 13 years of age.

3. The monitoring and evaluation of assessment and treatment services for compliance with the provisions of this chapter and all applicable rules and guidelines pursuant thereto.

4. The development of an annual report on the performance of assessment and treatment to be presented to the Governor, the Attorney General, the President of the Senate, the Speaker of the House of Representatives, and the Auditor General no later than January 1 of each year.

(b) Assessment shall generally comprise the first 30 days of treatment and be provided by the same provider as treatment, but assessment and treatment services may be provided by separate providers, where warranted. Providers shall be selected who have the capacity to assess and treat the unique problems presented by children with different racial and ethnic backgrounds. The department shall retain contractual authority to reject any assessment or treatment provider for lack of qualification.

(2) INTENSIVE RESIDENTIAL TREATMENT PROGRAM FOR OFFENDERS LESS THAN 13 YEARS OF AGE.—

(a) There is created the intensive residential treatment program for offenders less than 13 years of age. The program shall combine 9 to 12 months of intensive secure residential treatment followed by a minimum of 9 months of aftercare. The components of the program shall include, but not be limited to:

1. Diagnostic evaluation services.

2. Appropriate treatment modalities, including substance abuse intervention, mental health services, and sexual behavior dysfunction interventions and gang-related behavior interventions.

3. Life skills.

4. Values clarification.

5. Case management services.

6. Educational services, including special and remedial education.

7. Recreational and leisure time activities.

8. Community involvement opportunities commencing, where appropriate, with the direct and timely payment of restitution to the victim.

9. Intensive aftercare.

10. Graduated reentry into the community.

11. A diversity of forms of individual and family treatment appropriate to and consistent with the child's needs.

12. Consistent and clear consequences for misconduct.

(b) The department is authorized to contract with private companies to provide some or all of the components indicated in paragraph (a).

(c) The department shall involve local law enforcement agencies, the judiciary, school board personnel, the office of the state attorney, the office of the public defender, and community service agencies interested in or currently working with juveniles, in planning and developing this program.

(d) The department is authorized to accept funds or in-kind contributions from public or private sources to be used for the purposes of this section.

(e) The department shall establish quality assurance standards to ensure the quality and substance of mental health services provided to children with mental, nervous, or emotional disorders who may be committed to intensive residential treatment programs. The quality assurance standards shall address the possession of credentials by the mental health service providers.

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(a) Assessment and treatment shall be conducted by treatment professionals with expertise in specific treatment procedures, which professionals shall exercise all professional judgment independently of the department.

(b) Treatment provided to children in designated facilities shall be suited to the assessed needs of each individual child and shall be administered safely and humanely, with respect for human dignity.

(c) The department may promulgate rules for the implementation and operation of programs and facilities for children who are eligible for an intensive residential treatment program for offenders less than 13 years of age. The department must involve the following groups in the promulgation of rules for services for this population: local law enforcement agencies, the judiciary, school board personnel, the office of the state attorney, the office of the public defender, and community service agencies interested in or currently working with juveniles. When promulgating these rules, the department must consider program principles, components, standards, procedures for intake, diagnostic and assessment activities, treatment modalities, and case management.

(d) Any provider who acts in good faith is immune from civil or criminal liability for his or her actions in connection with the assessment, treatment, or transportation of an intensive offender less than 13 years of age under the provisions of this chapter.

(e) After a child has been adjudicated delinquent pursuant to s. 985.228(5) ~~39.053(3)~~, the court shall determine whether the child is eligible for an intensive residential treatment program for offenders less than 13 years of age pursuant to s. 985.03(7) ~~39.01(11)~~. If the court determines that the child does not meet the criteria, the provisions of s. 985.231(1) ~~39.054~~ shall apply.

(f) After a child has been transferred for criminal prosecution, a circuit court judge may direct an intake counselor or case manager to consult with designated staff from an appropriate intensive residential treatment program for offenders less than 13 years of age for the purpose of making recommendations to the court regarding the child's placement in such program.

(g) Recommendations as to a child's placement in an intensive residential treatment program for offenders less than 13 years of age may be based on a preliminary screening of the child at appropriate sites, considering the child's location while court action is pending, which may include the nearest regional detention center or facility or jail.

(h) Based on the recommendations of the multidisciplinary assessment, the intake counselor or case manager shall make the following recommendations to the court:

1. For each child who has not been transferred for criminal prosecution, the intake counselor or case manager shall recommend whether placement in such program is appropriate and needed.

2. For each child who has been transferred for criminal prosecution, the intake counselor or case manager shall recommend whether the most appropriate placement for the child is a juvenile justice system program, including a child who is eligible for an intensive residential treatment program for offenders less than 13 years of age, or placement in the adult correctional system.

If treatment provided by an intensive residential treatment program for offenders less than 13 years of age is determined to be appropriate and needed and placement is available, the intake counselor or case manager and the court shall identify the appropriate intensive residential treatment program for offenders less than 13 years of age best suited to the needs of the child.

(i) The treatment and placement recommendations shall be submitted to the court for further action pursuant to this paragraph:

1. If it is recommended that placement in an intensive residential treatment program for offenders less than 13 years of age is inappropriate, the court shall make an alternative disposition pursuant to s. 985.309 ~~39.057~~ or other alternative sentencing as applicable, utilizing the recommendation as a guide.

2. If it is recommended that placement in an intensive residential treatment program for offenders less than 13 years of age is appropriate, the court may commit the child to the department for placement in the restrictiveness level designated for intensive residential treatment program for offenders less than 13 years of age.

(j) The following provisions shall apply to children in an intensive residential treatment program for offenders less than 13 years of age:

1. A child shall begin participation in the reentry component of the program based upon a determination made by the treatment provider and approved by the department.

2. A child shall begin participation in the community supervision component of aftercare based upon a determination made by the treatment provider and approved by the department. The treatment provider shall give written notice of the determination to the circuit court having jurisdiction over the child. If the court does not respond with a written objection within 10 days, the child shall begin the aftercare component.

3. A child shall be discharged from the program based upon a determination made by the treatment provider with the approval of the department.

4. In situations where the department does not agree with the decision of the treatment provider, a reassessment shall be performed, and the department shall utilize the reassessment determination to resolve the disagreement and make a final decision.

(k) Any commitment of a child to the department for placement in an intensive residential treatment program for offenders less than 13 years of

age shall be for an indeterminate period of time, but the time shall not exceed the maximum term of imprisonment which an adult may serve for the same offense. Any child who has not completed the residential portion of the intensive residential treatment program for offenders less than 13 years of age by his or her fourteenth birthday may be transferred to another program for committed delinquent offenders.

(4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.—

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of children who are eligible for an intensive residential treatment program for offenders less than 13 years of age and for the assessment, which assessment shall include the criteria under s. 985.03(7) ~~39.01(11)~~ and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.

2. Proclivity toward violence.

3. Tendency toward gang involvement.

4. Substance abuse or addiction and the level thereof.

5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.

6. Number and type of previous adjudications, findings of guilt, and convictions.

7. Potential for rehabilitation.

(b) The department shall contract with multiple individuals or not-for-profit organizations to perform the assessments and treatment, and shall ensure that the staff of each provider are appropriately trained.

(c) Assessment and treatment providers shall have a written procedure developed, in consultation with licensed treatment professionals, establishing conditions under which a child's blood and urine samples will be tested for substance abuse indications. It is not unlawful for the person receiving the test results to divulge the test results to the relevant facility staff and department personnel. However, such information is exempt from the provisions of ss. 119.01 and 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d) Serologic blood test and urinalysis results obtained pursuant to paragraph (c) are confidential, except that they may be shared with employees or officers of the department, the court, and any assessment or treatment provider and designated facility treating the child. No person to whom the results of a test have been disclosed under this section may disclose the test results to another person not authorized under this section.

(e) The results of any serologic blood or urine test on a child who is eligible for an intensive residential treatment program for offenders less than 13 years of age shall become a part of that child's permanent medical

file. Upon transfer of the child to any other designated treatment facility, such file shall be transferred in an envelope marked confidential. The results of any test designed to identify the human immunodeficiency virus, or its antigen or antibody, shall be accessible only to persons designated by rule of the department. The provisions of such rule shall be consistent with the guidelines established by the Centers for Disease Control.

(f) A record of the assessment and treatment of each child who is eligible for an intensive residential treatment program for offenders less than 13 years of age shall be maintained by the provider, which shall include data pertaining to the child's treatment and such other information as may be required under rules of the department. Unless waived by express and informed consent by the child or the guardian or, if the child is deceased, by the child's personal representative or by the person who stands next in line of intestate succession, the privileged and confidential status of the clinical assessment and treatment record shall not be lost by either authorized or unauthorized disclosure to any person, organization, or agency.

(g) The assessment and treatment record shall not be a public record, and no part of it shall be released, except that:

1. The record shall be released to such persons and agencies as are designated by the child or the guardian.

2. The record shall be released to persons authorized by order of court, excluding matters privileged by other provisions of law.

3. The record or any part thereof shall be disclosed to a qualified researcher, as defined by rule; a staff member of the designated treatment facility; or an employee of the department when the administrator of the facility or the Secretary of Juvenile Justice deems it necessary for treatment of the child, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

4. Information from the assessment and treatment record may be used for statistical and research purposes if the information is abstracted in such a way as to protect the identity of individuals.

(h) Notwithstanding other provisions of this section, the department may request, receive, and provide assessment and treatment information to facilitate treatment, rehabilitation, and continuity of care of any child who is eligible for an intensive residential treatment program for offenders less than 13 years of age from any of the following:

1. The Social Security Administration and the United States Department of Veterans Affairs.

2. Law enforcement agencies, state attorneys, defense attorneys, and judges in regard to the child's status.

3. Personnel in any facility in which the child may be placed.

4. Community agencies and others expected to provide services to the child upon his or her return to the community.

(i) Any law enforcement agency, designated treatment facility, governmental or community agency, or other entity that receives information pursuant to this section shall maintain such information as a nonpublic record as otherwise provided herein.

(j) Any agency, not-for-profit organization, or treatment professional who acts in good faith in releasing information pursuant to this subsection shall not be subject to civil or criminal liability for such release.

(k) Assessment and treatment records are confidential as described in this paragraph and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. The department shall have full access to the assessment and treatment records to ensure coordination of services to the child.

2. The principles of confidentiality of records as provided in s. 985.05 ~~39.045~~ shall apply to the assessment and treatment records of children who are eligible for an intensive residential treatment program for offenders less than 13 years of age.

(l) For purposes of effective administration, accurate tracking and recordkeeping, and optimal treatment decisions, each assessment and treatment provider shall maintain a central identification file on each child it treats in the intensive residential treatment program for offenders less than 13 years of age.

(m) The file of each child treated in the intensive residential treatment program for offenders less than 13 years of age shall contain, but is not limited to, pertinent children-in-need-of-services and delinquency record information maintained by the department; pertinent school records information on behavior, attendance, and achievement; and pertinent information on delinquency or children in need of services maintained by law enforcement agencies and the state attorney.

(n) All providers under this section shall, as part of their contractual duties, collect, maintain, and report to the department all information necessary to comply with mandatory reporting pursuant to the promulgation of rules by the department for the implementation of intensive residential treatment programs for offenders less than 13 years of age and the monitoring and evaluation thereof.

(o) The department is responsible for the development and maintenance of a statewide automated tracking system for children who are treated in an intensive residential treatment program for offenders less than 13 years of age.

(5) DESIGNATED TREATMENT FACILITIES.—

(a) Designated facilities shall be sited and constructed by the department, directly or by contract, pursuant to departmental rules, to ensure that facility design is compatible with treatment. The department is authorized to contract for the construction of the facilities and may also lease facilities.

The number of beds per facility shall not exceed 25. An assessment of need for additional facilities shall be conducted prior to the siting or construction of more than one facility in any judicial circuit.

(b) Designated facilities for an intensive residential treatment program for offenders less than 13 years of age shall be separate and secure facilities established under the authority of the department for the treatment of such children.

(c) Security for designated facilities for children who are eligible for an intensive residential treatment program for offenders less than 13 years of age shall be determined by the department. The department is authorized to contract for the provision of security.

(d) With respect to the treatment of children who are eligible for an intensive residential treatment program for offenders less than 13 years of age under this section, designated facilities shall be immune from liability for civil damages except in instances when the failure to act in good faith results in serious injury or death, in which case liability shall be governed by s. 768.28.

(e) Minimum standards and requirements for designated treatment facilities shall be contractually prescribed pursuant to subsection (1).

Section 56. Section 39.0583, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.312, Florida Statutes, and amended to read:

985.312 ~~39.0583~~ Intensive residential treatment programs for offenders less than 13 years of age; prerequisite for commitment.—No child who is eligible for commitment to an intensive residential treatment program for offenders less than 13 years of age as established in s. 985.03(7) ~~39.01(11)~~, may be committed to any intensive residential treatment program for offenders less than 13 years of age as established in s. 985.311 ~~39.0582~~, unless such program has been established by the department through existing resources or specific appropriation, for such program.

Section 57. Section 39.0581, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 985.313, Florida Statutes.

Section 58. Section 39.0584, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.314, Florida Statutes, and amended to read:

985.314 ~~39.0584~~ Commitment programs for juvenile felony offenders.—

(1) Notwithstanding any other law and regardless of the child's age, a child who is adjudicated delinquent, or for whom adjudication is withheld, for an act that would be a felony if committed by an adult, shall be committed to:

(a) A boot camp program under s. 985.309 ~~39.057~~ if the child has participated in an early delinquency intervention program as provided in s. 985.305 ~~39.055~~.

(b) A program for serious or habitual juvenile offenders under s. 985.31 ~~39.058~~ or an intensive residential treatment program for offenders less than 13 years of age under s. 985.311 ~~39.0582~~, if the child has participated in an early delinquency intervention program and has completed a boot camp program.

(c) A maximum-risk residential program, if the child has participated in an early delinquency intervention program, has completed a boot camp program, and has completed a program for serious or habitual juvenile offenders or an intensive residential treatment program for offenders less than 13 years of age. The commitment of a child to a maximum-risk residential program must be for an indeterminate period, but may not exceed the maximum term of imprisonment that an adult may serve for the same offense.

(2) In committing a child to the appropriate program, the court may consider an equivalent program of similar intensity as being comparable to a program required under subsection (1).

Section 59. Section 39.05841, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.315, Florida Statutes, and amended to read:

985.315 ~~39.05841 Findings of fact;~~ Vocational/work training programs.—

(1)(a) It is the finding of the Legislature that vocational work programs of the Department of Juvenile Justice are uniquely different from other programs operated or conducted by other departments in that it is essential to the state that the work programs provide juveniles with useful activities that can lead to meaningful employment after release in order to assist in reducing the return of juveniles to the system.

(b)~~(2)~~ It is further the finding of the Legislature that the mission of a juvenile vocational work program is, in order of priority:

1.~~(a)~~ To provide a joint effort between the department, the juvenile work programs, and other vocational training programs to reinforce relevant education, training, and postrelease job placement, and help reduce recommitment.

2.~~(b)~~ To serve the security goals of the state through the reduction of idleness of juveniles and the provision of an incentive for good behavior in residential commitment facilities.

(c)~~(3)~~ It is further the finding of the Legislature that a program which duplicates as closely as possible free-work production and service operations in order to aid juveniles in adjustment after release and to prepare juveniles for gainful employment is in the best interest of the state, juveniles, and the general public.

(2)(a) The department may require juveniles placed in a high-risk residential, maximum-risk residential, or a serious/habitual offender program to participate in a vocational work program. All policies developed by the

department relating to this requirement must be consistent with applicable federal, state, and local labor laws and standards, including all laws relating to child labor.

(b) Nothing in this subsection is intended to restore, in whole or in part, the civil rights of any juvenile. No juvenile compensated under this subsection shall be considered as an employee of the state or the department, nor shall such juvenile come within any other provision of the Workers' Compensation Law.

(3) In adopting or modifying master plans for juvenile work programs, and in the administration of the Department of Juvenile Justice, it shall be the objective of the department to develop:

(a) Attitudes favorable to work, the work situation, and a law-abiding life in each juvenile employed in the juvenile work program.

(b) Training opportunities that are reasonably broad, but which develop specific work skills.

(c) Programs that motivate juveniles to use their abilities. Juveniles who do not adjust to these programs shall be reassigned.

(d) Training programs that will be of mutual benefit to all governmental jurisdictions of the state by reducing the costs of government to the taxpayers and which integrate all instructional programs into a unified curriculum suitable for all juveniles, but taking account of the different abilities of each juvenile.

(e) A logical sequence of vocational training, employment by the juvenile vocational work programs, and postrelease job placement for juveniles participating in juvenile work programs.

(4)(a) The Department of Juvenile Justice shall establish guidelines for the operation of juvenile vocational work programs, which shall include the following procedures:

1. The education, work experience, emotional and mental abilities, and physical capabilities of the juvenile and the duration of the term of placement imposed on the juvenile are to be analyzed before assignment of the inmate into the various processes best suited for training.

2. When feasible, the department shall attempt to obtain training credit for a juvenile seeking apprenticeship status or a high school diploma or its equivalent.

3. The juvenile may begin in a general work skills program and progress to a specific work skills training program, depending upon the ability, desire, and work record of the juvenile.

4. Modernization and upgrading of equipment and facilities should include greater automation and improved production techniques to expose juveniles to the latest technological procedures to facilitate their adjustment to real work situations.

(b) Evaluations of juvenile work programs shall be conducted according to the following guidelines:

1. Systematic evaluations and quality assurance monitoring shall be implemented, in accordance with ss. 985.401(4) and 985.412(1), to determine whether the juvenile vocational work programs are related to successful postrelease adjustments.

2. Operations and policies of work programs shall be reevaluated to determine if they are consistent with their primary objectives.

(c) The department shall seek the advice of private labor and management to:

1. Assist its work programs in the development of statewide policies aimed at innovation and organizational change.

2. Obtain technical and practical assistance, information, and guidance.

3. Encourage the cooperation and involvement of the private sector.

(5)(a) The Department of Juvenile Justice may adopt and put into effect an agricultural and industrial production and marketing program to provide training facilities for persons placed in serious/habitual offender, high-risk residential, and maximum-risk residential programs and facilities under the control and supervision of the department. The emphasis of this program shall be to provide juveniles with useful work experience and appropriate job skills that will facilitate their reentry into society and provide an economic benefit to the public and the department through effective utilization of juveniles.

(b) The department is authorized to contract with the private sector for substantial involvement in a juvenile industry program which includes the operation of a direct private sector business within a juvenile facility and the hiring of juvenile workers. The purposes and objectives of this program shall be to:

1. Increase benefits to the general public by reimbursement to the state for a portion of the costs of juvenile residential care.

2. Provide purposeful work for juveniles as a means of reducing tensions caused by confinement.

3. Increase job skills.

4. Provide additional opportunities for rehabilitation of juveniles who are otherwise ineligible to work outside the facilities, such as maximum security juveniles.

5. Develop and establish new models for juvenile facility-based businesses which create jobs approximating conditions of private sector employment.

6. Draw upon the economic base of operations for disposition to the Crimes Compensation Trust Fund.

7. Substantially involve the private sector with its capital, management skills, and expertise in the design, development, and operation of businesses.

(c) Notwithstanding any other law to the contrary, including s. 440.15(9), private sector employers shall provide juveniles participating in juvenile work programs under paragraph (b) with workers' compensation coverage, and juveniles shall be entitled to the benefits of such coverage. Nothing in this subsection shall be construed to allow juveniles to participate in unemployment compensation benefits.

Section 60. Section 39.067, Florida Statutes, is transferred and renumbered as section 985.316, Florida Statutes.

Section 61. Section 39.003, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.401, Florida Statutes, and amended to read:

985.401 ~~39.003~~ Juvenile Justice Advisory Board.—

(1) The Juvenile Justice Advisory Board shall be composed of nine members. Members of the board shall have direct experience and a strong interest in juvenile justice issues. The authority to appoint the board is allocated as follows:

(a) Three members appointed by the Governor.

(b) Three members appointed by the President of the Senate.

(c) Three members appointed by the Speaker of the House of Representatives.

(2)(a) A full term shall be 3 years, and the term for each seat on the board commences on October 1 and expires on September 30, without regard to the date of appointment. Each appointing authority shall appoint a member to fill one of the three vacancies that occurs with the expiration of terms on September 30 of each year. A member is not eligible for appointment to more than two full, consecutive terms. A vacancy on the board shall be filled within 60 days after the date on which the vacancy occurs. The appointing authority that made the original appointment shall make the appointment to fill a vacancy that occurs for any reason other than the expiration of a term, and the appointment shall be for the remainder of the unexpired term.

(b) The board shall annually select a chairperson from among its members.

(c) The board shall meet at least once each quarter. A member may not authorize a designee to attend a meeting of the board in place of the member. A member who fails to attend two consecutive regularly scheduled meetings of the board, unless the member is excused by the chairperson, shall be deemed to have abandoned the position, and the position shall be declared vacant by the board.

(3)(a) The board members shall serve without compensation, but are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061.

(b) The board shall appoint an executive director and other personnel who are exempt from part II of chapter 110, relating to the Career Service System.

(c) The board is assigned, for the purpose of general oversight, to the Joint Legislative Auditing Committee. The board shall develop a budget pursuant to procedures established by the Joint Legislative Auditing Committee.

(d) The composition of the board shall be broadly reflective of the public and shall include minorities and women. The term "minorities" as used in this paragraph means a member of a socially or economically disadvantaged group that includes African Americans, Hispanics, and American Indians. Members of the board shall have direct experience and a strong interest in juvenile justice issues.

(4) The board shall:

(a) Review and recommend programmatic and fiscal policies governing the operation of programs, services, and facilities for which the Department of Juvenile Justice is responsible.

(b) Monitor the development and implementation of long-range juvenile justice policies, including prevention, early intervention, diversion, adjudication, and commitment.

(c) Monitor all activities of the executive and judicial branch and their effectiveness in implementing policies pursuant to ~~parts II and IV of~~ this chapter.

(d) Establish and operate a comprehensive system to annually measure and report program outcome and effectiveness for each program operated by the Department of Juvenile Justice or operated by a provider under contract with the department. The board shall use its evaluation research to make advisory recommendations to the Legislature, the Governor, and the department concerning the effectiveness and future funding priorities of juvenile justice programs.

(e) Advise the President of the Senate, the Speaker of the House of Representatives, the Governor, and the department on matters relating to ~~parts II and IV of~~ this chapter.

(f) Serve as a clearinghouse to provide information and assistance to the district juvenile justice boards and county juvenile justice councils.

(g) Hold public hearings and inform the public of activities of the board and of the Department of Juvenile Justice, as appropriate.

(h) Monitor the delivery and use of services, programs, or facilities operated, funded, regulated, or licensed by the Department of Juvenile Justice

for juvenile offenders or alleged juvenile offenders, and for prevention, diversion, or early intervention of delinquency, and to develop programs to educate the citizenry about such services, programs, and facilities and about the need and procedure for siting new facilities.

(i) Contract for consultants as necessary and appropriate. The board may apply for and receive grants for the purposes of conducting research and evaluation activities.

(j) Conduct such other activities as the board may determine are necessary and appropriate to monitor the effectiveness of the delivery of juvenile justice programs and services under ~~parts II and IV of~~ this chapter.

(k) The board shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Governor, and the secretary of the department not later than February 15 of each calendar year, summarizing the activities and reports of the board for the preceding year, and any recommendations of the board for the following year.

(5) Each state agency shall provide assistance when requested by the board. The board shall have access to all records, files, and reports that are material to its duties and that are in the custody of a school board, a law enforcement agency, a state attorney, a public defender, the court, the Department of Children and Family ~~Health and Rehabilitative~~ Services, and the department.

Section 62. Section 39.085, Florida Statutes, is transferred and renumbered as section 985.402, Florida Statutes.

Section 63. Section 39.0572, Florida Statutes, is transferred and renumbered as section 985.403, Florida Statutes.

Section 64. Section 39.021, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.404, Florida Statutes, and amended to read:

985.404 ~~39.021~~ Administering the juvenile justice continuum.—

(1) The Department of Juvenile Justice shall plan, develop, and coordinate comprehensive services and programs statewide for the prevention, early intervention, control, and rehabilitative treatment of delinquent behavior.

(2) The department shall develop and implement an appropriate continuum of care that provides individualized, multidisciplinary assessments, objective evaluations of relative risks, and the matching of needs with placements for all children under its care, and that uses a system of case management to facilitate each child being appropriately assessed, provided with services, and placed in a program that meets the child's needs.

(3) The department shall develop or contract for diversified and innovative programs to provide rehabilitative treatment, including early intervention and prevention, diversion, comprehensive intake, case management,

diagnostic and classification assessments, individual and family counseling, shelter care, diversified detention care emphasizing alternatives to secure detention, diversified community control, halfway houses, foster homes, community-based substance abuse treatment services, community-based mental health treatment services, community-based residential and nonresidential programs, environmental programs, and programs for serious or habitual juvenile offenders. Each program shall place particular emphasis on reintegration and aftercare for all children in the program.

(4) The department may transfer a child, when necessary to appropriately administer the child's commitment, from one facility or program to another facility or program operated, contracted, subcontracted, or designated by the department. The department shall notify the court that committed the child to the department, in writing, of its transfer of the child from a commitment facility or program to another facility or program of a higher or lower restrictiveness level. The court that committed the child may agree to the transfer or may set a hearing to review the transfer. If the court does not respond within 10 days after receipt of the notice, the transfer of the child shall be deemed granted.

(5) The department shall maintain continuing cooperation with the Department of Education, the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Labor and Employment Security, and the Department of Corrections for the purpose of participating in agreements with respect to dropout prevention and the reduction of suspensions, expulsions, and truancy; increased access to and participation in GED, vocational, and alternative education programs; and employment training and placement assistance. The cooperative agreements between the departments shall include an interdepartmental plan to cooperate in accomplishing the reduction of inappropriate transfers of children into the adult criminal justice and correctional systems.

(6) The department may provide consulting services and technical assistance to courts, law enforcement agencies, and other state agencies, local governments, and public and private organizations, and may develop or assist in developing community interest and action programs relating to intervention against, diversion from, and prevention and treatment of, delinquent behavior.

(7) In view of the importance of the basic values of work, responsibility, and self-reliance to a child's return to his or her community, the department may pay a child a reasonable sum of money for work performed while employed in any of the department's work programs. The work programs shall be designed so that the work benefits the department or the state, their properties, or the child's community. Funds for payments shall be provided specifically for salaries pursuant to this subsection, and payments shall be made pursuant to a plan approved or rules adopted by the department.

(8) The department shall administer programs and services for children in need of services and families in need of services and shall coordinate its efforts with those of the Federal Government, state agencies, county and municipal governments, private agencies, and child advocacy groups. The

department shall establish standards for, providing technical assistance to, and exercising the requisite supervision of, services and programs for children in all state-supported facilities and programs.

(9) The department shall ensure that personnel responsible for the care, supervision, and individualized treatment of children are appropriately apprised of the requirements of this part and trained in the specialized areas required to comply with standards established by rule.

~~(10)(a) It is the intent of the Legislature to:~~

~~1. Ensure that information be provided to decisionmakers so that resources are allocated to programs of the department which achieve desired performance levels.~~

~~2. Provide information about the cost of such programs and their differential effectiveness so that the quality of such programs can be compared and improvements made continually.~~

~~3. Provide information to aid in developing related policy issues and concerns.~~

~~4. Provide information to the public about the effectiveness of such programs in meeting established goals and objectives.~~

~~5. Provide a basis for a system of accountability so that each client is afforded the best programs to meet his or her needs.~~

~~6. Improve service delivery to clients.~~

~~7. Modify or eliminate activities that are not effective.~~

~~(b) As used in this subsection, the term:~~

~~1. "Client" means any person who is being provided treatment or services by the department or by a provider under contract with the department.~~

~~2. "Program component" means an aggregation of generally related objectives which, because of their special character, related workload, and interrelated output, can logically be considered an entity for purposes of organization, management, accounting, reporting, and budgeting.~~

~~3. "Program effectiveness" means the ability of the program to achieve desired client outcomes, goals, and objectives.~~

~~(c) The department shall:~~

~~1. Establish a comprehensive quality assurance system for each program operated by the department or operated by a provider under contract with the department. Each contract entered into by the department must provide for quality assurance.~~

~~2. Provide operational definitions of and criteria for quality assurance for each specific program component.~~

~~3. Establish quality assurance goals and objectives for each specific program component.~~

~~4. Establish the information and specific data elements required for the quality assurance program.~~

~~5. Develop a quality assurance manual of specific, standardized terminology and procedures to be followed by each program.~~

~~6. Evaluate each program operated by a provider under a contract with the department and establish minimum thresholds for each program component. If a provider fails to meet the established minimum thresholds, such failure shall cause the department to cancel the provider's contract unless the provider achieves compliance with minimum thresholds within 6 months or unless there are documented extenuating circumstances. In addition, the department may not contract with the same provider for the canceled service for a period of 12 months.~~

~~The department shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and appropriations committees of each house of the Legislature, and the Governor, no later than February 1 of each year. The annual report must contain, at a minimum, for each specific program component: a comprehensive description of the population served by the program; a specific description of the services provided by the program; cost; a comparison of expenditures to federal and state funding; immediate and long-range concerns; and recommendations to maintain, expand, improve, modify, or eliminate each program component so that changes in services lead to enhancement in program quality. The department's inspector general shall ensure the reliability and validity of the information contained in the report.~~

~~(11) The department shall collect and analyze available statistical data for the purpose of ongoing evaluation of all programs. The department shall provide the Legislature with necessary information and reports to enable the Legislature to make informed decisions regarding the effectiveness of, and any needed changes in, services, programs, policies, and laws.~~

(10)~~(12)~~ The department shall annually collect and report cost data for every program operated or contracted by the department. The cost data shall conform to a format approved by the department and the Legislature. Uniform cost data shall be reported and collected for state-operated and contracted programs so that comparisons can be made among programs. The department shall ensure that there is accurate cost accounting for state-operated services including market-equivalent rent and other shared cost. The cost of the educational program provided to a residential facility shall be reported and included in the cost of a program. The department shall submit an annual cost report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and appropriations committees of each house of the Legislature, and the Governor, no later than February 1 of each year. Cost-benefit analysis for educational programs will be devel-

oped and implemented in collaboration with the Department of Education and will use current data sources whenever possible.

(11)~~(13)~~ The Department of Juvenile Justice in consultation with the Juvenile Justice Advisory Board and providers shall develop a cost-benefit model and apply the model to each commitment program. Program recommitment rates shall be a component of the model. The cost-benefit model shall compare program costs to benefits ~~to produce a cost-benefit ratio~~. A report ranking commitment programs based on cost-benefit ~~ratios~~ shall be submitted to the appropriate substantive and appropriations committees of each house of the Legislature, no later than December 31 of each year. It is the intent of the Legislature that continual development efforts take place to improve the validity and reliability of the cost-benefit model.

(12)~~(14)~~(a) The department shall operate a statewide, regionally administered system of detention services for children, in accordance with a comprehensive plan for the regional administration of all detention services in the state. The plan must provide for the maintenance of adequate availability of detention services for all counties. The plan must cover the department's 15 service districts, with each service district having a secure facility and nonsecure and home detention programs, and the plan may be altered or modified by the Department of Juvenile Justice as necessary.

(b) The department shall adopt rules prescribing standards and requirements with reference to:

1. The construction, equipping, maintenance, staffing, programming, and operation of detention facilities;

2. The treatment, training, and education of children confined in detention facilities;

3. The cleanliness and sanitation of detention facilities;

4. The number of children who may be housed in detention facilities per specified unit of floor space;

5. The quality, quantity, and supply of bedding furnished to children housed in detention facilities;

6. The quality, quantity, and diversity of food served in detention facilities and the manner in which it is served;

7. The furnishing of medical attention and health and comfort items in detention facilities; and

8. The disciplinary treatment administered in detention facilities.

(c) The rules must provide that the time spent by a child in a detention facility must be devoted to educational training and other types of self-motivation and development. The use of televisions, radios, and audio-players shall be restricted to educational programming. However, the manager of a detention facility may allow noneducational programs to be used

as a reward for good behavior. Exercise must be structured and calisthenic and aerobic in nature and may include weight lifting.

(d) Each programmatic, residential, and service contract or agreement entered into by the department must include a cooperation clause for purposes of complying with the department's quality assurance requirements, cost-accounting requirements, and the program outcome-evaluation requirements.

Section 65. Section 985.405, Florida Statutes, is created to read:

985.405 Rules for implementation.—The Department of Juvenile Justice shall adopt rules for the efficient and effective management of all programs, services, facilities, and functions necessary for implementing this chapter. Such rules may not conflict with the Florida Rules of Juvenile Procedure. All rules and policies must conform to accepted standards of care and treatment.

Section 66. Section 39.024, Florida Statutes, is transferred and renumbered as section 985.406, Florida Statutes.

Section 67. Section 39.076, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 985.407, Florida Statutes.

Section 68. Section 39.075, Florida Statutes, is transferred and renumbered as section 985.408, Florida Statutes.

Section 69. Section 985.409, Florida Statutes, is created to read:

985.409 Participation of certain programs in the Florida Casualty Insurance Risk Management Trust Fund.—Pursuant to s. 284.30, the Division of Risk Management of the Department of Insurance is authorized to insure a private agency, individual, or corporation operating a state-owned training school under a contract to carry out the purposes and responsibilities of any program of the department. The coverage authorized herein shall be under the same general terms and conditions as the department is insured for its responsibilities under chapter 284.

Section 70. Section 39.074, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 985.41, Florida Statutes.

Section 71. Section 39.0215, Florida Statutes, is transferred, renumbered as section 985.411, Florida Statutes, and amended to read:

985.411 ~~39.0215~~ Administering county and municipal delinquency programs and facilities.—

(1) A county or municipal government may plan, develop, and coordinate services and programs for the control and rehabilitative treatment of delinquent behavior.

(2) A county or municipal government may develop or contract for innovative programs which provide rehabilitative treatment with particular emphasis on reintegration and aftercare for all children in the program, includ-

ing halfway houses and community-based substance abuse treatment services, mental health treatment services, residential and nonresidential programs, environmental programs, and programs for serious or habitual juvenile offenders.

(3) A county or municipal government developing or contracting for a local program pursuant to this section is responsible for all costs associated with the establishment, operation, and maintenance of the program.

(4) In accordance with rules adopted by the department, a county or municipal government may transfer a child, when necessary to appropriately administer the child's commitment, from one facility or program operated, contracted, or subcontracted by the county or municipal government to another such facility or program.

(5) In view of the importance of the basic value of work, responsibility, and self-reliance to a child's rehabilitation within his or her community, a county or municipal government may provide work programs for delinquent children and may pay a child a reasonable sum of money for work performed while employed in any such work program. The work involved in such work programs must be designed to benefit the county or municipal government, the local community, or the state.

(6) A county or municipal government developing or contracting for a local program pursuant to this section is responsible for following state law and department rules relating to children's delinquency services and for the coordination of its efforts with those of the Federal Government, state agencies, private agencies, and child advocacy groups providing such services.

(7) The department is required to conduct quarterly inspections and evaluations of each county or municipal government juvenile delinquency program to determine whether the program complies with department rules for continued operation of the program. The department shall charge, and the county or municipal government shall pay, a monitoring fee equal to 0.5 percent of the direct operating costs of the program. The operation of a program which fails to pass the department's quarterly inspection and evaluation, if the deficiency causing the failure is material, must be terminated if such deficiency is not corrected by the next quarterly inspection.

(8) A county or municipal government providing a local program pursuant to this section shall ensure that personnel responsible for the care, supervision, and treatment of children in the program are apprised of the requirements of this section and appropriately trained to comply with department rules.

(9) A county or municipal government may establish and operate a juvenile detention facility in compliance with this section, if such facility is certified by the department.

(a) The department shall evaluate the county or municipal government detention facility to determine whether the facility complies with the department's rules prescribing the standards and requirements for the operation of a juvenile detention facility. The rules for certification of secure juvenile

detention facilities operated by county or municipal governments must be consistent with the rules for certification of secure juvenile detention facilities operated by the department.

(b) The department is required to conduct quarterly inspections and evaluations of each county or municipal government juvenile detention facility to determine whether the facility complies with the department's rules for continued operation. The department shall charge, and the county or municipal government shall pay, a monitoring fee equal to 0.5 percent of the direct operating costs of the program. The operation of a facility which fails to pass the department's quarterly inspection and evaluation, if the deficiency causing the failure is material, must be terminated if such deficiency is not corrected by the next quarterly inspection.

(c) A county or municipal government operating a local juvenile detention facility pursuant to this section is responsible for all costs associated with the establishment, operation, and maintenance of the facility.

(d) Only children who reside within the jurisdictional boundaries of the county or municipal government operating the juvenile detention facility and children who are detained for committing an offense within the jurisdictional boundaries of the county or municipal government operating the facility may be held in the facility.

(e) A child may be placed in a county or municipal government juvenile detention facility only when:

1. The department's regional juvenile detention facility is filled to capacity;

2. The safety of the child dictates; or

3. Otherwise ordered by a court.

(f) A child who is placed in a county or municipal government juvenile detention facility must meet the detention criteria as established in this chapter.

(10)(a) The department may institute injunctive proceedings in a court of competent jurisdiction against a county or municipality to:

1. Enforce the provisions of this chapter or a minimum standard, rule, regulation, or order issued or entered pursuant thereto; or

2. Terminate the operation of a facility operated pursuant to this section.

(b) The department may institute proceedings against a county or municipality to terminate the operation of a facility when any of the following conditions exist:

1. The facility fails to take preventive or corrective measures in accordance with any order of the department.

2. The facility fails to abide by any final order of the department once it has become effective and binding.

3. The facility commits any violation of this section constituting an emergency requiring immediate action as provided in this chapter.

4. The facility has willfully and knowingly refused to comply with the screening requirement for personnel pursuant to s. 985.01 ~~39.001~~ or has refused to dismiss personnel found to be in noncompliance with the requirements for good moral character.

(c) Injunctive relief may include temporary and permanent injunctions.

Section 72. Section 985.412, Florida Statutes, is created to read:

985.412 Quality assurance.—

(1)(a) It is the intent of the Legislature to:

1. Ensure that information be provided to decisionmakers so that resources are allocated to programs of the department which achieve desired performance levels.

2. Provide information about the cost of such programs and their differential effectiveness so that the quality of such programs can be compared and improvements made continually.

3. Provide information to aid in developing related policy issues and concerns.

4. Provide information to the public about the effectiveness of such programs in meeting established goals and objectives.

5. Provide a basis for a system of accountability so that each client is afforded the best programs to meet his or her needs.

6. Improve service delivery to clients.

7. Modify or eliminate activities that are not effective.

(b) As used in this subsection, the term:

1. "Client" means any person who is being provided treatment or services by the department or by a provider under contract with the department.

2. "Program component" means an aggregation of generally related objectives which, because of their special character, related workload, and interrelated output, can logically be considered an entity for purposes of organization, management, accounting, reporting, and budgeting.

3. "Program effectiveness" means the ability of the program to achieve desired client outcomes, goals, and objectives.

(c) The department shall:

1. Establish a comprehensive quality assurance system for each program operated by the department or operated by a provider under contract with

the department. Each contract entered into by the department must provide for quality assurance.

2. Provide operational definitions of and criteria for quality assurance for each specific program component.

3. Establish quality assurance goals and objectives for each specific program component.

4. Establish the information and specific data elements required for the quality assurance program.

5. Develop a quality assurance manual of specific, standardized terminology and procedures to be followed by each program.

6. Evaluate each program operated by a provider under a contract with the department and establish minimum thresholds for each program component. If a provider fails to meet the established minimum thresholds, such failure shall cause the department to cancel the provider's contract unless the provider achieves compliance with minimum thresholds within 6 months or unless there are documented extenuating circumstances. In addition, the department may not contract with the same provider for the canceled service for a period of 12 months.

The department shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and fiscal committees of each house of the Legislature, and the Governor, no later than February 1 of each year. The annual report must contain, at a minimum, for each specific program component: a comprehensive description of the population served by the program; a specific description of the services provided by the program; cost; a comparison of expenditures to federal and state funding; immediate and long-range concerns; and recommendations to maintain, expand, improve, modify, or eliminate each program component so that changes in services lead to enhancement in program quality. The department's inspector general shall ensure the reliability and validity of the information contained in the report.

(2) The department shall collect and analyze available statistical data for the purpose of ongoing evaluation of all programs. The department shall provide the Legislature with necessary information and reports to enable the Legislature to make informed decisions regarding the effectiveness of, and any needed changes in, services, programs, policies, and laws.

Section 73. Section 39.025, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.413, Florida Statutes, and amended to read:

985.413 ~~39.025~~ District juvenile justice boards.—

~~(1) SHORT TITLE.—This section may be cited as the "Community Juvenile Justice System Act."~~

(1)~~(2)~~ FINDINGS.—The Legislature finds that the number of children suspended or expelled from school is growing at an alarming rate; that juvenile crime is growing at an alarming rate; and that there is a direct relationship between the increasing number of children suspended or expelled from school and the rising crime rate. The Legislature further finds that the problem of school safety cannot be solved solely by suspending or expelling students, nor can the public be protected from juvenile crime merely by incarcerating juvenile delinquents, but that school and law enforcement authorities must work in cooperation with the Department of Juvenile Justice, the Department of Children and Family ~~Health and Rehabilitative~~ Services, and other community representatives in a partnership that coordinates goals, strategies, resources, and evaluation of outcomes. The Legislature finds that where such partnerships exist the participants believe that such efforts are beneficial to the community and should be encouraged elsewhere.

(2)~~(3)~~ INTENT.—The Legislature recognizes that, despite the large investment of resources committed to address the needs of the criminal justice system of this state, the crime rate continues to increase, overcrowding the state's juvenile detention centers, jails, and prisons and placing the state in jeopardy of being unable to effectively manage these facilities. The economic cost of crime to the state continues to drain existing resources, and the cost to victims, both economic and psychological, is traumatic and tragic. The Legislature further recognizes that many adults in the criminal justice system were once delinquents in the juvenile justice system. The Legislature also recognizes that the most effective juvenile delinquency programs are programs that not only prevent children from entering the juvenile justice system, but also meet local community needs and have substantial community involvement and support. Therefore, it is the belief of the Legislature that one of the best investments of the scarce resources available to combat crime is in the prevention of delinquency, including prevention of criminal activity by youth gangs, with special emphasis on structured and well-supervised alternative education programs for children suspended or expelled from school. It is the intent of the Legislature to authorize and encourage each of the counties of the state to establish a comprehensive juvenile justice plan based upon the input of representatives of every affected public or private entity, organization, or group. It is the further intent of the Legislature that representatives of school systems, the judiciary, law enforcement, and the Department of Juvenile Justice acquire a thorough understanding of the role and responsibility that each has in addressing juvenile crime in the community, that the county juvenile justice plan reflect an understanding of the legal and fiscal limits within which the plan must be implemented, and that willingness of the parties to cooperate and collaborate in implementing the plan be explicitly stated. It is the further intent of the Legislature that county juvenile justice plans form the basis of and be integrated into district juvenile justice plans and that the prevention and treatment resources at the county, district, and regional levels be utilized to the maximum extent possible to implement and further the goals of their respective plans.

~~(4) DEFINITIONS.—As used in this section:~~

~~(a) "Juvenile justice continuum" includes, but is not limited to, delinquency prevention programs and services designed for the purpose of preventing or reducing delinquent acts, including criminal activity by youth gangs, and juvenile arrests, as well as programs and services targeted at children who have committed delinquent acts, and children who have previously been committed to residential treatment programs for delinquents. The term includes children-in-need-of-services and families-in-need-of-services programs; aftercare and reentry services; substance abuse and mental health programs; educational and vocational programs; recreational programs; community services programs; community service work programs; and alternative dispute resolution programs serving children at risk of delinquency and their families, whether offered or delivered by state or local governmental entities, public or private for-profit or not-for-profit organizations, or religious or charitable organizations.~~

~~(b) "Department" means the Department of Juvenile Justice.~~

~~(c) "District" means a service district of the Department of Juvenile Justice.~~

~~(d) "District administrator" means the chief operating officer of each service district of the Department of Health and Rehabilitative Services as defined in s. 20.19(6), and, where appropriate, includes each district administrator whose service district falls within the boundaries of a judicial circuit.~~

~~(e) "Circuit" means any of the twenty judicial circuits as set forth in s. 26.021.~~

~~(f) "Health and human services board" means the body created in each service district of the Department of Health and Rehabilitative Services pursuant to the provisions of s. 20.19(7).~~

~~(g) "District juvenile justice manager" means the person appointed by the Secretary of Juvenile Justice, responsible for planning, managing, and evaluating all juvenile justice continuum programs and services delivered or funded by the Department of Juvenile Justice within the district.~~

~~(h) "Authority" means the Florida Motor Vehicle Theft Prevention Authority established in s. 860.154.~~

~~(5) COUNTY JUVENILE JUSTICE COUNCILS.—~~

~~(a) A county juvenile justice council is authorized in each county for the purpose of encouraging the initiation of, or supporting ongoing, interagency cooperation and collaboration in addressing juvenile crime. A county juvenile justice council must include:~~

~~1. The district school superintendent, or the superintendent's designee.~~

~~2. The chair of the board of county commissioners, or the chair's designee.~~

~~3. An elected official of the governing body of a municipality within the county.~~

~~4. Representatives of the local school system including administrators, teachers, school counselors, and parents.~~

~~5. The district juvenile justice manager and the district administrator of the Department of Health and Rehabilitative Services, or their respective designees.~~

~~6. Representatives of local law enforcement agencies, including the sheriff or the sheriff's designee.~~

~~7. Representatives of the judicial system, including, but not limited to, the chief judge of the circuit, the state attorney, the public defender, the clerk of the circuit court, or their respective designees.~~

~~8. Representatives of the business community.~~

~~9. Representatives of any other interested officials, groups, or entities including, but not limited to, a children's services council, public or private providers of juvenile justice programs and services, students, and advocates.~~

~~A juvenile delinquency and gang prevention council or any other group or organization that currently exists in any county, and that is composed of and open to representatives of the classes of members described in this section, may notify the district juvenile justice manager of its desire to be designated as the county juvenile justice council.~~

~~(b) The purpose of a county juvenile justice council is to provide a forum for the development of a community-based interagency assessment of the local juvenile justice system, to develop a county juvenile justice plan for more effectively preventing juvenile delinquency, and to make recommendations for more effectively utilizing existing community resources in dealing with juveniles who are truant or have been suspended or expelled from school, or who are found to be involved in crime. The county juvenile justice plan shall include relevant portions of local crime prevention and public safety plans, school improvement and school safety plans, and the plans or initiatives of other public and private entities within the county that are concerned with dropout prevention, school safety, the prevention of juvenile crime and criminal activity by youth gangs, and alternatives to suspension, expulsion, and detention for children found in contempt of court.~~

~~(c) The duties and responsibilities of a county juvenile justice council include, but are not limited to:~~

~~1. Developing a county juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department of Health and Rehabilitative Services, and others in a cooperative and collaborative manner to prevent or discourage juvenile crime and develop meaningful alternatives to school suspensions and expulsions.~~

~~2. Entering into a written county interagency agreement specifying the nature and extent of contributions each signatory agency will make in achieving the goals of the county juvenile justice plan and their commitment~~

~~to the sharing of information useful in carrying out the goals of the interagency agreement to the extent authorized by law.~~

~~3. Applying for and receiving public or private grants, to be administered by one of the community partners, that support one or more components of the county juvenile justice plan.~~

~~4. Designating the county representatives to the district juvenile justice board pursuant to subsection (6).~~

~~5. Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the county interagency agreement or the performance by the parties of their respective obligations under the agreement.~~

~~6. Assisting and directing the efforts of local community support organizations and volunteer groups in providing enrichment programs and other support services for clients of local juvenile detention centers.~~

~~7. Providing an annual report and recommendations to the district juvenile justice board, the Juvenile Justice Advisory Board, and the district juvenile justice manager.~~

(3)~~(6)~~ DISTRICT JUVENILE JUSTICE BOARDS.—

(a) There is created a district juvenile justice board within each district to be composed of representatives of county juvenile justice councils within the district.

(b)1.

a. The authority to appoint members to district juvenile justice boards, and the size of each board, is as follows:

(I) District 1 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Escambia County, 6 members; Okaloosa County, 3 members; Santa Rosa County, 2 members; and Walton County, 1 member.

(II) District 2 is to have a board composed of 18 members, to be appointed by the juvenile justice councils in the respective counties, as follows: Holmes County, 1 member; Washington County, 1 member; Bay County, 2 members; Jackson County, 1 member; Calhoun County, 1 member; Gulf County, 1 member; Gadsden County, 1 member; Franklin County, 1 member; Liberty County, 1 member; Leon County, 4 members; Wakulla County, 1 member; Jefferson County, 1 member; Madison County, 1 member; and Taylor County, 1 member.

(III) District 3 is to have a board composed of 15 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Hamilton County, 1 member; Suwannee County, 1 member; Lafayette County, 1 member; Dixie County, 1 member; Columbia County, 1 member; Gilchrist County, 1 member; Levy County, 1 member; Union County, 1

member; Bradford County, 1 member; Putnam County, 1 member; and Alachua County, 5 members.

(IV) District 4 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Baker County, 1 member; Nassau County, 1 member; Duval County, 7 members; Clay County, 2 members; and St. Johns County, 1 member.

(V) District 5 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Pasco County, 3 members; and Pinellas County, 9 members.

(VI) District 6 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Hillsborough County, 9 members; and Manatee County, 3 members.

(VII) District 7 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Seminole County, 3 members; Orange County, 5 members; Osceola County, 1 member; and Brevard County, 3 members.

(VIII) District 8 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Sarasota County, 3 members; DeSoto County, 1 member; Charlotte County, 1 member; Lee County, 3 members; Glades County, 1 member; Hendry County, 1 member; and Collier County, 2 members.

(IX) District 9 is to have a board composed of 12 members, to be appointed by the juvenile justice council of Palm Beach County.

(X) District 10 is to have a board composed of 12 members, to be appointed by the juvenile justice council of Broward County.

(XI) District 11 is to have a juvenile justice board composed of 12 members to be appointed by the juvenile justice council in the respective counties, as follows: Dade County, 6 members and Monroe County, 6 members.

(XII) District 12 is to have a board composed of 12 members, to be appointed by the juvenile justice council of the respective counties, as follows: Flagler County, 3 members; and Volusia County, 9 members.

(XIII) District 13 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Marion County, 4 members; Citrus County, 2 members; Hernando County, 2 members; Sumter County, 1 member; and Lake County, 3 members.

(XIV) District 14 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Polk County, 9 members; Highlands County, 2 members; and Hardee County, 1 member.

(XV) District 15 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows:

Indian River County, 3 members; Okeechobee County, 1 member; St. Lucie County, 5 members; and Martin County, 3 members.

The district health and human services board in each district may appoint one of its members to serve as an ex officio member of the district juvenile justice board established under this sub-subparagraph.

b. In any judicial circuit where a juvenile delinquency and gang prevention council exists on the date this act becomes law, and where the circuit and district or subdistrict boundaries are identical, such council shall become the district juvenile justice board, and shall thereafter have the purposes and exercise the authority and responsibilities provided in this section.

2. At any time after the adoption of initial bylaws pursuant to paragraph (c), a district juvenile justice board may adopt a bylaw to enlarge the size, by no more than three members, and composition of the board to adequately reflect the diversity of the population and community organizations in the district.

3. ~~In order to create staggered terms, the initial terms of members of the district juvenile justice board appointed by the county juvenile justice council in the most populous county of the district shall expire on June 30, 1995. The initial terms of members appointed by other county councils shall expire on June 30, 1996. Thereafter,~~ All appointments shall be for 2-year terms. Appointments to fill vacancies created by death, resignation, or removal of a member are for the unexpired term. A member may not serve more than two full consecutive terms; however, this limitation does not apply in any district in which a juvenile delinquency and gang prevention council that existed on May 7, 1993, became the district juvenile justice board.

4. A member who is absent for three meetings within any 12-month period, without having been excused by the chair, is deemed to have resigned, and the board shall immediately declare the seat vacant. Members may be suspended or removed for cause by a majority vote of the board members or by the Governor.

5. Members are subject to the provisions of chapter 112, part III, Code of Ethics for Public Officers and Employees.

(c) Upon the completion of the appointment process, the district juvenile justice manager shall schedule an organizational meeting of the board. At the organizational meeting, or as soon thereafter as is practical, the board shall adopt bylaws and rules of procedure for the operation of the board, provided such bylaws and rules are not inconsistent with federal and state laws or county ordinances. The bylaws shall provide for such officers and committees as the board deems necessary, and shall specify the qualifications, method of selection, and term for each office created.

(d) A district juvenile justice board has the purpose, power, and duty to:

1. Advise the district juvenile justice manager and the district administrator on the need for and the availability of juvenile justice programs and services in the district.

2. Develop a district juvenile justice plan that is based upon the juvenile justice plans developed by each county within the district, and that addresses the needs of each county within the district.

3. Develop a district interagency cooperation and information-sharing agreement that supplements county agreements and expands the scope to include appropriate circuit and district officials and groups.

4. Coordinate the efforts of the district juvenile justice board with the activities of the Governor's Juvenile Justice and Delinquency Prevention Advisory Committee and other public and private entities.

5. Advise and assist the district juvenile justice manager in the provision of optional, innovative delinquency services in the district to meet the unique needs of delinquent children and their families.

6. Develop, in consultation with the district juvenile justice manager, funding sources external to the Department of Juvenile Justice for the provision and maintenance of additional delinquency programs and services. The board may, either independently or in partnership with one or more county juvenile justice councils or other public or private entities, apply for and receive funds, under contract or other funding arrangement, from federal, state, county, city, and other public agencies, and from public and private foundations, agencies, and charities for the purpose of funding optional innovative prevention, diversion, or treatment services in the district for delinquent children and children at risk of delinquency, and their families. To aid in this process, the department shall provide fiscal agency services for the councils.

7. Educate the community about and assist in the community juvenile justice partnership grant program administered by the Department of Juvenile Justice.

8. Advise the district health and human services board, the district juvenile justice manager, and the Secretary of Juvenile Justice regarding the development of the legislative budget request for juvenile justice programs and services in the district and the commitment region, and, in coordination with the district health and human services board, make recommendations, develop programs, and provide funding for prevention and early intervention programs and services designed to serve children in need of services, families in need of services, and children who are at risk of delinquency within the district or region.

9. Assist the district juvenile justice manager in collecting information and statistical data useful in assessing the need for prevention programs and services within the juvenile justice continuum program in the district.

10. Make recommendations with respect to, and monitor the effectiveness of, the judicial administrative plan for each circuit pursuant to Rule 2.050, Florida Rules of Judicial Administration.

11. Provide periodic reports to the health and human services board in the appropriate district of the Department of Children and Family ~~Health~~

~~and Rehabilitative~~ Services. These reports must contain, at a minimum, data about the clients served by the juvenile justice programs and services in the district, as well as data concerning the unmet needs of juveniles within the district.

12. Provide a written annual report on the activities of the board to the district administrator, the Secretary of Juvenile Justice, and the Juvenile Justice Advisory Board. The report should include an assessment of the effectiveness of juvenile justice continuum programs and services within the district, recommendations for elimination, modification, or expansion of existing programs, and suggestions for new programs or services in the juvenile justice continuum that would meet identified needs of children and families in the district.

(e) Contingent upon legislative appropriation, the department shall provide funding for a minimum of one full-time position for a staff person to work with the district juvenile justice boards.

(f) The secretary shall hold quarterly meetings with chairpersons of the district juvenile justice board in order to:

1. Advise juvenile justice board chairs of statewide juvenile justice issues and activities.

2. Provide feedback on district budget priorities.

3. Obtain input into the strategic planning process.

4. Discuss program development, program implementation, and quality assurance.

(4)~~(7)~~ DISTRICT JUVENILE JUSTICE PLAN; PROGRAMS.—

(a) A district juvenile justice plan is authorized in each district or any subdivision of the district authorized by the district juvenile justice board for the purpose of reducing delinquent acts, juvenile arrests, and gang activity. Juvenile justice programs under such plan may be administered by the Department of Juvenile Justice; the district school board; a local law enforcement agency; or any other public or private entity, in cooperation with appropriate state or local governmental entities and public and private agencies. A juvenile justice program under this section may be planned, implemented, and conducted in any district pursuant to a proposal developed and approved as specified in s. 985.415 ~~subsection (8)~~.

(b) District juvenile justice plans shall be developed by district juvenile justice boards in close cooperation with the schools, the courts, the state attorney, law enforcement, state agencies, and community organizations and groups. It is the intent of the Legislature that representatives of all elements of the community acquire a thorough understanding of the role and responsibility that each has in addressing juvenile crime in the community, and that the district juvenile justice plan reflect an understanding of the legal and fiscal limits within which the plan must be implemented.

(c) The district juvenile justice board may use public hearings and other appropriate processes to solicit input regarding the development and updating of the district juvenile justice plan. Input may be provided by parties which include, but are not limited to:

1. Local level public and private service providers, advocacy organizations, and other organizations working with delinquent children.

2. County and municipal governments.

3. State agencies that provide services to children and their families.

4. University youth centers.

5. Judges, state attorneys, public defenders, and The Florida Bar.

6. Victims of crimes committed by children.

7. Law enforcement.

8. Delinquent children and their families and caregivers.

The district juvenile justice board must develop its district juvenile justice plan in close cooperation with the appropriate health and human services board of the Department of Children and Family ~~Health and Rehabilitative~~ Services, local school districts, local law enforcement agencies, and other community groups and must update the plan annually. To aid the planning process, the Department of Juvenile Justice shall provide to district juvenile justice boards routinely collected ethnicity data. The Department of Law Enforcement shall include ethnicity as a field in the Florida Intelligence Center database, and shall collect the data routinely and make it available to district juvenile justice boards.

~~(8) COMMUNITY JUVENILE JUSTICE PARTNERSHIP GRANTS; CRITERIA.—~~

~~(a) In order to encourage the development of county and district juvenile justice plans and the development and implementation of county and district interagency agreements among representatives of the Department of Juvenile Justice, the Department of Health and Rehabilitative Services, law enforcement, and school authorities, the community juvenile justice partnership grant program is established, to be administered by the Department of Juvenile Justice.~~

~~(b) The department shall only consider applications which at a minimum provide for the following:~~

~~1. The participation of the local school authorities, local law enforcement, and local representatives of the Department of Juvenile Justice and the Department of Health and Rehabilitative Services pursuant to a written interagency partnership agreement. Such agreement must specify how community entities will cooperate, collaborate, and share information in furtherance of the goals of the district and county juvenile justice plan; and~~

2. The reduction of truancy and in-school and out-of-school suspensions and expulsions, and the enhancement of school safety.

(c) In addition, the department may consider the following criteria in awarding grants:

1. The district juvenile justice plan and any county juvenile justice plans that are referred to or incorporated into the district plan, including a list of individuals, groups, and public and private entities that participated in the development of the plan.

2. The diversity of community entities participating in the development of the district juvenile justice plan.

3. The number of community partners who will be actively involved in the operation of the grant program.

4. The number of students or youth to be served by the grant and the criteria by which they will be selected.

5. The criteria by which the grant program will be evaluated and, if deemed successful, the feasibility of implementation in other communities.

(9) GRANT APPLICATION PROCEDURES.—

(a) Each entity wishing to apply for an annual community juvenile justice partnership grant, which may be renewed for a maximum of 2 additional years for the same provision of services, shall submit a grant proposal for funding or continued funding to the department by March 1 of each year. The department shall establish the grant application procedures. In order to be considered for funding, the grant proposal shall include the following assurances and information:

1. A letter from the chair of the county juvenile justice council confirming that the grant application has been reviewed and found to support one or more purposes or goals of the juvenile justice plan as developed by the council.

2. A rationale and description of the program and the services to be provided, including goals and objectives.

3. A method for identification of the juveniles at risk of involvement in the juvenile justice system who will be the focus of the program.

4. Provisions for the participation of parents and guardians in the program.

5. Coordination with other community-based and social service prevention efforts, including, but not limited to, drug and alcohol abuse prevention and dropout prevention programs, that serve the target population or neighborhood.

6. An evaluation component to measure the effectiveness of the program in accordance with the provisions of s. 39.021.

~~7. A program budget, including the amount and sources of local cash and in-kind resources committed to the budget. The proposal must establish to the satisfaction of the department that the entity will make a cash or in-kind contribution to the program of a value that is at least equal to 20 percent of the amount of the grant.~~

~~8. The necessary program staff.~~

~~(b) The department shall consider the following in awarding such grants:~~

~~1. The number of youths from 10 through 17 years of age within the geographical area to be served by the program. Those geographical areas with the highest number of youths from 10 through 17 years of age shall have priority for selection.~~

~~2. The extent to which the program targets high juvenile crime neighborhoods and those public schools serving juveniles from high crime neighborhoods.~~

~~3. The validity and cost-effectiveness of the program.~~

~~4. The degree to which the program is located in and managed by local leaders of the target neighborhoods and public schools serving the target neighborhoods.~~

~~5. The recommendations of the juvenile justice council as to the priority that should be given to proposals submitted by entities within a county.~~

~~6. The recommendations of the juvenile justice board as to the priority that should be given to proposals submitted by entities within a district.~~

~~(c) The department shall make available, to anyone wishing to apply for such a grant, information on all of the criteria to be used in the selection of the proposals for funding pursuant to the provisions of this subsection.~~

~~(d) The department shall review all program proposals submitted. Entities submitting proposals shall be notified of approval not later than June 30 of each year.~~

~~(e) Each entity that is awarded a grant as provided for in this section shall submit an annual evaluation report to the department, the district juvenile justice manager, the district juvenile justice board, and the county juvenile justice council, by a date subsequent to the end of the contract period established by the department, documenting the extent to which the program objectives have been met, the effect of the program on the juvenile arrest rate, and any other information required by the department. The department shall coordinate and incorporate all such annual evaluation reports with the provisions of s. 39.021. Each entity is also subject to a financial audit and a performance audit.~~

~~(f) The department may establish rules and policy provisions necessary to implement this section.~~

~~(10) RESTRICTIONS.—This section does not prevent a program initiated under a community juvenile justice partnership grant established pursuant to this section from continuing to operate beyond the 3-year maximum funding period if it can find other funding sources. Likewise, this section does not restrict the number of programs an entity may apply for or operate.~~

~~(11) INNOVATION ZONES.—The department shall encourage each of the district juvenile justice boards to propose at least one innovation zone within the district for the purpose of implementing any experimental, pilot, or demonstration project that furthers the legislatively established goals of the department. An innovation zone is a defined geographic area such as a district, commitment region, county, municipality, service delivery area, school campus, or neighborhood providing a laboratory for the research, development, and testing of the applicability and efficacy of model programs, policy options, and new technologies for the department.~~

~~(a)1. The district juvenile justice board shall submit a proposal for an innovation zone to the secretary. If the purpose of the proposed innovation zone is to demonstrate that specific statutory goals can be achieved more effectively by using procedures that require modification of existing rules, policies, or procedures, the proposal may request the secretary to waive such existing rules, policies, or procedures or to otherwise authorize use of alternative procedures or practices. Waivers of such existing rules, policies, or procedures must comply with applicable state or federal law.~~

~~2. For innovation zone proposals that the secretary determines require changes to state law, the secretary may submit a request for a waiver from such laws, together with any proposed changes to state law, to the chairs of the appropriate legislative committees for consideration.~~

~~3. For innovation zone proposals that the secretary determines require waiver of federal law, the secretary may submit a request for such waivers to the applicable federal agency.~~

~~(b) An innovation zone project may not have a duration of more than 2 years, but the secretary may grant an extension.~~

~~(c) Before implementing an innovation zone under this subsection, the secretary shall, in conjunction with the Auditor General, develop measurable and valid objectives for such zone within a negotiated reasonable period of time. Moneys designated for an innovation zone in one service district may not be used to fund an innovation zone in another district.~~

~~(d) Program models for innovation zone projects include, but are not limited to:~~

~~1. Forestry alternative work program that provides selected juvenile offenders an opportunity to serve in a forestry work program as an alternative to incarceration, in which offenders assist in wildland firefighting, enhancement of state land management, environmental enhancement, and land restoration.~~

~~2. Collaborative public/private dropout prevention partnership that trains personnel from both the public and private sectors of a target commu-~~

~~nity who are identified and brought into the school system as an additional resource for addressing problems which inhibit and retard learning, including abuse, neglect, financial instability, pregnancy, and substance abuse.~~

~~3. Support services program that provides economically disadvantaged youth with support services, jobs, training, counseling, mentoring, and prepaid postsecondary tuition scholarships.~~

~~4. Juvenile offender job training program that offers an opportunity for juvenile offenders to develop educational and job skills in a 12-month to 18-month nonresidential training program, teaching the offenders skills such as computer-aided design, modular panel construction, and heavy vehicle repair and maintenance which will readily transfer to the private sector, thereby promoting responsibility and productivity.~~

~~5. Infant mortality prevention program that is designed to discourage unhealthy behaviors such as smoking and alcohol or drug consumption, reduce the incidence of babies born prematurely or with low birth weight, reduce health care cost by enabling babies to be safely discharged earlier from the hospital, reduce the incidence of child abuse and neglect, and improve parenting and problem-solving skills.~~

~~6. Regional crime prevention and intervention program that serves as an umbrella agency to coordinate and replicate existing services to at-risk children, first-time juvenile offenders, youth crime victims, and school dropouts.~~

~~7. Alternative education outreach school program that serves delinquent repeat offenders between 14 and 18 years of age who have demonstrated failure in school and who are referred by the juvenile court.~~

~~8. Drug treatment and prevention program that provides early identification of children with alcohol or drug problems to facilitate treatment, comprehensive screening and assessment, family involvement, and placement options.~~

~~9. Community resource mother or father program that emphasizes parental responsibility for the behavior of children, and requires the availability of counseling services for children at high risk for delinquent behavior.~~

Section 74. Section 985.414, Florida Statutes, is created to read:

985.414 County juvenile justice councils.—

(1)(a) A county juvenile justice council is authorized in each county for the purpose of encouraging the initiation of, or supporting ongoing, interagency cooperation and collaboration in addressing juvenile crime.

(b) A county juvenile justice council must include:

1. The district school superintendent, or the superintendent's designee.

2. The chair of the board of county commissioners, or the chair's designee.

3. An elected official of the governing body of a municipality within the county.

4. Representatives of the local school system including administrators, teachers, school counselors, and parents.

5. The district juvenile justice manager and the district administrator of the Department of Children and Family Services, or their respective designees.

6. Representatives of local law enforcement agencies, including the sheriff or the sheriff's designee.

7. Representatives of the judicial system including, but not limited to, the chief judge of the circuit, the state attorney, the public defender, the clerk of the circuit court, or their respective designees.

8. Representatives of the business community.

9. Representatives of any other interested officials, groups, or entities including, but not limited to, a children's services council, public or private providers of juvenile justice programs and services, students, and advocates.

A juvenile delinquency and gang prevention council or any other group or organization that currently exists in any county, and that is composed of and open to representatives of the classes of members described in this section, may notify the district juvenile justice manager of its desire to be designated as the county juvenile justice council.

(2)(a) The purpose of a county juvenile justice council is to provide a forum for the development of a community-based interagency assessment of the local juvenile justice system, to develop a county juvenile justice plan for more effectively preventing juvenile delinquency, and to make recommendations for more effectively utilizing existing community resources in dealing with juveniles who are truant or have been suspended or expelled from school, or who are found to be involved in crime. The county juvenile justice plan shall include relevant portions of local crime prevention and public safety plans, school improvement and school safety plans, and the plans or initiatives of other public and private entities within the county that are concerned with dropout prevention, school safety, the prevention of juvenile crime and criminal activity by youth gangs, and alternatives to suspension, expulsion, and detention for children found in contempt of court.

(b) The duties and responsibilities of a county juvenile justice council include, but are not limited to:

1. Developing a county juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department of Children and Family Services, and others in a cooperative and collaborative manner to prevent or discourage juvenile crime and develop meaningful alternatives to school suspensions and expulsions.

2. Entering into a written county interagency agreement specifying the nature and extent of contributions each signatory agency will make in achieving the goals of the county juvenile justice plan and their commitment

to the sharing of information useful in carrying out the goals of the interagency agreement to the extent authorized by law.

3. Applying for and receiving public or private grants, to be administered by one of the community partners, that support one or more components of the county juvenile justice plan.

4. Designating the county representatives to the district juvenile justice board pursuant to s. 985.413.

5. Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the county interagency agreement or the performance by the parties of their respective obligations under the agreement.

6. Assisting and directing the efforts of local community support organizations and volunteer groups in providing enrichment programs and other support services for clients of local juvenile detention centers.

7. Providing an annual report and recommendations to the district juvenile justice board, the Juvenile Justice Advisory Board, and the district juvenile justice manager.

Section 75. Section 985.415, Florida Statutes, is created to read:

985.415 Community Juvenile Justice Partnership Grants.—

(1) GRANTS; CRITERIA.—

(a) In order to encourage the development of county and district juvenile justice plans and the development and implementation of county and district interagency agreements among representatives of the Department of Juvenile Justice, the Department of Children and Family Services, law enforcement, and school authorities, the community juvenile justice partnership grant program is established, which program shall be administered by the Department of Juvenile Justice.

(b) The department shall only consider applications which at a minimum provide for the following:

1. The participation of the local school authorities, local law enforcement, and local representatives of the Department of Juvenile Justice and the Department of Children and Family Services pursuant to a written interagency partnership agreement. Such agreement must specify how community entities will cooperate, collaborate, and share information in furtherance of the goals of the district and county juvenile justice plan; and

2. The reduction of truancy and in-school and out-of-school suspensions and expulsions, and the enhancement of school safety.

(c) In addition, the department may consider the following criteria in awarding grants:

1. The district juvenile justice plan and any county juvenile justice plans that are referred to or incorporated into the district plan, including a list of

individuals, groups, and public and private entities that participated in the development of the plan.

2. The diversity of community entities participating in the development of the district juvenile justice plan.

3. The number of community partners who will be actively involved in the operation of the grant program.

4. The number of students or youths to be served by the grant and the criteria by which they will be selected.

5. The criteria by which the grant program will be evaluated and, if deemed successful, the feasibility of implementation in other communities.

(2) GRANT APPLICATION PROCEDURES.—

(a) Each entity wishing to apply for an annual community juvenile justice partnership grant, which may be renewed for a maximum of 2 additional years for the same provision of services, shall submit a grant proposal for funding or continued funding to the department by March 1 of each year. The department shall establish the grant application procedures. In order to be considered for funding, the grant proposal shall include the following assurances and information:

1. A letter from the chair of the county juvenile justice council confirming that the grant application has been reviewed and found to support one or more purposes or goals of the juvenile justice plan as developed by the council.

2. A rationale and description of the program and the services to be provided, including goals and objectives.

3. A method for identification of the juveniles at risk of involvement in the juvenile justice system who will be the focus of the program.

4. Provisions for the participation of parents and guardians in the program.

5. Coordination with other community-based and social service prevention efforts, including, but not limited to, drug and alcohol abuse prevention and dropout prevention programs, that serve the target population or neighborhood.

6. An evaluation component to measure the effectiveness of the program in accordance with the provisions of s. 985.412.

7. A program budget, including the amount and sources of local cash and in-kind resources committed to the budget. The proposal must establish to the satisfaction of the department that the entity will make a cash or in-kind contribution to the program of a value that is at least equal to 20 percent of the amount of the grant.

8. The necessary program staff.

(b) The department shall consider the following in awarding such grants:

1. The number of youths from 10 through 17 years of age within the geographical area to be served by the program. Those geographical areas with the highest number of youths from 10 through 17 years of age shall have priority for selection.

2. The extent to which the program targets high juvenile crime neighborhoods and those public schools serving juveniles from high crime neighborhoods.

3. The validity and cost-effectiveness of the program.

4. The degree to which the program is located in and managed by local leaders of the target neighborhoods and public schools serving the target neighborhoods.

5. The recommendations of the juvenile justice council as to the priority that should be given to proposals submitted by entities within a county.

6. The recommendations of the juvenile justice board as to the priority that should be given to proposals submitted by entities within a district.

(c) The department shall make available, to anyone wishing to apply for such a grant, information on all of the criteria to be used in the selection of the proposals for funding pursuant to the provisions of this subsection.

(d) The department shall review all program proposals submitted. Entities submitting proposals shall be notified of approval not later than June 30 of each year.

(e) Each entity that is awarded a grant as provided for in this section shall submit an annual evaluation report to the department, the district juvenile justice manager, the district juvenile justice board, and the county juvenile justice council, by a date subsequent to the end of the contract period established by the department, documenting the extent to which the program objectives have been met, the effect of the program on the juvenile arrest rate, and any other information required by the department. The department shall coordinate and incorporate all such annual evaluation reports with the provisions of s. 985.412. Each entity is also subject to a financial audit and a performance audit.

(f) The department may establish rules and policy provisions necessary to implement this section.

(3) RESTRICTIONS.—This section does not prevent a program initiated under a community juvenile justice partnership grant established pursuant to this section from continuing to operate beyond the 3-year maximum funding period if it can find other funding sources. Likewise, this section does not restrict the number of programs an entity may apply for or operate.

Section 76. Section 985.416, Florida Statutes, is created to read:

985.416 Innovation zones.—The department shall encourage each of the district juvenile justice boards to propose at least one innovation zone within the district for the purpose of implementing any experimental, pilot, or demonstration project that furthers the legislatively established goals of the department. An innovation zone is a defined geographic area such as a district, commitment region, county, municipality, service delivery area, school campus, or neighborhood providing a laboratory for the research, development, and testing of the applicability and efficacy of model programs, policy options, and new technologies for the department.

(1)(a) The district juvenile justice board shall submit a proposal for an innovation zone to the secretary. If the purpose of the proposed innovation zone is to demonstrate that specific statutory goals can be achieved more effectively by using procedures that require modification of existing rules, policies, or procedures, the proposal may request the secretary to waive such existing rules, policies, or procedures or to otherwise authorize use of alternative procedures or practices. Waivers of such existing rules, policies, or procedures must comply with applicable state or federal law.

(b) For innovation zone proposals that the secretary determines require changes to state law, the secretary may submit a request for a waiver from such laws, together with any proposed changes to state law, to the chairs of the appropriate legislative committees for consideration.

(c) For innovation zone proposals that the secretary determines require waiver of federal law, the secretary may submit a request for such waivers to the applicable federal agency.

(2) An innovation zone project may not have a duration of more than 2 years, but the secretary may grant an extension.

(3) Before implementing an innovation zone under this subsection, the secretary shall, in conjunction with the Auditor General, develop measurable and valid objectives for such zone within a negotiated reasonable period of time. Moneys designated for an innovation zone in one service district may not be used to fund an innovation zone in another district.

(4) Program models for innovation zone projects include, but are not limited to:

(a) A forestry alternative work program that provides selected juvenile offenders an opportunity to serve in a forestry work program as an alternative to incarceration, in which offenders assist in wildland firefighting, enhancement of state land management, environmental enhancement, and land restoration.

(b) A collaborative public/private dropout prevention partnership that trains personnel from both the public and private sectors of a target community who are identified and brought into the school system as an additional resource for addressing problems which inhibit and retard learning, including abuse, neglect, financial instability, pregnancy, and substance abuse.

(c) A support services program that provides economically disadvantaged youth with support services, jobs, training, counseling, mentoring, and prepaid postsecondary tuition scholarships.

(d) A juvenile offender job training program that offers an opportunity for juvenile offenders to develop educational and job skills in a 12-month to 18-month nonresidential training program, teaching the offenders skills such as computer-aided design, modular panel construction, and heavy vehicle repair and maintenance which will readily transfer to the private sector, thereby promoting responsibility and productivity.

(e) An infant mortality prevention program that is designed to discourage unhealthy behaviors such as smoking and alcohol or drug consumption, reduce the incidence of babies born prematurely or with low birth weight, reduce health care cost by enabling babies to be safely discharged earlier from the hospital, reduce the incidence of child abuse and neglect, and improve parenting and problem-solving skills.

(f) A regional crime prevention and intervention program that serves as an umbrella agency to coordinate and replicate existing services to at-risk children, first-time juvenile offenders, youth crime victims, and school dropouts.

(g) An alternative education outreach school program that serves delinquent repeat offenders between 14 and 18 years of age who have demonstrated failure in school and who are referred by the juvenile court.

(h) A drug treatment and prevention program that provides early identification of children with alcohol or drug problems to facilitate treatment, comprehensive screening and assessment, family involvement, and placement options.

(i) A community resource mother or father program that emphasizes parental responsibility for the behavior of children, and requires the availability of counseling services for children at high risk for delinquent behavior.

Section 77. Section 39.062, Florida Statutes, is transferred and renumbered as section 985.417, Florida Statutes.

Section 78. Section 39.063, Florida Statutes, is transferred and renumbered as section 985.418, Florida Statutes.

Section 79. Section 39.065, Florida Statutes, is transferred and renumbered as section 985.419, Florida Statutes.

Section 80. Section 39.51, Florida Statutes, is transferred and renumbered as section 985.501, Florida Statutes.

Section 81. Section 39.511, Florida Statutes, is transferred and renumbered as section 985.502, Florida Statutes.

Section 82. Section 39.512, Florida Statutes, is transferred and renumbered as section 985.503, Florida Statutes.

Section 83. Section 39.513, Florida Statutes, is transferred and renumbered as section 985.504, Florida Statutes.

Section 84. Section 39.514, Florida Statutes, is transferred and renumbered as section 985.505, Florida Statutes.

Section 85. Section 39.515, Florida Statutes, is transferred and renumbered as section 985.506, Florida Statutes.

Section 86. Section 39.516, Florida Statutes, is transferred and renumbered as section 985.507, Florida Statutes.

Section 87. Section 984.01, Florida Statutes, is created to read:

984.01 Purposes and intent; personnel standards and screening.—

(1) The purposes of this chapter are:

(a) To provide judicial and other procedures to assure due process through which children and other interested parties are assured fair hearings by a respectful and respected court or other tribunal and the recognition, protection, and enforcement of their constitutional and other legal rights, while ensuring that public safety interests and the authority and dignity of the courts are adequately protected.

(b) To provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; and to promote the health and well-being of all children under the state's care.

(c) To ensure the protection of society, by providing for a comprehensive standardized assessment of the child's needs so that the most appropriate control, discipline, punishment, and treatment can be administered consistent with the seriousness of the act committed, the community's long-term need for public safety, the prior record of the child, and the specific rehabilitation needs of the child, while also providing restitution, whenever possible, to the victim of the offense.

(d) To preserve and strengthen the child's family ties whenever possible, by providing for removal of the child from parental custody only when his or her welfare or the safety and protection of the public cannot be adequately safeguarded without such removal; and, when the child is removed from his or her own family, to secure custody, care, and discipline for the child as nearly as possible equivalent to that which should have been given by the parents; and to assure, in all cases in which a child must be permanently removed from parental custody, that the child be placed in an approved family home, adoptive home, independent living program, or other placement that provides the most stable and permanent living arrangement for the child, as determined by the court.

(e)1. To assure that the adjudication and disposition of a child alleged or found to have committed a violation of Florida law be exercised with appropriate discretion and in keeping with the seriousness of the offense and the

need for treatment services, and that all findings made under this chapter be based upon facts presented at a hearing that meets the constitutional standards of fundamental fairness and due process.

2. To assure that the sentencing and placement of a child tried as an adult be appropriate and in keeping with the seriousness of the offense and the child's need for rehabilitative services, and that the proceedings and procedures applicable to such sentencing and placement be applied within the full framework of constitutional standards of fundamental fairness and due process.

(f) To provide children committed to the Department of Juvenile Justice with training in life skills, including career education.

(2) The Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the Department of Juvenile Justice or the Department of Children and Family Services contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

(b) The Department of Juvenile Justice and the Department of Children and Family Services shall require employment screening pursuant to chapter 435, using the level 2 standards set forth in that chapter for personnel in programs for children or youths.

(c) The Department of Juvenile Justice or the Department of Children and Family Services may grant exemptions from disqualification from working with children as provided in s. 435.07.

(3) It is the intent of the Legislature that this chapter be liberally interpreted and construed in conformity with its declared purposes.

Section 88. Section 984.02, Florida Statutes, is created to read:

984.02 Legislative intent for the juvenile justice system.—

(1) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(a) Protection from abuse, neglect, and exploitation.

(b) A permanent and stable home.

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(d) Adequate nutrition, shelter, and clothing.

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.

(f) Equal opportunity and access to quality and effective education which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.

(g) Access to preventive services.

(h) An independent, trained advocate when intervention is necessary and a skilled guardian or caretaker in a safe environment when alternative placement is necessary.

(2) SUBSTANCE ABUSE SERVICES.—The Legislature finds that children in the care of the state's dependency and delinquency systems need appropriate health care services, that the impact of substance abuse on health indicates the need for health care services to include substance abuse services where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency and delinquency systems must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related substance abuse problems. It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency and delinquency systems, which will be fully implemented and utilized as resources permit.

(3) JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—It is the policy of the state with respect to juvenile justice and delinquency prevention to first protect the public from acts of delinquency. In addition, it is the policy of the state to:

(a) Develop and implement effective methods of preventing and reducing acts of delinquency, with a focus on maintaining and strengthening the family as a whole so that children may remain in their homes or communities.

(b) Develop and implement effective programs to prevent delinquency, to divert children from the traditional juvenile justice system, to intervene at an early stage of delinquency, and to provide critically needed alternatives to institutionalization and deep-end commitment.

(c) Provide well-trained personnel, high-quality services, and cost-effective programs within the juvenile justice system.

(d) Increase the capacity of local governments and public and private agencies to conduct rehabilitative treatment programs and to provide re-

search, evaluation, and training services in the field of juvenile delinquency prevention.

The Legislature intends that detention care, in addition to providing secure and safe custody, will promote the health and well-being of the children committed thereto and provide an environment that fosters their social, emotional, intellectual, and physical development.

(4) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision to deter their participation in delinquent acts. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caretakers to fulfill their responsibilities are identified through the delinquency intake process and that appropriate recommendations to address those problems are considered in any judicial or nonjudicial proceeding.

Section 89. Section 984.03, Florida Statutes, is created to read:

984.03 Definitions.—When used in this chapter, the term:

(1) "Abandoned" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If the efforts of such parent or legal custodian, or person primarily responsible for the child's welfare to support and communicate with the child are, in the opinion of the court, only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. The term "abandoned" does not include a "child in need of services" as defined in subsection (9) or a "family in need of services" as defined in subsection (27). The incarceration of a parent, legal custodian, or person responsible for a child's welfare does not constitute a bar to a finding of abandonment.

(2) "Abuse" means any willful act that results in any physical, mental, or sexual injury that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Corporal discipline of a child by a parent or guardian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child as defined in s. 415.503.

(3) "Addictions receiving facility" means a substance abuse service provider as defined in chapter 397.

(4) "Adjudicatory hearing" means a hearing for the court to determine whether or not the facts support the allegations stated in the petition as is provided for under s. 984.20(2) in child-in-need-of-services cases.

(5) "Adult" means any natural person other than a child.

(6) "Authorized agent" or "designee" of the department means a person or agency assigned or designated by the Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, to perform duties or exercise powers pursuant to this chapter and includes contract providers and their employees for purposes of providing services to and managing cases of children in need of services and families in need of services.

(7) "Caretaker/homemaker" means an authorized agent of the Department of Children and Family Services who shall remain in the child's home with the child until a parent, legal guardian, or relative of the child enters the home and is capable of assuming and agrees to assume charge of the child.

(8) "Child" or "juvenile" or "youth" means any unmarried person under the age of 18 who has not been emancipated by order of the court and who has been found or alleged to be dependent, in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.

(9) "Child in need of services" means a child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by the Department of Juvenile Justice or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also, pursuant to this chapter, be found by the court:

(a) To have persistently run away from the child's parents or legal custodians despite reasonable efforts of the child, the parents or legal custodians, and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts shall include voluntary participation by the child's parents or legal custodians and the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Family Services;

(b) To be habitually truant from school, while subject to compulsory school attendance, despite reasonable efforts to remedy the situation pursuant to s. 232.19 and through voluntary participation by the child's parents or legal custodians and by the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Family Services; or

(c) To have persistently disobeyed the reasonable and lawful demands of the child's parents or legal custodians, and to be beyond their control despite efforts by the child's parents or legal custodians and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts may include such things as good faith participation in family or individual counseling.

(10) "Child support" means a court-ordered obligation, enforced under chapter 61 and ss. 409.2551-409.2597, for monetary support for the care, maintenance, training, and education of a child.

(11) "Child who has been found to have committed a delinquent act" means a child who, pursuant to the provisions of chapter 985, is found by a court to have committed a violation of law or to be in direct or indirect contempt of court, except that this definition shall not include an act constituting contempt of court arising out of a dependency proceeding or a proceeding pursuant to this chapter.

(12) "Child who is found to be dependent" or "dependent child" means a child who, pursuant to this chapter, is found by the court:

(a) To have been abandoned, abused, or neglected by the child's parents or other custodians.

(b) To have been surrendered to the former Department of Health and Rehabilitative Services, the Department of Children and Family Services, or a licensed child-placing agency for purpose of adoption.

(c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the former Department of Health and Rehabilitative Services, or the Department of Children and Family Services, after which placement, under the requirements of this chapter, a case plan has expired and the parent or parents have failed to substantially comply with the requirements of the plan.

(d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption and a natural parent or parents signed a consent pursuant to the Florida Rules of Juvenile Procedure.

(e) To have no parent, legal custodian, or responsible adult relative to provide supervision and care.

(f) To be at substantial risk of imminent abuse or neglect by the parent or parents or the custodian.

(13) "Circuit" means any of the 20 judicial circuits as set forth in s. 26.021.

(14) "Comprehensive assessment" or "assessment" means the gathering of information for the evaluation of a juvenile offender's or a child's physical, psychological, educational, vocational, and social condition and family environment as they relate to the child's need for rehabilitative and treatment services, including substance abuse treatment services, mental health services, developmental services, literacy services, medical services, family services, and other specialized services, as appropriate.

(15) "Court," unless otherwise expressly stated, means the circuit court assigned to exercise jurisdiction under this chapter.

(16) "Delinquency program" means any intake, community control and furlough, or similar program; regional detention center or facility; or com-

munity-based program, whether owned and operated by or contracted by the Department of Juvenile Justice, or institution owned and operated by or contracted by the Department of Juvenile Justice, which provides intake, supervision, or custody and care of children who are alleged to be or who have been found to be delinquent pursuant to chapter 985.

(17) "Department" means the Department of Juvenile Justice.

(18) "Detention care" means the temporary care of a child in secure, nonsecure, or home detention, pending a court adjudication or disposition or execution of a court order. There are three types of detention care, as follows:

(a) "Secure detention" means temporary custody of the child while the child is under the physical restriction of a detention center or facility pending adjudication, disposition, or placement.

(b) "Nonsecure detention" means 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.

(c) "Home detention" means 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 of Juvenile Justice staff pending adjudication, disposition, or placement.

(19) "Detention center or facility" means a facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure or nonsecure custody. A facility used for the commitment of adjudicated delinquents shall not be considered a detention center or facility.

(20) "Detention hearing" means a hearing for the court to determine if a child should be placed in temporary custody, as provided for under s. 39.402, in dependency cases.

(21) "Diligent efforts of social service agency" means reasonable efforts to provide social services or reunification services made by any social service agency as defined in this section that is a party to a case plan.

(22) "Diligent search" means the efforts of a social service agency in accordance with the requirements of s. 39.4051(6) to locate a parent or prospective parent whose identity or location is unknown, initiated as soon as the agency is made aware of the existence of such a parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.

(23) "Disposition hearing" means a hearing in which the court determines the most appropriate dispositional services in the least restrictive available setting provided for under s. 984.20(3), in child-in-need-of-services cases.

(24) "District" means a service district of the Department of Juvenile Justice.

(25) "District juvenile justice manager" means the person appointed by the Secretary of Juvenile Justice, responsible for planning, managing, and evaluating all juvenile justice continuum programs and services delivered or funded by the Department of Juvenile Justice within the district.

(26) "Family" means a collective body of persons, consisting of a child and a parent, guardian, adult custodian, or adult relative, in which:

(a) The persons reside in the same house or living unit; or

(b) The parent, guardian, adult custodian, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.

(27) "Family in need of services" means a family that has a child for whom there is no pending investigation into an allegation of abuse, neglect, or abandonment or no current supervision by the Department of Juvenile Justice or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also have been referred to a law enforcement agency or the Department of Juvenile Justice for:

(a) Running away from parents or legal custodians;

(b) Persistently disobeying reasonable and lawful demands of parents or legal custodians and being beyond their control; or

(c) Habitual truancy from school.

(28) "Foster care" means care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.

(29) "Habitually truant" means that:

(a) The child has 15 unexcused absences within 90 days with or without the knowledge or justifiable consent of the child's parent or legal guardian and is not exempt from attendance by virtue of being over the age of compulsory school attendance or by meeting the criteria in s. 232.06, s. 232.09, or any other exemptions specified by law or the rules of the State Board of Education;

(b) In addition to the actions described in s. 232.17(2), the school administration has completed the following escalating activities to determine the cause, and to attempt the remediation, of the child's truant behavior:

1. After a minimum of 3 and prior to 15 unexcused absences within 90 days, one or more meetings have been held, either in person or by phone, between a school attendance assistant or school social worker, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the truancy problem. However, if the school attendance assistant or

school social worker has documented the refusal of the parent or guardian to participate in the meetings, then this requirement has been met;

2. Educational counseling has been provided to determine whether curriculum changes would help solve the truancy problem, and, if any changes were indicated, such changes were instituted but proved unsuccessful in remedying the truant behavior. Such curriculum changes may include enrollment of the child in an alternative education program that meets the specific educational and behavioral needs of the child, including a second chance school, as provided for in s. 230.2316, designed to resolve truant behavior;

3. Educational evaluation, pursuant to the requirements of s. 232.19(3)(b)3., has been provided; and

4. The school social worker, the attendance assistant, or the school superintendent's designee if there is no school social worker or attendance assistant has referred the student and family to the children-in-need-of-services and families-in-need-of-services provider or the case staffing committee, established pursuant to s. 984.12, as determined by the cooperative agreement required in s. 232.19(3). The case staffing committee may request the department or its designee to file a child-in-need-of-services petition based upon the report and efforts of the school district or other community agency or may seek to resolve the truancy behavior through the school or community-based organizations or agencies.

If a child within the compulsory school attendance age is responsive to the interventions described in this paragraph and has completed the necessary requirements to pass the current grade as indicated in the district pupil progression plan, the child shall not be determined to be habitually truant. If a child within the compulsory school attendance age has 15 unexcused absences or fails to enroll in school, the State Attorney may file a child-in-need-of-services petition. Prior to filing a petition, the child must be referred to the appropriate agency for evaluation. After consulting with the evaluating agency, the State Attorney may elect to file a child-in-need-of-services petition.

(c) A school social worker or other person designated by the school administration, if the school does not have a school social worker, and an intake counselor or case manager of the Department of Juvenile Justice have jointly investigated the truancy problem or, if that was not feasible, have performed separate investigations to identify conditions which may be contributing to the truant behavior; and if, after a joint staffing of the case to determine the necessity for services, such services were determined to be needed, the persons who performed the investigations met jointly with the family and child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truant behavior; and

(d) The failure or refusal of the parent or legal guardian or the child to participate, or make a good faith effort to participate, in the activities prescribed to remedy the truant behavior, or the failure or refusal of the child

to return to school after participation in activities required by this subsection, or the failure of the child to stop the truant behavior after the school administration and the Department of Juvenile Justice have worked with the child as described in s. 232.19(3) shall be handled as prescribed in s. 232.19.

(30) "Intake" means the initial acceptance and screening by the Department of Juvenile Justice of a complaint or a law enforcement report or probable cause affidavit of delinquency, family in need of services, or child in need of services to determine the recommendation to be taken in the best interests of the child, the family, and the community. The emphasis of intake is on diversion and the least restrictive available services. Consequently, intake includes such alternatives as:

(a) The disposition of the complaint, report, or probable cause affidavit without court or public agency action or judicial handling when appropriate.

(b) The referral of the child to another public or private agency when appropriate.

(c) The recommendation by the intake counselor or case manager of judicial handling when appropriate and warranted.

(31) "Intake counselor" or "case manager" means the authorized agent of the Department of Juvenile Justice performing the intake or case management function for a child alleged to be delinquent or in need of services, or from a family in need of services.

(32) "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.

(33) "Juvenile justice continuum" includes, but is not limited to, delinquency prevention programs and services designed for the purpose of preventing or reducing delinquent acts, including criminal activity by youth gangs and juvenile arrests, as well as programs and services targeted at children who have committed delinquent acts, and children who have previously been committed to residential treatment programs for delinquents. The term includes children-in-need-of-services and families-in-need-of-services programs; aftercare and reentry services; substance abuse and mental health programs; educational and vocational programs; recreational programs; community services programs; community service work programs; and alternative dispute resolution programs serving children at risk of delinquency and their families, whether offered or delivered by state or local governmental entities, public or private for-profit or not-for-profit organizations, or religious or charitable organizations.

(34) "Legal custody" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

(35) "Licensed child-caring agency" means a person, society, association, or agency licensed by the Department of Children and Family Services to care for, receive, and board children.

(36) "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under chapter 464, a physician assistant certified under chapter 458, or a dentist licensed under chapter 466.

(37) "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decisionmaking authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

(38) "Necessary medical treatment" means care that is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child's condition or to alleviate immediate pain of a child.

(39) "Neglect" occurs when the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person primarily responsible for the child's welfare deprives a child of, or allows a child to be deprived of, necessary food, clothing, shelter, or medical treatment or permits a child to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or guardian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child shall not, for that reason alone, be considered a negligent parent or guardian; however, such an exception does not preclude a court from ordering the following services to be provided, when the health of the child so requires:

(a) Medical services from a licensed physician, dentist, optometrist, podiatrist, or other qualified health care provider; or

(b) Treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

(40) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. 39.4051(7) or s. 63.062(1)(b).

(41) "Participant," for purposes of a shelter proceeding, means any person who is not a party but who should receive notice of hearings involving the child, including foster parents, identified prospective parents, grandparents entitled to priority for adoption consideration under s. 63.0425, actual custodians of the child, and any other person whose participation may be in the best interest of the child. Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene.

(42) "Party," for purposes of a shelter proceeding, means the parent of the child, the petitioner, the department, the guardian ad litem when one has been appointed, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child.

(43) "Preliminary screening" means the gathering of preliminary information to be used in determining a child's need for further evaluation or assessment or for referral for other substance abuse services through means such as psychosocial interviews; urine and breathalyzer screenings; and reviews of available educational, delinquency, and dependency records of the child.

(44) "Preventive services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal guardian of the child, or the custodian of the child and to the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child's need for a safe, continuous, stable, living environment and shall promote family autonomy and shall strengthen family life as the first priority whenever possible.

(45) "Protective supervision" means a legal status in child-in-need-of-services cases or family-in-need-of-services cases which permits the child to remain in his or her own home or other placement under the supervision of an agent of the Department of Juvenile Justice or the Department of Children and Family Services, subject to being returned to the court during the period of supervision.

(46) "Relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

(47) "Reunification services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal guardian of the child, or the custodian of the child, whichever is applicable; the child; and, where appropriate, the foster parents of the child for the purpose of enabling a child who has been placed in foster care to return to his or her family at the earliest possible time. Social services and other supportive and rehabilitative services shall promote the child's need for a

safe, continuous, stable, living environment and shall promote family autonomy and strengthen family life as a first priority whenever possible.

(48) "Secure detention center or facility" means a physically restricting facility for the temporary care of children, pending adjudication, disposition, or placement.

(49) "Serious or habitual juvenile offender program" means the program established in s. 985.31.

(50) "Shelter" means a place for the temporary care of a child who is alleged to be or who has been found to be dependent, a child from a family in need of services, or a child in need of services, pending court disposition before or after adjudication or after execution of a court order. "Shelter" may include a facility which provides 24-hour continual supervision for the temporary care of a child who is placed pursuant to s. 984.14.

(51) "Shelter hearing" means a hearing provided for under s. 984.14 in family-in-need-of-services cases or child-in-need-of-services cases.

(52) "Staff-secure shelter" means a facility in which a child is supervised 24 hours a day by staff members who are awake while on duty. The facility is for the temporary care and assessment of a child who has been found to be dependent, who has violated a court order and been found in contempt of court, or whom the Department of Children and Family Services is unable to properly assess or place for assistance within the continuum of services provided for dependent children.

(53) "Substance abuse" means using, without medical reason, any psychoactive or mood-altering drug, including alcohol, in such a manner as to induce impairment resulting in dysfunctional social behavior.

(54) "Taken into custody" means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child's release, detention, placement, or other disposition as authorized by law.

(55) "Temporary legal custody" means the relationship that a juvenile court creates between a child and an adult relative of the child, adult nonrelative approved by the court, or other person until a more permanent arrangement is ordered. Temporary legal custody confers upon the custodian the right to have temporary physical custody of the child and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the temporary legal custody relationship.

(56) "Violation of law" or "delinquent act" means a violation of any law of this state, the United States, or any other state which is a misdemeanor or a felony or a violation of a county or municipal ordinance which would be punishable by incarceration if the violation were committed by an adult.

Section 90. Section 39.42, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.04, Florida Statutes, and amended to read:

984.04 ~~39.42~~ Families in need of services and children in need of services; procedures and jurisdiction.—

(1) It is the intent of the Legislature to address the problems of families in need of services by providing them with an array of services designed to preserve the unity and integrity of the family and to emphasize parental responsibility for the behavior of their children. Services to families in need of services and children in need of services shall be provided on a continuum of increasing intensity and participation by the parent and child. Judicial intervention to resolve the problems and conflicts that exist within a family shall be limited to situations in which a resolution to the problem or conflict has not been achieved through service, treatment, and family intervention after all available less restrictive resources have been exhausted. In creating this part, the Legislature recognizes the need to distinguish the problems of truants, runaways, and children beyond the control of their parents, and the services provided to these children, from the problems and services designed to meet the needs of abandoned, abused, neglected, and delinquent children. In achieving this recognition, it shall be the policy of the state to develop short-term, temporary services and programs utilizing the least restrictive method for families in need of services and children in need of services.

(2) The Department of Juvenile Justice shall be responsible for all nonjudicial proceedings involving a family in need of services.

(3) All nonjudicial procedures in family-in-need-of-services cases shall be according to rules established by the Department of Juvenile Justice under chapter 120.

(4) The circuit court shall have exclusive original jurisdiction of judicial proceedings involving continued placement of a child from a family in need of services in shelter.

(5) The circuit court shall have exclusive original jurisdiction of proceedings in which a child is alleged to be a child in need of services. When the jurisdiction of any child who has been found to be a child in need of services or the parent, custodian, or legal guardian of such a child is obtained, the court shall retain jurisdiction, unless relinquished by its order or unless the department withdraws its petition because the child no longer meets the definition of a child in need of services as defined in s. 984.03 ~~39.01(12)~~, until the child reaches 18 years of age. This subsection shall not be construed to prevent the exercise of jurisdiction by any other court having jurisdiction of the child if the child commits a violation of law, is the subject of the dependency provisions under this chapter, or is the subject of a pending investigation into an allegation or suspicion of abuse, neglect, or abandonment.

(6) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in family-in-need-of-services cases and child-in-need-of-

services cases shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law.

(7) The department may contract with a provider to provide services and programs for families in need of services and children in need of services.

Section 91. Section 39.015, Florida Statutes, is transferred, renumbered as section 984.05, Florida Statutes, and amended to read:

984.05 ~~39.015~~ Rules relating to habitual truants; adoption by Department of Education and Department of Juvenile Justice.—The Department of Juvenile Justice and the Department of Education shall work together on the development of, and shall adopt, rules for the implementation of ss. ~~39.01(73), 39.403(2),~~ 232.19(3) and (6)(a) and 984.03(29).

Section 92. Section 39.4451, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.06, Florida Statutes, and amended to read:

984.06 ~~39.4451~~ Oaths, records, and confidential information.—

(1) The judge, clerks or deputy clerks, or authorized agents of the department shall each have the power to administer oaths and affirmations ~~pursuant to s. 39.411~~.

(2) The court shall make and keep records of all cases brought before it pursuant to this chapter and shall preserve the records pertaining to a child in need of services until 10 years after the last entry was made or until the child is 18 years of age, whichever date is first reached, and may then destroy them. The court shall make official records, consisting of all petitions and orders filed in a case arising pursuant to this chapter ~~part~~ and any other pleadings, certificates, proofs of publication, summonses, warrants, and other writs which are filed in the case.

(3) The clerk shall keep all court records required by this chapter ~~part~~ separate from other records of the circuit court. Court records required by this chapter ~~part~~ are not open to inspection by the public. All such records may be inspected only upon order of the court by a person deemed by the court to have a proper interest therein, except that, subject to the provisions of s. 63.162, a child and the parents or legal custodians of the child and their attorneys, law enforcement agencies, and the department and its designees may inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court deems proper, and may punish by contempt proceedings any violation of those conditions.

(4) Except as provided in subsection (3), all information obtained pursuant to this chapter ~~part~~ in the discharge of official duty by any judge, employee of the court, authorized agent of the department, or law enforcement agent is confidential and may not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, law

enforcement agencies, and others entitled under this chapter to receive that information, except upon order of the court.

(5) All orders of the court entered pursuant to this chapter must be in writing and signed by the judge, except that the clerk or a deputy clerk may sign a summons or notice to appear.

(6) A court record of proceedings under this chapter is not admissible in evidence in any other civil or criminal proceeding, except that:

(a) Records of proceedings under this chapter ~~part~~ forming a part of the record on appeal shall be used in the appellate court.

(b) Records that are necessary in any case in which a person is being tried upon a charge of having committed perjury are admissible in evidence in that case.

Section 93. Section 39.447, Florida Statutes, is transferred and renumbered as section 984.07, Florida Statutes.

Section 94. Section 39.017, Florida Statutes, is transferred, renumbered as section 984.08, Florida Statutes, and amended to read:

984.08 ~~39.017~~ Attorney's fees.—

(1) The court may appoint an attorney to represent a parent or legal guardian under this chapter ~~part III, part IV, part V, or part VI~~ only upon a finding that the parent or legal guardian is indigent.

(a) The finding of indigency of any parent or legal guardian may be made by the court at any stage of the proceedings. Any parent or legal guardian claiming indigency shall file with the court an affidavit containing the factual information required in paragraphs (c) and (d).

(b) A parent or legal guardian who is unable to pay for the services of an attorney without substantial hardship to self or family is indigent for the purposes of this chapter ~~part~~.

(c) Before finding that a parent or legal guardian is indigent, the court shall determine whether any of the following facts exist, and the existence of any such fact creates a presumption that the parent or legal guardian is not indigent:

1. The parent or legal guardian has no dependents and has a gross income exceeding $250 per week; or, the parent or legal guardian has dependents and has a gross income exceeding $250 per week plus $100 per week for each dependent.

2. The parent or legal guardian owns cash in excess of $1,000.

3. The parent or legal guardian has an interest exceeding $1,000 in value in a single motor vehicle as defined in s. 320.01.

(d) The court shall also consider the following circumstances before finding that a parent or legal guardian is indigent:

1. The probable expense of being represented in the case.

2. The parent's or legal guardian's ownership of, or equity in, any intangible or tangible personal property or real property or expectancy of an interest in any such property.

3. The amount of debts the parent or legal guardian owes or might incur because of illness or other misfortunes within the family.

(2) If, after the appointment of counsel for an indigent parent or legal guardian, it is determined that the parent or legal guardian is not indigent, the court has continuing jurisdiction to assess attorney's fees and costs against the parent or legal guardian, and order the payment thereof. When payment of attorney's fees or costs has been assessed and ordered by the court, there is hereby created a lien in the name of the county in which the legal assistance was rendered, enforceable as provided in subsection (3), upon all the property, both real and personal, of the parent or legal guardian who received the court-ordered appointed counsel under this chapter ~~part III, part IV, part V, or part VI~~. The lien constitutes a claim against the parent or legal guardian and the parent's or legal guardian's estate in an amount to be determined by the court in which the legal assistance was rendered.

(3)(a) The lien created for court-ordered payment of attorney's fees or costs under subsection (2) is enforceable upon all the property, both real and personal, of the parent or legal guardian who is being, or has been, represented by legal counsel appointed by the court in proceedings under this chapter ~~part III, part IV, part V, or part VI~~. The lien constitutes a claim against the person and the estate of the parent or legal guardian, enforceable according to law, in an amount to be determined by the court in which the legal assistance was rendered.

(b) Immediately after the issuance of an order for the payment of attorney's fees or costs, a judgment showing the name, the residential address, the date of birth, and either a physical description or the social security number of the parent or legal guardian must be filed for record in the office of the clerk of the circuit court in the county where the parent or legal guardian resides and in each county in which the parent or legal guardian then owns or later acquires any property. The judgment is enforceable on behalf of the county by the board of county commissioners of the county in which the legal assistance was rendered.

(c) Instead of the procedure described in paragraphs (a) and (b), the court is authorized to require that the parent or legal guardian who has been represented by legal counsel appointed by the court in proceedings under this chapter ~~part III, part IV, part V, or part VI~~ execute a lien upon his or her real or personal property, presently owned or after-acquired, as security for the debt created by the court's order requiring payment of attorney's fees or costs. The lien must be recorded in the public records of the county at no charge by the clerk of the circuit court and is enforceable in the same manner as a mortgage.

(d) The board of county commissioners of the county where the parent received the services of an appointed private legal counsel is authorized to enforce, satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debt or lien imposed under this section. A parent, who has been ordered to pay attorney's fees or costs and who is not in willful default in the payment thereof, may, at any time, petition the court which entered the order for remission of the payment of attorney's fees or costs or of any unpaid portion thereof. If the court determines that payment of the amount due will impose manifest hardship on the parent or immediate family, the court may remit all or part of the amount due in attorney's fees or costs or may modify the method of payment.

(e) The board of county commissioners of the county claiming the lien is authorized to contract with a collection agency for collection of such debts or liens, provided the fee for collection is on a contingent basis not to exceed 50 percent of the recovery. However, no fee may be paid to any collection agency by reason of foreclosure proceedings against real property or from the proceeds from the sale or other disposition of real property.

Section 95. Section 984.09, Florida Statutes, is created to read:

984.09 Punishment for contempt of court; alternative sanctions.—

(1) CONTEMPT OF COURT; LEGISLATIVE INTENT.—The court may punish any child for contempt for interfering with the court or with court administration, or for violating any provision of this chapter or order of the court relative thereto. It is the intent of the Legislature that the court restrict and limit the use of contempt powers with respect to commitment of a child to a secure facility. A child who commits direct contempt of court or indirect contempt of a valid court order may be taken into custody and ordered to serve an alternative sanction or placed in a secure facility, as authorized in this section, by order of the court.

(2) PLACEMENT IN A SECURE FACILITY.—A child may be placed in a secure facility for purposes of punishment for contempt of court if alternative sanctions are unavailable or inappropriate, or if the child has already been ordered to serve an alternative sanction but failed to comply with the sanction.

(a) A delinquent child who has been held in direct or indirect contempt may be placed in a secure detention facility for 5 days for a first offense or 15 days for a second or subsequent offense, or in a secure residential commitment facility.

(b) A child in need of services who has been held in direct contempt or indirect contempt may be placed, for 5 days for a first offense or 15 days for a second or subsequent offense, in a staff-secure shelter or a staff-secure residential facility solely for children in need of services if such placement is available, or, if such placement is not available, the child may be placed in an appropriate mental health facility or substance abuse facility for assessment.

(3) ALTERNATIVE SANCTIONS.—Each judicial circuit shall have an alternative sanctions coordinator who shall serve under the chief administrative judge of the juvenile division of the circuit court, and who shall coordinate and maintain a spectrum of contempt sanction alternatives in conjunction with the circuit plan implemented in accordance with s. 790.22(4)(c). Upon determining that a child has committed direct contempt of court or indirect contempt of a valid court order, the court may immediately request the alternative sanctions coordinator to recommend the most appropriate available alternative sanction and shall order the child to perform up to 50 hours of community-service manual labor or a similar alternative sanction, unless an alternative sanction is unavailable or inappropriate, or unless the child has failed to comply with a prior alternative sanction. Alternative contempt sanctions may be provided by local industry or by any nonprofit organization or any public or private business or service entity that has entered into a contract with the Department of Juvenile Justice to act as an agent of the state to provide voluntary supervision of children on behalf of the state in exchange for the manual labor of children and limited immunity in accordance with s. 768.28(11).

(4) CONTEMPT OF COURT SANCTIONS; PROCEDURE AND DUE PROCESS.—

(a) If a child is charged with direct contempt of court, including traffic court, the court may impose an authorized sanction immediately.

(b) If a child is charged with indirect contempt of court, the court must hold a hearing within 24 hours to determine whether the child committed indirect contempt of a valid court order. At the hearing, the following due process rights must be provided to the child:

1. Right to a copy of the order to show cause alleging facts supporting the contempt charge.

2. Right to an explanation of the nature and the consequences of the proceedings.

3. Right to legal counsel and the right to have legal counsel appointed by the court if the juvenile is indigent, pursuant to s. 985.203.

4. Right to confront witnesses.

5. Right to present witnesses.

6. Right to have a transcript or record of the proceeding.

7. Right to appeal to an appropriate court.

The child's parent or guardian may address the court regarding the due process rights of the child. The court shall review the placement of the child every 72 hours to determine whether it is appropriate for the child to remain in the facility.

(c) The court may not order that a child be placed in a secure facility for punishment for contempt unless the court determines that an alternative

sanction is inappropriate or unavailable or that the child was initially ordered to an alternative sanction and did not comply with the alternative sanction. The court is encouraged to order a child to perform community service, up to the maximum number of hours, where appropriate before ordering that the child be placed in a secure facility as punishment for contempt of court.

(5) ALTERNATIVE SANCTIONS COORDINATOR.—There is created the position of alternative sanctions coordinator within each judicial circuit, pursuant to subsection (3). Each alternative sanctions coordinator shall serve under the direction of the chief administrative judge of the juvenile division as directed by the chief judge of the circuit. The alternative sanctions coordinator shall act as the liaison between the judiciary and county juvenile justice councils, the local department officials, district school board employees, and local law enforcement agencies. The alternative sanctions coordinator shall coordinate within the circuit community-based alternative sanctions, including nonsecure detention programs, community service projects, and other juvenile sanctions, in conjunction with the circuit plan implemented in accordance with s. 790.22(4)(c).

Section 96. Section 39.423, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.10, Florida Statutes, and amended to read:

984.10 ~~39.423~~ Intake.—

(1) Intake shall be performed by the department. A report or complaint alleging that a child is from a family in need of services shall be made to the intake office operating in the county in which the child is found or in which the case arose. Any person or agency, including, but not limited to, the local school district, law enforcement agency, or Department of Children and Family ~~Health and Rehabilitative~~ Services, having knowledge of the facts may make a report or complaint.

(2) A representative of the department shall make a preliminary determination as to whether the report or complaint is complete. The criteria for the completeness of a report or complaint with respect to a child alleged to be from a family in need of services while subject to compulsory school attendance shall be governed by s. 984.03(29) ~~39.01(73)~~. In any case in which the representative of the department finds that the report or complaint is incomplete, the representative of the department shall return the report or complaint without delay to the person or agency originating the report or complaint or having knowledge of the facts or to the appropriate law enforcement agency having investigative jurisdiction and request additional information in order to complete the report or complaint.

(3) If the representative of the department determines that in his or her judgment the interests of the family, the child, and the public will be best served by providing the family and child services and treatment voluntarily accepted by the child and the parents or legal custodians, the departmental representative may refer the family or child to an appropriate service and treatment provider.

(4) If the department has reasonable grounds to believe that the child has been abandoned, abused, or neglected, it shall proceed pursuant to the provisions of s. 415.505 and ~~part III of this~~ chapter 39.

Section 97. Section 39.424, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.11, Florida Statutes, and amended to read:

984.11 ~~39.424~~ Services to families in need of services.—

(1) Services and treatment to families in need of services shall be by voluntary agreement of the parent or legal guardian and the child or as directed by a court order pursuant to s. 984.22 ~~39.442~~.

(2) These services may include, but need not be limited to:

(a) Homemaker or parent aide services.

(b) Intensive crisis counseling.

(c) Parent training.

(d) Individual, group, or family counseling.

(e) Community mental health services.

(f) Prevention and diversion services.

(g) Services provided by voluntary or community agencies.

(h) Runaway center services.

(i) Housekeeper services.

(j) Special educational, tutorial, or remedial services.

(k) Vocational, job training, or employment services.

(l) Recreational services.

(m) Assessment.

(3) The department shall advise the parents or legal guardian that they are responsible for contributing to the cost of the child or family services and treatment to the extent of their ability to pay. The department shall set and charge fees for services and treatment provided to clients.

(4) The department may file a petition with the circuit court to enforce the collection of fees for services and treatment rendered to the child or the parent and other legal custodians.

Section 98. Section 39.426, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 984.12, Florida Statutes.

Section 99. Section 39.421, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.13, Florida Statutes, and amended to read:

984.13 ~~39.421~~ Taking into custody a child alleged to be from a family in need of services or to be a child in need of services.—

(1) A child may be taken into custody:

(a) By a law enforcement officer when the officer has reasonable grounds to believe that the child has run away from his or her parents, guardian, or other legal custodian.

(b) By a law enforcement officer when the officer has reasonable grounds to believe that the child is absent from school without authorization, for the purpose of delivering the child without unreasonable delay to the school system. For the purpose of this paragraph, "school system" includes, but is not limited to, a center approved by the superintendent of schools for the purpose of counseling students and referring them back to the school system.

(c) Pursuant to an order of the circuit court based upon sworn testimony before or after a petition is filed under s. 984.15 ~~39.436~~.

(d) By a law enforcement officer when the child voluntarily agrees to or requests services pursuant to this chapter ~~part~~ or placement in a shelter.

(2) The person taking the child into custody shall:

(a) Release the child to a parent, guardian, legal custodian, or responsible adult relative or to a department-approved family-in-need-of-services and child-in-need-of-services provider if the person taking the child into custody has reasonable grounds to believe the child has run away from a parent, guardian, or legal custodian; is truant; or is beyond the control of the parent, guardian, or legal custodian; following such release, the person taking the child into custody shall make a full written report to the intake office of the department within 3 days; or

(b) Deliver the child to the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is from a family in need of services.

(3) If the child is taken into custody by, or is delivered to, the department, the appropriate representative of the department shall review the facts and make such further inquiry as necessary to determine whether the child shall remain in custody or be released. Unless shelter is required as provided in s. 984.14(1) ~~39.422(1)~~, the department shall:

(a) Release the child to his or her parent, guardian, or legal custodian, to a responsible adult relative, to a responsible adult approved by the department, or to a department-approved family-in-need-of-services and child-in-need-of-services provider; or

(b) Authorize temporary services and treatment that would allow the child alleged to be from a family in need of services to remain at home.

Section 100. Section 39.422, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.14, Florida Statutes, and amended to read:

984.14 ~~39.422~~ Shelter placement; hearing ~~of a child from a family in need of services or a child in need of services in a shelter~~.—

(1) Unless ordered by the court pursuant to the provisions of this chapter ~~part~~, or upon voluntary consent to placement by the child and the child's parent, legal guardian, or custodian, a child taken into custody shall not be placed in a shelter prior to a court hearing unless a determination has been made that the provision of appropriate and available services will not eliminate the need for placement and that such placement is required:

(a) To provide an opportunity for the child and family to agree upon conditions for the child's return home, when immediate placement in the home would result in a substantial likelihood that the child and family would not reach an agreement; or

(b) Because a parent, custodian, or guardian is unavailable to take immediate custody of the child.

(2) If the department determines that placement in a shelter is necessary according to the provisions of subsection (1), the departmental representative shall authorize placement of the child in a shelter provided by the community specifically for runaways and troubled youth who are children in need of services or members of families in need of services and shall immediately notify the parents or legal custodians that the child was taken into custody.

(3) A child who is involuntarily placed in a shelter shall be given a shelter hearing within 24 hours after being taken into custody to determine whether shelter placement is required. The shelter petition filed with the court shall address each condition required to be determined in subsection (1).

(4) A child may not be held involuntarily in a shelter longer than 24 hours unless an order so directing is made by the court after a shelter hearing finding that placement in a shelter is necessary based on the criteria in subsection (1) and that the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home.

(5) Under the provisions of this chapter ~~part~~, placement in a shelter of a child in need of services or a child from a family in need of services shall be for no longer than 35 days.

(6) When any child is placed in a shelter pursuant to court order following a shelter hearing, the court shall order the natural or adoptive parents of such child, the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay, to the department, fees as established by the department. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(7) A child who is adjudicated a child in need of services or alleged to be from a family in need of services or a child in need of services may not be

placed in a secure detention facility or jail or any other commitment program for delinquent children under any circumstances.

(8) The court may order the placement of a child in need of services into a staff-secure facility for no longer than 5 days for the purpose of evaluation and assessment.

Section 101. Section 39.436, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.15, Florida Statutes, and amended to read:

984.15 ~~39.436~~ Petition for a child in need of services.—

(1) All proceedings seeking an adjudication that a child is a child in need of services shall be initiated by the filing of a petition by an attorney representing the department. If a child in need of services has been placed in a shelter pursuant to s. 984.14 ~~39.422~~, the petition shall be filed immediately and contain notice of arraignment pursuant to s. 984.20 ~~39.44~~.

(2) The department shall file a petition for a child in need of services if the case manager or staffing committee requests that a petition be filed and:

(a) The family and child have in good faith, but unsuccessfully, used the services and process described in ss. 984.11 and 984.12 ~~39.424 and 39.426~~; or

(b) The family or child have refused all services described in ss. 984.11 and 984.12 ~~39.424 and 39.426~~ after reasonable efforts by the department to involve the family and child in services and treatment.

(3) Effective January 1, 1997, once the requirements in subsection (2) have been met, the department shall file a petition for a child in need of services within 45 days.

(4) The petition shall be in writing, shall state the specific grounds under s. 984.03(9) ~~39.01(12)~~ by which the child is designated a child in need of services, and shall certify that the conditions prescribed in subsection (2) have been met. The petition shall be signed by the petitioner under oath stating good faith in filing the petition and shall be signed by an attorney for the department.

(5) The form of the petition and its contents shall be determined by rules of procedure adopted by the Supreme Court.

(6) The department may withdraw a petition at any time prior to the child being adjudicated a child in need of services.

Section 102. Section 39.437, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 984.16, Florida Statutes.

Section 103. Section 39.438, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 984.17, Florida Statutes.

Section 104. Section 39.4431, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 984.18, Florida Statutes.

Section 105. Section 39.446, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.19, Florida Statutes, and amended to read:

984.19 ~~39.446~~ Medical, psychiatric, and psychological examination and treatment of child; physical or mental examination of parent, guardian, or person requesting custody of child.—

(1) When any child is to be placed in shelter care, the department is authorized to have a medical screening performed on the child without authorization from the court and without consent from a parent or guardian. Such medical screening shall be performed by a licensed health care professional and shall be to examine the child for injury, illness, and communicable diseases. In no case does this subsection authorize the department to consent to medical treatment for such children.

(2) When the department has performed the medical screening authorized by subsection (1) or when it is otherwise determined by a licensed health care professional that a child is in need of medical treatment, consent for medical treatment shall be obtained in the following manner:

(a)1. Consent to medical treatment shall be obtained from a parent or guardian of the child; or

2. A court order for such treatment shall be obtained.

(b) If a parent or guardian of the child is unavailable and his or her whereabouts cannot be reasonably ascertained and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department or its provider has the authority to consent to necessary medical treatment for the child. The authority of the department to consent to medical treatment in this circumstance is limited to the time reasonably necessary to obtain court authorization.

(c) If a parent or guardian of the child is available but refuses to consent to the necessary treatment, a court order is required, unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is related to suspected abuse or neglect of the child by the parent or guardian. In such case, the department has the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization.

In no case may the department consent to sterilization, abortion, or termination of life support.

(3) A judge may order that a child alleged to be or adjudicated a child in need of services be examined by a licensed health care professional. The judge may also order such child to be evaluated by a psychiatrist or a psychologist, by a district school board educational needs assessment team, or, if a developmental disability is suspected or alleged, by the developmental disability diagnostic and evaluation team of the Department of Children and Family ~~Health and Rehabilitative~~ Services. The judge may order a family assessment if that assessment was not completed at an earlier time.

If it is necessary to place a child in a residential facility for such evaluation, then the criteria and procedure established in s. 394.463(2) or chapter 393 shall be used, whichever is applicable. The educational needs assessment provided by the district school board educational needs assessment team shall include, but not be limited to, reports of intelligence and achievement tests, screening for learning disabilities and other handicaps, and screening for the need for alternative education pursuant to s. 230.2316.

(4) A judge may order that a child alleged to be or adjudicated a child in need of services be treated by a licensed health care professional. The judge may also order such child to receive mental health or retardation services from a psychiatrist, psychologist, or other appropriate service provider. If it is necessary to place the child in a residential facility for such services, then the procedures and criteria established in s. 394.467 or chapter 393 shall be used, whichever is applicable. A child may be provided mental health or retardation services in emergency situations, pursuant to the procedures and criteria contained in s. 394.463(1) or chapter 393, whichever is applicable.

(5) When there are indications of physical injury or illness, a licensed health care professional shall be immediately called or the child shall be taken to the nearest available hospital for emergency care.

(6) Except as otherwise provided herein, nothing in this section shall be deemed to eliminate the right of a parent, a guardian, or the child to consent to examination or treatment for the child.

(7) Except as otherwise provided herein, nothing in this section shall be deemed to alter the provisions of s. 743.064.

(8) A court shall not be precluded from ordering services or treatment to be provided to the child by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization, when required by the child's health and when requested by the child.

(9) Nothing in this section shall be construed to authorize the permanent sterilization of the child, unless such sterilization is the result of or incidental to medically necessary treatment to protect or preserve the life of the child.

(10) For the purpose of obtaining an evaluation or examination or receiving treatment as authorized pursuant to this section, no child alleged to be or found to be a child from a family in need of services or a child in need of services shall be placed in a detention facility or other program used primarily for the care and custody of children alleged or found to have committed delinquent acts.

(11) The parents or guardian of a child alleged to be or adjudicated a child in need of services remain financially responsible for the cost of medical treatment provided to the child even if one or both of the parents or if the guardian did not consent to the medical treatment. After a hearing, the court

may order the parents or guardian, if found able to do so, to reimburse the department or other provider of medical services for treatment provided.

(12) Nothing in this section alters the authority of the department to consent to medical treatment for a child who has been committed to the department pursuant to s. 984.22(3) and (4) ~~39.442(3) and (4)~~ and of whom the department has become the legal custodian.

(13) At any time after the filing of a petition for a child in need of services, when the mental or physical condition, including the blood group, of a parent, guardian, or other person requesting custody of a child is in controversy, the court may order the person to submit to a physical or mental examination by a qualified professional. The order may be made only upon good cause shown and pursuant to notice and procedures as set forth by the Florida Rules of Juvenile Procedure.

Section 106. Section 39.44, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 984.20, Florida Statutes.

Section 107. Section 39.441, Florida Statutes, is transferred and renumbered as section 984.21, Florida Statutes.

Section 108. Section 39.442, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.22, Florida Statutes, and amended to read:

984.22 ~~39.442~~ Powers of disposition.—

(1) If the court finds that services and treatment have not been provided or utilized by a child or family, the court having jurisdiction of the child shall have the power to direct the least intrusive and least restrictive disposition, as follows:

(a) Order the parent, guardian, or custodian and the child to participate in treatment, services, and any other alternative identified as necessary.

(b) Order the parent, guardian, or custodian to pay a fine or fee based on the recommendations of the department.

(2) When any child is adjudicated by the court to be a child in need of services, the court having jurisdiction of the child and parent, guardian, or custodian shall have the power, by order, to:

(a) Place the child under the supervision of the department's contracted provider of programs and services for children in need of services and families in need of services. "Supervision," for the purposes of this section, means services as defined by the contract between the department and the provider.

(b) Place the child in the temporary legal custody of an adult willing to care for the child.

(c) Commit the child to a licensed child-caring agency willing to receive the child and to provide services without compensation from the department.

(d) Order the child, and, if the court finds it appropriate, the parent, guardian, or custodian of the child, to render community service in a public service program.

(3) When any child is adjudicated by the court to be a child in need of services and temporary legal custody of the child has been placed with an adult willing to care for the child, a licensed child-caring agency, the Department of Juvenile Justice, or the Department of Children and Family ~~Health and Rehabilitative~~ Services, the court shall order the natural or adoptive parents of such child, including the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of such child, to pay child support to the adult relative caring for the child, the licensed child-caring agency, the Department of Juvenile Justice, or the Department of Children and Family ~~Health and Rehabilitative~~ Services. When such order affects the guardianship estate, a certified copy of such order shall be delivered to the judge having jurisdiction of such guardianship estate. If the court determines that the parent is unable to pay support, placement of the child shall not be contingent upon issuance of a support order.

(4) All payments of fees made to the department pursuant to this chapter ~~part~~, or child support payments made to the department pursuant to subsection (3) ~~(5)~~, shall be deposited in the General Revenue Fund. In cases in which the child is placed in foster care with the Department of Children and Family ~~Health and Rehabilitative~~ Services, such child support payments shall be deposited in the Foster Care, Group Home, Developmental Training, and Supported Employment Programs Trust Fund.

(5) In carrying out the provisions of this chapter ~~part~~, the court shall order the child, family, parent, guardian, or custodian of a child who is found to be a child in need of services to participate in family counseling and other professional counseling activities or other alternatives deemed necessary for the rehabilitation of the child.

(6) The participation and cooperation of the family, parent, guardian, or custodian, and the child with court-ordered services, treatment, or community service are mandatory, not merely voluntary. The court may use its contempt powers to enforce its order.

Section 109. Section 39.4375, Florida Statutes, is transferred and renumbered as section 984.23, Florida Statutes.

Section 110. Section 39.4441, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 984.24, Florida Statutes.

Section 111. Section 39.01, Florida Statutes, 1996 Supplement, is amended to read:

39.01 Definitions.—When used in this chapter:

(1) "Abandoned" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person

responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If the efforts of such parent or legal custodian, or person primarily responsible for the child's welfare to support and communicate with the child are, in the opinion of the court, only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. The term "abandoned" does not include a "child in need of services" as defined in chapter 984 ~~subsection (12)~~ or a "family in need of services" as defined in chapter 984 ~~subsection (30)~~. The incarceration of a parent, legal custodian, or person responsible for a child's welfare does not constitute a bar to a finding of abandonment.

(2) "Abuse" means any willful act that results in any physical, mental, or sexual injury that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Corporal discipline of a child by a parent or guardian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child as defined in s. 415.503.

(3) "Addictions receiving facility" means a substance abuse service provider as defined in chapter 397.

(4) "Adjudicatory hearing" means a hearing for the court to determine whether or not the facts support the allegations stated in the petition as is provided for under ~~s. 39.052(1), in delinquency cases;~~ s. 39.408(2), in dependency cases,~~; s. 39.44(2), in child-in-need-of-services cases;~~ or s. 39.467, in termination of parental rights cases.

(5) "Adult" means any natural person other than a child.

(6) "Arbitration" means a process whereby a neutral third person or panel, called an arbitrator or an arbitration panel, considers the facts and arguments presented by the parties and renders a decision which may be binding or nonbinding.

(7) "Authorized agent" or "designee" of the department means a person or agency assigned or designated by the Department of Juvenile Justice or the Department of Children and Family ~~Health and Rehabilitative~~ Services, as appropriate, to perform duties or exercise powers pursuant to this chapter and includes contract providers and their employees for purposes of providing services to and managing cases of children in need of services and families in need of services.

(8) "Caretaker/homemaker" means an authorized agent of the Department of Children and Family ~~Health and Rehabilitative~~ Services who shall remain in the child's home with the child until a parent, legal guardian, or relative of the child enters the home and is capable of assuming and agrees to assume charge of the child.

(9) "Case plan" or "plan" means a document, as described in s. 39.4031, prepared by the department, that follows the child from the provision of voluntary services through any dependency, foster care, or termination of

parental rights proceeding or related activity or process ~~under part III, part V, or part VI~~.

(10) "Child" or "juvenile" or "youth" means any unmarried person under the age of 18 who has not been emancipated by order of the court and who has been found or alleged to be dependent, in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.

~~(11) "Child eligible for an intensive residential treatment program for offenders less than 13 years of age" means a child who has been found to have committed a delinquent act or a violation of law in the case currently before the court and who meets at least one of the following criteria:~~

~~(a) The child is less than 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:~~

~~1. Arson;~~

~~2. Sexual battery;~~

~~3. Robbery;~~

~~4. Kidnapping;~~

~~5. Aggravated child abuse;~~

~~6. Aggravated assault;~~

~~7. Aggravated stalking;~~

~~8. Murder;~~

~~9. Manslaughter;~~

~~10. Unlawful throwing, placing, or discharging of a destructive device or bomb;~~

~~11. Armed burglary;~~

~~12. Aggravated battery;~~

~~13. Lewd or lascivious assault or act in the presence of a child; or~~

~~14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.~~

~~(b) The child is less than 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least once to a delinquency commitment program.~~

~~(c) The child is less than 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.~~

~~(12) "Child in need of services" means a child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by the Department of Juvenile Justice or the Department of Health and Rehabilitative Services for an adjudication of dependency or delinquency. The child must also, pursuant to this chapter, be found by the court:~~

~~(a) To have persistently run away from the child's parents or legal custodians despite reasonable efforts of the child, the parents or legal custodians, and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts shall include voluntary participation by the child's parents or legal custodians and the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Health and Rehabilitative Services;~~

~~(b) To be habitually truant from school, while subject to compulsory school attendance, despite reasonable efforts to remedy the situation pursuant to s. 232.19 and through voluntary participation by the child's parents or legal custodians and by the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Health and Rehabilitative Services; or~~

~~(c) To have persistently disobeyed the reasonable and lawful demands of the child's parents or legal custodians, and to be beyond their control despite efforts by the child's parents or legal custodians and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts may include such things as good faith participation in family or individual counseling.~~

~~(13) "Child who has been found to have committed a delinquent act" means a child who, pursuant to the provisions of this chapter, is found by a court to have committed a violation of law or to be in direct or indirect contempt of court, except that this definition shall not include an act constituting contempt of court arising out of a dependency proceeding or a proceeding pursuant to part IV of this chapter.~~

(11)~~(14)~~ "Child who is found to be dependent" means a child who, pursuant to this chapter, is found by the court:

(a) To have been abandoned, abused, or neglected by the child's parents or other custodians.

(b) To have been surrendered to the Department of Children and Family Services, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption.

(c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the Department of Children and Family Services, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of part II ~~V~~ of this chapter, a case plan has expired and the parent or parents have failed to substantially comply with the requirements of the plan.

(d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption and a natural parent or parents signed a consent pursuant to the Florida Rules of Juvenile Procedure.

(e) To have no parent, legal custodian, or responsible adult relative to provide supervision and care.

(f) To be at substantial risk of imminent abuse or neglect by the parent or parents or the custodian.

(12)~~(15)~~ "Child support" means a court-ordered obligation, enforced under chapter 61 and ss. 409.2551-409.2597, for monetary support for the care, maintenance, training, and education of a child.

~~(16) "Community control" means the legal status of probation created by law and court order in cases involving a child who has been found to have committed a delinquent act. Community control is an individualized program in which the freedom of the child is limited and the child is restricted to noninstitutional quarters or restricted to the child's home in lieu of commitment to the custody of the Department of Juvenile Justice.~~

(13) "Circuit" means any of the 20 judicial circuits as set forth in s. 26.021.

(14)~~(17)~~ "Comprehensive assessment" or "assessment" means the gathering of information for the evaluation of a juvenile offender's or a child's physical, psychological, educational, vocational, and social condition and family environment as they relate to the child's need for rehabilitative and treatment services, including substance abuse treatment services, mental health services, developmental services, literacy services, medical services, family services, and other specialized services, as appropriate.

(15)~~(18)~~ "Court," unless otherwise expressly stated, means the circuit court assigned to exercise jurisdiction under this chapter.

~~(19)(a) "Delinquency program" means any intake, community control and furlough, or similar program; regional detention center or facility; or community-based program, whether owned and operated by or contracted by the Department of Juvenile Justice, or institution owned and operated by or contracted by the Department of Juvenile Justice, which provides intake, supervision, or custody and care of children who are alleged to be or who have been found to be delinquent pursuant to part II.~~

~~(b) "Delinquency program staff" means supervisory and direct care staff of a delinquency program as well as support staff who have direct contact with children in a delinquency program.~~

~~(c) "Delinquency prevention programs" means programs designed for the purpose of reducing the occurrence of delinquency, including youth and street gang activity, and juvenile arrests. The term excludes arbitration, diversionary or mediation programs, and community service work or other treatment available subsequent to a child committing a delinquent act.~~

(16)~~(20)~~ "Department," as used in this chapter ~~parts III, V, and VI~~, means the Department of Children and Family ~~Health and Rehabilitative~~ Services. ~~As used in parts II and IV, the term means the Department of Juvenile Justice.~~

~~(21) "Designated facility" or "designated treatment facility" means any facility designated by the Department of Juvenile Justice to provide treatment to juvenile offenders.~~

~~(22) "Detention care" means the temporary care of a child in secure, nonsecure, or home detention, pending a court adjudication or disposition or execution of a court order. There are three types of detention care, as follows:~~

~~(a) "Secure detention" means temporary custody of the child while the child is under the physical restriction of a detention center or facility pending adjudication, disposition, or placement.~~

~~(b) "Nonsecure detention" means 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.~~

~~(c) "Home detention" means 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 of Juvenile Justice staff pending adjudication, disposition, or placement.~~

~~(23) "Detention center or facility" means a facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure or nonsecure custody. A facility used for the commitment of adjudicated delinquents shall not be considered a detention center or facility.~~

~~(24) "Detention hearing" means a hearing for the court to determine if a child should be placed in temporary custody, as provided for under ss. 39.042 and 39.044, in delinquency cases, or s. 39.402, in dependency cases.~~

(17)~~(25)~~ "Diligent efforts by a parent" means a course of conduct which results in a reduction in risk to the child in the child's home that would allow the child to be safely placed permanently back in the home as set forth in the case plan.

(18)~~(26)~~ "Diligent efforts of social service agency" means reasonable efforts to provide social services or reunification services made by any social service agency as defined in this section that is a party to a case plan.

(19)~~(27)~~ "Diligent search" means the efforts of a social service agency in accordance with the requirements of s. 39.4051(6) to locate a parent or prospective parent whose identity or location is unknown, initiated as soon as the agency is made aware of the existence of such a parent, with the

search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.

(20)~~(28)~~ "Disposition hearing" means a hearing in which the court determines the most appropriate dispositional services in the least restrictive available setting provided for under ~~s. 39.052(4), in delinquency cases;~~ s. 39.408(3), in dependency cases~~,; s. 39.44(3), in child-in-need-of-services cases;~~ or s. 39.469, in termination of parental rights cases.

(21) "District administrator" means the chief operating officer of each service district of the Department of Children and Family Services as defined in s. 20.19(6) and, where appropriate, includes each district administrator whose service district falls within the boundaries of a judicial circuit.

(22)~~(29)~~ "Family" means a collective body of persons, consisting of a child and a parent, guardian, adult custodian, or adult relative, in which:

(a) The persons reside in the same house or living unit; or

(b) The parent, guardian, adult custodian, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.

~~(30) "Family in need of services" means a family that has a child for whom there is no pending investigation into an allegation of abuse, neglect, or abandonment or no current supervision by the Department of Juvenile Justice or the Department of Health and Rehabilitative Services for an adjudication of dependency or delinquency. The child must also have been referred to a law enforcement agency or the Department of Juvenile Justice for:~~

~~(a) Running away from parents or legal custodians;~~

~~(b) Persistently disobeying reasonable and lawful demands of parents or legal custodians, and being beyond their control; or~~

~~(c) Habitual truancy from school.~~

(23)~~(31)~~ "Foster care" means care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.

~~(32) "Halfway house" means a community-based residential program for 10 or more committed delinquents at the moderate-risk restrictiveness level that is operated or contracted by the Department of Juvenile Justice.~~

~~(33) "Intake" means the initial acceptance and screening by the Department of Juvenile Justice of a complaint or a law enforcement report or probable cause affidavit of delinquency, family in need of services, or child in need of services to determine the recommendation to be taken in the best interests of the child, the family, and the community. The emphasis of intake is on diversion and the least restrictive available services. Consequently, intake includes such alternatives as:~~

~~(a) The disposition of the complaint, report, or probable cause affidavit without court or public agency action or judicial handling when appropriate.~~

~~(b) The referral of the child to another public or private agency when appropriate.~~

~~(c) The recommendation by the intake counselor or case manager of judicial handling when appropriate and warranted.~~

~~(34) "Intake counselor" or "case manager" means the authorized agent of the Department of Juvenile Justice performing the intake or case management function for a child alleged to be delinquent or in need of services, or from a family in need of services.~~

(24) "Health and human services board" means the body created in each service district of the Department of Children and Family Services pursuant to the provisions of s. 20.19(7).

(25)~~(35)~~ "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.

~~(36) "Juvenile sexual offender" means:~~

~~(a) A juvenile who has been found by the court pursuant to s. 39.053 to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;~~

~~(b) A juvenile found to have committed any violation of law or delinquent act involving juvenile sexual abuse. "Juvenile sexual abuse" means any sexual behavior which occurs without consent, without equality, or as a result of coercion. For purposes of this subsection, the following definitions apply:~~

~~1. "Coercion" means the exploitation of authority, use of bribes, threats of force, or intimidation to gain cooperation or compliance.~~

~~2. "Equality" means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.~~

~~3. "Consent" means an agreement including all of the following:~~

~~a. Understanding what is proposed based on age, maturity, developmental level, functioning, and experience.~~

~~b. Knowledge of societal standards for what is being proposed.~~

~~c. Awareness of potential consequences and alternatives.~~

~~d. Assumption that agreement or disagreement will be accepted equally.~~

~~e. Voluntary decision.~~

~~f. Mental competence.~~

~~Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts.~~

(26)~~(37)~~ "Legal custody" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

(27)~~(38)~~ "Licensed child-caring agency" means a person, society, association, or agency licensed by the Department of Children and Family ~~Health and Rehabilitative~~ Services to care for, receive, and board children.

(28)~~(39)~~ "Licensed child-placing agency" means a person, society, association, or institution licensed by the Department of Children and Family ~~Health and Rehabilitative~~ Services to care for, receive, or board children and to place children in a licensed child-caring institution or a foster or adoptive home.

(29)~~(40)~~ "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under chapter 464, a physician assistant certified under chapter 458, or a dentist licensed under chapter 466.

(30)~~(41)~~ "Likely to injure oneself" means that, as evidenced by violent or other actively self-destructive behavior, it is more likely than not that within a 24-hour period the child will attempt to commit suicide or inflict serious bodily harm on himself or herself.

(31)~~(42)~~ "Likely to injure others" means that it is more likely than not that within a 24-hour period the child will inflict serious and unjustified bodily harm on another person.

(32)~~(43)~~ "Long-term relative custodian" means an adult who is a party to a long-term custodial relationship created by a court order pursuant to s. 39.41(2)(a)5. ~~39.41(1)(a)3.a.~~

(33)~~(44)~~ "Long-term relative custody" or "long-term custodial relationship" means the relationship that a juvenile court order creates between a child and an adult relative of the child or an adult nonrelative approved by the court when the child cannot be placed in the custody of a natural parent and termination of parental rights is not deemed to be in the best interest of the child. Long-term relative custody confers upon the long-term relative or nonrelative custodian the right to physical custody of the child, a right which will not be disturbed by the court except upon request of the custodian or upon a showing that a material change in circumstances necessitates a change of custody for the best interest of the child. A long-term relative or nonrelative custodian shall have all of the rights of a natural parent, including, but not limited to, the right and duty to protect, train, and discipline

the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the long-term custodial relationship.

(34)~~(45)~~ "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decisionmaking authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

(35)~~(46)~~ "Necessary medical treatment" means care which is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child's condition or to alleviate immediate pain of a child.

(36)~~(47)~~ "Neglect" occurs when the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person primarily responsible for the child's welfare deprives a child of, or allows a child to be deprived of, necessary food, clothing, shelter, or medical treatment or permits a child to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or guardian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child shall not, for that reason alone, be considered a negligent parent or guardian; however, such an exception does not preclude a court from ordering the following services to be provided, when the health of the child so requires:

(a) Medical services from a licensed physician, dentist, optometrist, podiatrist, or other qualified health care provider; or

(b) Treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

(37)~~(48)~~ "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. 39.4051(7) or s. 63.062(1)(b).

(38)~~(49)~~ "Participant," for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means any person who is not a party but who should receive notice of hearings involving the child, including foster parents, identified prospective parents, grandparents

entitled to priority for adoption consideration under s. 63.0425, actual custodians of the child, and any other person whose participation may be in the best interest of the child. Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene.

(39)~~(50)~~ "Party," for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means the parent of the child, the petitioner, the department, the guardian ad litem when one has been appointed, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child.

(40)~~(51)~~ "Preliminary screening" means the gathering of preliminary information to be used in determining a child's need for further evaluation or assessment or for referral for other substance abuse services through means such as psychosocial interviews; urine and breathalyzer screenings; and reviews of available educational, delinquency, and dependency records of the child.

(41)~~(52)~~ "Preventive services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal guardian of the child, or the custodian of the child and to the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child's need for a safe, continuous, stable, living environment and shall promote family autonomy and shall strengthen family life as the first priority whenever possible.

(42)~~(53)~~ "Prospective parent" means a person who claims to be, or has been identified as, a person who may be a mother or a father of a child.

(43)~~(54)~~ "Protective investigation" means the acceptance of a report alleging child abuse or neglect, as defined in s. 415.503, by the central abuse hotline ~~registry and tracking system~~ or the acceptance of a report of other dependency by the local children, youth, and families office of the Department of Children and Family ~~Health and Rehabilitative~~ Services; the investigation and classification of each report; the determination of whether action by the court is warranted; the determination of the disposition of each report without court or public agency action when appropriate; the referral of a child to another public or private agency when appropriate; and the recommendation by the protective investigator of court action when appropriate.

(44)~~(55)~~ "Protective investigator" means an authorized agent of the Department of Children and Family ~~Health and Rehabilitative~~ Services who receives, investigates, and classifies reports of child abuse or neglect as defined in s. 415.503; who, as a result of the investigation, may recommend that a dependency petition be filed for the child under the criteria of paragraph (11)(a) ~~(14)(a)~~; and who performs other duties necessary to carry out the required actions of the protective investigation function.

(45)~~(56)~~ "Protective supervision" means a legal status in dependency cases, child-in-need-of-services cases, or family-in-need-of-services cases which permits the child to remain in his or her own home or other placement under the supervision of an agent of the Department of Juvenile Justice or the Department of Children and Family ~~Health and Rehabilitative~~ Services, subject to being returned to the court during the period of supervision.

(46)~~(57)~~ "Protective supervision case plan" means a document that is prepared by the protective supervision counselor of the Department of Children and Family ~~Health and Rehabilitative~~ Services, is based upon the voluntary protective supervision of a case pursuant to s. 39.403(2)(b), or a disposition order entered pursuant to s. 39.41(2)(a)3. ~~39.41(1)(a)1.~~, and that:

(a) Is developed in conference with the parent, guardian, or custodian of the child and, if appropriate, the child and any court-appointed guardian ad litem.

(b) Is written simply and clearly in the principal language, to the extent possible, of the parent, guardian, or custodian of the child and in English.

(c) Is subject to modification based on changing circumstances and negotiations among the parties to the plan and includes, at a minimum:

1. All services and activities ordered by the court.

2. Goals and specific activities to be achieved by all parties to the plan.

3. Anticipated dates for achieving each goal and activity.

4. Signatures of all parties to the plan.

(d) Is submitted to the court in cases where a dispositional order has been entered pursuant to s. 39.41(2)(a)3. ~~39.41(1)(a)1.~~

(47)~~(58)~~ "Relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

~~(59) "Restrictiveness level" means the level of custody provided by programs that service the custody and care needs of committed children. There shall be five restrictiveness levels:~~

~~(a) Minimum-risk nonresidential.—Youth assessed and classified for placement in programs at this restrictiveness level represent a minimum risk to themselves and public safety and do not require placement and services in residential settings. Programs or program models in this restrictiveness level include: community counselor supervision programs, special intensive group programs, nonresidential marine programs, nonresidential training and rehabilitation centers, and other local community nonresidential programs.~~

~~(b) Low-risk residential.—Youth assessed and classified for placement in programs at this level represent a low risk to themselves and public safety~~

~~and do require placement and services in residential settings. Programs or program models in this restrictiveness level include: Short Term Offender Programs (STOP), group treatment homes, family group homes, proctor homes, and Short Term Environmental Programs (STEP).~~

~~(c) Moderate-risk residential.—Youth assessed and classified for placement in programs in this restrictiveness level represent a moderate risk to public safety. Programs are designed for children who require close supervision but do not need placement in facilities that are physically secure. Programs in the moderate-risk residential restrictiveness level provide 24-hour awake supervision, custody, care, and treatment. Upon specific appropriation, a facility at this restrictiveness level may have a security fence around the perimeter of the grounds of the facility and may be hardware-secure or staff-secure. The staff at a facility at this restrictiveness level may seclude a child who is a physical threat to himself or others. Mechanical restraint may also be used when necessary. Programs or program models in this restrictiveness level include: halfway houses, START Centers, the Dade Intensive Control Program, licensed substance abuse residential programs, and moderate-term wilderness programs designed for committed delinquent youth that are operated or contracted by the Department of Juvenile Justice. Section 39.061 applies to children in moderate-risk residential programs.~~

~~(d) High-risk residential.—Youth assessed and classified for this level of placement require close supervision in a structured residential setting that provides 24-hour-per-day secure custody, care, and supervision. Placement in programs in this level is prompted by a concern for public safety that outweighs placement in programs at lower restrictiveness levels. Programs or program models in this level are staff or physically secure residential commitment facilities and include: training schools, intensive halfway houses, residential sex offender programs, long-term wilderness programs designed exclusively for committed delinquent youth, boot camps, secure halfway house programs, and the Broward Control Treatment Center. Section 39.061 applies to children placed in programs in this restrictiveness level.~~

~~(e) Maximum-risk residential.—Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting that provides 24-hour-per-day secure custody, care, and supervision. Placement in a program in this level is prompted by a demonstrated need to protect the public. Programs or program models in this level are maximum-secure-custody, long-term residential commitment facilities that are intended to provide a moderate overlay of educational, vocational, and behavioral-modification services. Section 39.061 applies to children placed in programs in this restrictiveness level.~~

(48)~~(60)~~ "Reunification services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal guardian of the child, or the custodian of the child, whichever is applicable, the child, and where appropriate the foster parents of the child for the purpose of enabling a child who has been placed in foster care to return to his or her family at the earliest possible time. Social services and other supportive and rehabilitative services shall promote the child's need for a

safe, continuous, stable, living environment and shall promote family autonomy and strengthen family life as a first priority whenever possible.

~~(61) "Secure detention center or facility" means a physically restricting facility for the temporary care of children, pending adjudication, disposition, or placement.~~

~~(62) "Serious or habitual juvenile offender," for purposes of commitment to a residential facility and for purposes of records retention, means a child who has been found to have committed a delinquent act or a violation of law, in the case currently before the court, and who meets at least one of the following criteria:~~

~~(a) The youth is at least 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:~~

~~1. Arson;~~

~~2. Sexual battery;~~

~~3. Robbery;~~

~~4. Kidnapping;~~

~~5. Aggravated child abuse;~~

~~6. Aggravated assault;~~

~~7. Aggravated stalking;~~

~~8. Murder;~~

~~9. Manslaughter;~~

~~10. Unlawful throwing, placing, or discharging of a destructive device or bomb;~~

~~11. Armed burglary;~~

~~12. Aggravated battery;~~

~~13. Lewd or lascivious assault or act in the presence of a child; or~~

~~14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.~~

~~(b) The youth is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least two times to a delinquency commitment program.~~

~~(c) The youth is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.~~

~~(63) "Serious or habitual juvenile offender program" means the program established in s. 39.058.~~

(49)~~(64)~~ "Shelter" means a place for the temporary care of a child who is alleged to be or who has been found to be dependent, a child from a family in need of services, or a child in need of services, pending court disposition before or after adjudication or after execution of a court order. "Shelter" may include a facility which provides 24-hour continual supervision for the temporary care of a child who is placed pursuant to s. 984.14 ~~39.422~~.

(50)~~(65)~~ "Shelter hearing" means a hearing provided for under s. 984.14 ~~39.422~~ in family-in-need-of-services cases or child-in-need-of-services cases.

(51)~~(66)~~ "Social service agency" means the Department of Children and Family ~~Health and Rehabilitative~~ Services, a licensed child-caring agency, or a licensed child-placing agency.

(52)~~(67)~~ "Staff-secure shelter" means a facility in which a child is supervised 24 hours a day by staff members who are awake while on duty. The facility is for the temporary care and assessment of a child who has been found to be dependent, who has violated a court order and been found in contempt of court, or whom the Department of Children and Family ~~Health and Rehabilitative~~ Services is unable to properly assess or place for assistance within the continuum of services provided for dependent children.

(53)~~(68)~~ "Substance abuse" means using, without medical reason, any psychoactive or mood-altering drug, including alcohol, in such a manner as to induce impairment resulting in dysfunctional social behavior.

(54)~~(69)~~ "Substantial compliance" means that the circumstances which caused the placement in foster care have been significantly remedied to the extent that the well-being and safety of the child will not be endangered upon the child's being returned to the child's parent or guardian.

(55)~~(70)~~ "Taken into custody" means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child's release, detention, placement, or other disposition as authorized by law.

(56)~~(71)~~ "Temporary legal custody" means the relationship that a juvenile court creates between a child and an adult relative of the child, adult nonrelative approved by the court, or other person until a more permanent arrangement is ordered. Temporary legal custody confers upon the custodian the right to have temporary physical custody of the child and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the temporary legal custody relationship.

~~(72) "Temporary release" means the terms and conditions under which a child is temporarily released from a commitment facility or allowed home visits. If the temporary release is from a moderate-risk residential facility, a high-risk residential facility, or a maximum-risk residential facility, the terms and conditions of the temporary release must be approved by the child, the court, and the facility. The term includes periods during which the~~

~~child is supervised pursuant to a reentry program or an aftercare program or a period during which the child is supervised by a case manager or other nonresidential staff of the department or staff employed by an entity under contract with the department. A child placed in a postcommitment community control program by order of the court is not considered to be on temporary release and is not subject to the terms and conditions of temporary release.~~

~~(73) "To be habitually truant" means that:~~

~~(a) The child has 15 unexcused absences within 90 days with or without the knowledge or justifiable consent of the child's parent or legal guardian and is not exempt from attendance by virtue of being over the age of compulsory school attendance or by meeting the criteria in s. 232.06, s. 232.09, or any other exemptions specified by law or the rules of the State Board of Education;~~

~~(b) In addition to the actions described in s. 232.17, the school administration has completed the following escalating activities to determine the cause, and to attempt the remediation, of the child's truant behavior:~~

~~1. After a minimum of 3 and prior to 15 unexcused absences within 90 days, one or more meetings have been held, either in person or by phone, between a school attendance assistant or school social worker, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the truancy problem. However, if the school attendance assistant or school social worker has documented the refusal of the parent or guardian to participate in the meetings, then this requirement has been met;~~

~~2. Educational counseling has been provided to determine whether curriculum changes would help solve the truancy problem, and, if any changes were indicated, such changes were instituted but proved unsuccessful in remedying the truant behavior. Such curriculum changes may include enrollment of the child in an alternative education program that meets the specific educational and behavioral needs of the child, including a second chance school, as provided for in s. 230.2316, designed to resolve truant behavior;~~

~~3. Educational evaluation, pursuant to the requirements of s. 232.19(3)(b)3., has been provided; and~~

~~4. The school social worker, the attendance assistant, or the school superintendent's designee if there is no school social worker or attendance assistant has referred the student and family to the children-in-need-of-services and families-in-need-of-services provider or the case staffing committee, established pursuant to s. 39.426, as determined by the cooperative agreement required in s. 232.19(3). The case staffing committee may request the department or its designee to file a child-in-need-of-services petition based upon the report and efforts of the school district or other community agency or may seek to resolve the truancy behavior through the school or community-based organizations or agencies.~~

~~If a child within the compulsory school attendance age is responsive to the interventions described in this paragraph and has completed the necessary requirements to pass the current grade as indicated in the district pupil progression plan, the child shall not be determined to be habitually truant. If a child within the compulsory school attendance age has 15 unexcused absences or fails to enroll in school, the State Attorney may file a child-in-need-of-services petition. Prior to filing a petition, the child must be referred to the appropriate agency for evaluation. After consulting with the evaluating agency, the State Attorney may elect to file a child-in-need-of-services petition.~~

~~(c) A school social worker or other person designated by the school administration, if the school does not have a school social worker, and an intake counselor or case manager of the Department of Juvenile Justice have jointly investigated the truancy problem or, if that was not feasible, have performed separate investigations to identify conditions which may be contributing to the truant behavior; and if, after a joint staffing of the case to determine the necessity for services, such services were determined to be needed, the persons who performed the investigations met jointly with the family and child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truant behavior; and~~

~~(d) The failure or refusal of the parent or legal guardian or the child to participate, or make a good faith effort to participate, in the activities prescribed to remedy the truant behavior, or the failure or refusal of the child to return to school after participation in activities required by this subsection, or the failure of the child to stop the truant behavior after the school administration and the Department of Juvenile Justice have worked with the child as described in s. 232.19(3) shall be handled as prescribed in s. 232.19.~~

~~(74) "Training school" means one of the following facilities: the Arthur G. Dozier School or the Eckerd Youth Development Center.~~

~~(75) "Violation of law" or "delinquent act" means a violation of any law of this state, the United States, or any other state which is a misdemeanor or a felony or a violation of a county or municipal ordinance which would be punishable by incarceration if the violation were committed by an adult.~~

~~(76) "Waiver hearing" means a hearing provided for under s. 39.052(2).~~

Section 112. Sections 39.0205 and 39.0206, Florida Statutes, are repealed.

Section 113. Section 39.061, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 944.401, Florida Statutes.

Section 114. Section 39.419, Florida Statutes, is repealed.

Section 115. Sections 39.027, 39.028, 39.029, 39.033, 39.034, 39.035, and 39.036, Florida Statutes, are repealed.

Section 116. Section 39.052, Florida Statutes, as amended by section 3 of chapter 96-232, Laws of Florida, section 1 of chapter 96-234, Laws of Florida, section 11 of chapter 96-260, Laws of Florida, section 33 of chapter 96-388, Laws of Florida, and sections 3 and 7 of chapter 96-398, Laws of Florida; and sections 39.053, 39.054, and 39.059, Florida Statutes, are repealed.

Section 117. Section 39.05842, Florida Statutes, as created by section 36 of chapter 96-398, Laws of Florida; section 39.05843, Florida Statutes, as created by section 37 of chapter 96-398, Laws of Florida; section 39.05844, Florida Statutes, as created by section 38 of chapter 96-398, Laws of Florida; and section 39.05845, Florida Statutes, as created by section 39 of chapter 96-398, Laws of Florida, are repealed.

Section 118. Section 39.056, Florida Statutes, is repealed.

Section 119. Section 39.002, Florida Statutes, is amended to read:

39.002 Legislative intent for the juvenile justice system.—

(1) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(a) Protection from abuse, neglect, and exploitation.

(b) A permanent and stable home.

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(d) Adequate nutrition, shelter, and clothing.

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.

(f) Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.

(g) Access to preventive services.

(h) An independent, trained advocate, when intervention is necessary and a skilled guardian or caretaker in a safe environment when alternative placement is necessary.

(2) SUBSTANCE ABUSE SERVICES.—The Legislature finds that children in the care of the state's dependency and delinquency systems need appropriate health care services, that the impact of substance abuse on health indicates the need for health care services to include substance abuse services where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency and delinquency systems must have the ability to identify and provide appropriate intervention and treatment for children with

personal or family-related substance abuse problems. It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency and delinquency systems, which will be fully implemented and utilized as resources permit.

~~(3) JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—It is the policy of the state with respect to juvenile justice and delinquency prevention to first protect the public from acts of delinquency. In addition, it is the policy of the state to:~~

~~(a) Develop and implement effective methods of preventing and reducing acts of delinquency, with a focus on maintaining and strengthening the family as a whole so that children may remain in their homes or communities.~~

~~(b) Develop and implement effective programs to prevent delinquency, to divert children from the traditional juvenile justice system, to intervene at an early stage of delinquency, and to provide critically needed alternatives to institutionalization and deep-end commitment.~~

~~(c) Provide well-trained personnel, high-quality services, and cost-effective programs within the juvenile justice system.~~

~~(d) Increase the capacity of local governments and public and private agencies to conduct rehabilitative treatment programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention.~~

~~The Legislature intends that detention care, in addition to providing secure and safe custody, will promote the health and well-being of the children committed thereto and provide an environment that fosters their social, emotional, intellectual, and physical development.~~

~~(4) DETENTION.—~~

~~(a) The Legislature finds that there is a need for a secure placement for certain children alleged to have committed a delinquent act. The Legislature finds that detention under part II should be used only when less restrictive interim placement alternatives prior to adjudication and disposition are not appropriate. The Legislature further finds that decisions to detain should be based in part on a prudent assessment of risk and be limited to situations where there is clear and convincing evidence that a child presents a risk of failing to appear or presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior; presents a history of committing a serious property offense prior to adjudication, disposition, or placement; has acted in direct or indirect contempt of court; or requests protection from imminent bodily harm.~~

~~(b) The Legislature intends that a juvenile found to have committed a delinquent act understands the consequences and the serious nature of such~~

~~behavior. Therefore, the Legislature finds that secure detention is appropriate to provide punishment that discourages further delinquent behavior. The Legislature also finds that certain juveniles have committed a sufficient number of criminal acts, including acts involving violence to persons, to represent sufficient danger to the community to warrant sentencing and placement within the adult system. It is the intent of the Legislature to establish clear criteria in order to identify these juveniles and remove them from the juvenile system.~~

~~(5) SERIOUS OR HABITUAL JUVENILE OFFENDERS.—The Legislature finds that fighting crime effectively requires a multipronged effort focusing on particular classes of delinquent children and the development of particular programs. Florida's juvenile justice system has an inadequate number of beds for serious or habitual juvenile offenders and an inadequate number of community and residential programs for a significant number of children whose delinquent behavior is due to or connected with illicit substance abuse. In addition, a significant number of children have been adjudicated in adult criminal court and placed in Florida's prisons where programs are inadequate to meet their rehabilitative needs and where space is needed for adult offenders. Recidivism rates for each of these classes of offenders exceed those tolerated by the Legislature and by the citizens of this state.~~

~~(6) SITING OF FACILITIES.—~~

~~(a) The Legislature finds that timely siting and development of needed residential facilities for juvenile offenders is critical to the public safety of the citizens of this state and to the effective rehabilitation of juvenile offenders.~~

~~(b) It is the purpose of the Legislature to guarantee that such facilities are sited and developed within reasonable timeframes after they are legislatively authorized and appropriated.~~

~~(c) The Legislature further finds that such facilities must be located in areas of the state close to the home communities of the children they house in order to ensure the most effective rehabilitation efforts and the most intensive postrelease supervision and case management.~~

~~(d) It is the intent of the Legislature that all other departments and agencies of the state shall cooperate fully with the Department of Juvenile Justice to accomplish the siting of facilities for juvenile offenders.~~

~~The supervision, counseling, rehabilitative treatment, and punitive efforts of the juvenile justice system should avoid the inappropriate use of correctional programs and large institutions. The Legislature finds that detention services should exceed the primary goal of providing safe and secure custody pending adjudication and disposition.~~

(3)~~(7)~~ PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision to deter their participation in delinquent acts. The state

further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caretakers to fulfill their responsibilities are identified through the delinquency intake process and that appropriate recommendations to address those problems are considered in any judicial or nonjudicial proceeding.

Section 120. Section 39.012, Florida Statutes, is amended to read:

39.012 Rules for implementation.—The ~~Department of Juvenile Justice shall adopt rules for the efficient and effective management of all programs, services, facilities, and functions necessary for implementing parts II and IV of this chapter, and the~~ Department of Children and Family ~~Health and Rehabilitative~~ Services shall adopt rules for the efficient and effective management of all programs, services, facilities, and functions necessary for implementing ~~parts III, V, and VI of~~ this chapter. ~~Such rules may not conflict with the Florida Rules of Juvenile Procedure. All rules and policies must conform to accepted standards of care and treatment.~~

Section 121. Sections 985.01-985.08, Florida Statutes, are designated as part I of chapter 985, Florida Statutes, and entitled "General Provisions." Sections 985.201-985.236, Florida Statutes, are designated as part II of chapter 985, Florida Statutes, and entitled "Delinquency Case Processing." Sections 985.301-985.316, Florida Statutes, are designated as part III of chapter 985, Florida Statutes, and entitled "Juvenile Justice Continuum." Sections 985.401-985.419, Florida Statutes, are designated as part IV of chapter 985, Florida Statutes, and entitled "Juvenile Justice System Administration." Sections 985.501-985.507, Florida Statutes, are designated as part V of chapter 985, Florida Statutes, and entitled "Interstate Compact on Juveniles."

Section 122. (1) It is the intent of the Legislature that chapter 39, Florida Statutes, be reserved for sections of statute relating to dependency, children in foster care, and termination of parental rights; that chapter 985, Florida Statutes, be reserved for sections of statute relating to delinquency and the interstate compact on juveniles; and that chapter 984, Florida Statutes, be reserved for sections of statute relating to children in need of services and families in need of services.

(2) It is further the intent of the Legislature that any legislation enacted during the 1997 Regular Session affecting chapter 39, Florida Statutes, either before or after the passage of this legislation, shall, upon becoming law either before or after this act becomes law, be given full force and effect substantively, but such new substantive provisions of law shall be integrated into the new statutory framework created in this act, and shall be assigned to the appropriate chapter of statute, as follows:

(a) Laws amending any provision of part I of chapter 39, Florida Statutes, shall receive duplicate assignment to appropriate parallel provisions in chapters 39, 984, and 985, Florida Statutes, unless a contrary intention is expressed;

(b) Laws amending any provision of part II of chapter 39, Florida Statutes, shall be deemed to amend appropriate parallel provisions in chapter 985, Florida Statutes, unless a contrary intention is expressed. Any statutes sections created within part II of chapter 39 in the 1997 Regular Session, shall be renumbered and placed in chapter 985, as appropriate, unless a contrary intention is expressed;

(c) Laws amending any provision of part III of chapter 39, Florida Statutes, shall be unaffected by this legislation unless a contrary intention is expressed;

(d) Laws amending any provision of part IV of chapter 39, Florida Statutes, shall be deemed to amend appropriate parallel provisions in chapter 984, Florida Statutes, unless a contrary intention is expressed. Any statutes sections created within part IV of chapter 39 in the 1997 Regular Session, shall be renumbered and placed in chapter 984, as appropriate, unless a contrary intention is expressed;

(e) Laws amending any provision of part V of chapter 39, Florida Statutes, shall be unaffected by this legislation unless a contrary intention is expressed;

(f) Laws amending any provision of part VI of chapter 39, Florida Statutes, shall be unaffected by this legislation unless a contrary intention is expressed; and

(g) Laws amending any provision of part VII of chapter 39, Florida Statutes, shall receive duplicate assignment to appropriate parallel provisions in chapters 39, 984, and 985, Florida Statutes, unless a contrary intention is expressed.

(3) In the preparation of the 1997 Florida Statutes, pursuant to section 11.242, Florida Statutes, the Division of Statutory Revision is directed to incorporate the reorganization of the content of chapter 39, Florida Statutes, into the three separate chapters of statute as provided in this act and in accordance with the legislative intent expressed in this section.

Section 123. (1) The Juvenile Justice Advisory Board and the Department of Juvenile Justice shall develop, in cooperation with contract providers of aftercare services, an agreement for the purpose of conducting research to determine which aftercare program models are most effective. The agreement shall, at a minimum, include:

(a) Which questions will be answered by the research;

(b) Which aftercare models will be tested;

(c) The research design;

(d) Responsibilities for carrying out the research, including data collection, among the board, the department, contract providers of aftercare services, and third party consultants;

(e) Procedures for selecting consultants; and

(f) The timetable for completing the project and reporting results to the Legislature.

(2) The Juvenile Justice Advisory Board and the Department of Juvenile Justice shall submit an interim report on the development of an agreement on an aftercare research project to the Legislature on or before November 1, 1997. The Juvenile Justice Advisory Board and the Department of Juvenile Justice shall submit a final report on the aftercare research project to the Legislature on or before December 31, 1998.

Section 124. This act shall take effect October 1, 1997.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.