

## House Bill No. 349

An act relating to juvenile justice; amending s. 790.22, F.S.; relating to certain offenses involving use or possession of a firearm by a minor or offenses during the commission of which the minor possessed a firearm; authorizing secure detention for a first offense of possession of a firearm by a minor, providing that possession of a firearm by a minor for a second or subsequent offense constitutes a felony of the third degree instead of a misdemeanor of the first degree; authorizing secure detention for a specified period; providing or revising penalties for specified offenses; requiring secure detention for specified periods, or increasing detention periods imposed, for commission of specified initial, second, or subsequent offenses; providing for performance of community service in a manner involving a hospital emergency room or other medical environment dealing on a regular basis with trauma patients and gunshot wounds; providing that the minor offender may not receive credit for time served before adjudication of certain offenses; amending ss. 943.051(3)(b); and 985.212(1)(b), F.S., relating to criminal justice information and fingerprinting; amending s. 790.115, F.S.; prohibiting the possession or discharging firearms at a school-sponsored event, requiring a minor charged with certain activities to be detained in secure detention; requiring a hearing within a time certain; authorizing a court to order continued secure detention for a certain period; providing requirements for such detention; amending s. 985.215, F.S.; requiring secure detention care placement for a child charged with certain activities; authorizing a court to continue detaining a child charged with certain activities; amending s. 985.227, F.S.; providing for discretionary direct file for the offense of possessing or discharging firearms on school property; amending s. 435.04, F.S.; adding to the list of offenses that will prohibit the employment of a person subject to Level 2 screening standards; amending s. 943.0515, F.S.; requiring the Criminal Justice Information Program to retain the criminal history records of minors who are committed to a juvenile correctional facility or juvenile prison; amending s. 960.001, F.S.; authorizing state agencies to expend funds for certain crime prevention and educational activities; amending ss. 984.03, 985.03, F.S.; redefining the term "delinquency program" to delete references to furlough programs; defining the term "aftercare" for purposes of ch. 985, F.S.; providing for minimum-risk nonresidential programs to be used for the aftercare placement of juveniles; amending ss. 39.0132, 985.04, F.S.; requiring the department to disclose to school officials that a student has a history of criminal sexual behavior with other juveniles; conforming cross-references; amending ss. 985.207, 985.208, F.S., relating to conditions under which a juvenile may be detained; adding a reference to home detention; deleting references to violation of furlough; amending s. 985.212, F.S.; providing for fingerprint records and photographs of juveniles to be submitted to the Department of Law

Enforcement; amending s. 985.231, F.S.; providing for an adjudicated delinquent juvenile to be placed in postcommitment community control rather than in an aftercare program under certain circumstances; specifying responsibility for preparing certain documents; amending s. 985.308, F.S.; deleting the Department of Legal Affairs' rulemaking responsibilities for sexual abuse intervention networks; amending s. 985.316, F.S.; providing legislative findings and intent; providing for the delivery of aftercare services to a juvenile released from a residential commitment program; deleting requirements for juveniles released on furlough; amending s. 985.404, F.S., relating to the juvenile justice continuum; providing for release of a juvenile into an aftercare program; requiring educational support activities to be provided; amending s. 985.406, F.S.; providing additional qualifications for the program staff of the Department of Juvenile Justice and its providers; requiring competency-based examinations; creating s. 985.4145, F.S.; defining the term "direct-support organization"; authorizing such an organization to use property and facilities of the Department of Juvenile Justice; providing restrictions; requiring the Secretary of Juvenile Justice to appoint a board of directors for the direct-support organization; requiring an annual audit of the organization; amending s. 985.415, F.S.; revising the procedures for submittal and selection of Community Juvenile Justice Partnership Grants; amending s. 985.417, F.S., relating to the transfer of children from the Department of Corrections to the Department of Juvenile Justice; deleting references to the furlough of a child convicted of a capital felony; amending ss. 419.001, 784.075, 984.05, 985.227, 985.31, 985.311, 985.312, F.S.; conforming cross-references to changes made by the act; amending s. 985.234, F.S.; providing the time within which an order involving a child may be appealed; amending s. 985.315, F.S.; revising the vocational work training programs under the Department of Juvenile Justice; providing for participation of certain juveniles in educational/technical or vocational work-related program 5 hours per day, 5 days per week; requiring the Juvenile Justice Accountability Board to conduct a study of juvenile vocational and work programs; requiring a report; requiring the department to inventory programs in the state; amending s. 985.03, F.S.; redesignating "maximum-risk" residential facilities as "juvenile correctional facilities" or "juvenile prisons"; amending s. 985.201, F.S.; conforming a cross-reference for purposes of application to terms of certain restitution orders; amending s. 985.21, F.S.; deleting an authorization for a juvenile probation officer to make certain recommendations to the state attorney; clarifying certain contents of intake reports; authorizing the State Attorney and Department of Juvenile Justice to enter into certain interagency agreements for certain purposes; amending s. 985.225, F.S.; requiring transfer of certain felony cases relating to children to adult court for prosecution as an adult; repealing s. 985.218(6), F.S., relating to adjudicatory hearings for children committing delinquent acts or violations of law; amending s. 985.226, F.S., relating to criteria for discretionary waiver and mandatory waiver of juvenile court jurisdiction; revising the list of specified offenses to include certain

additional offenses; amending s. 985.227, F.S., relating to discretionary direct-file criteria and mandatory direct-file criteria; permitting the filing of an information when a child was 14 or 15 years of age at the time the child attempted to commit or conspired to commit any one of specified offenses; revising duties of the court and guidelines for transfer of cases pertaining to the child when a child is transferred for adult prosecution; removing the requirement for annual updating by the state attorney of direct-file policies and guidelines; providing that the information filed pursuant to specified provisions may include all charges that are based on the same act, criminal episode, or transaction as the primary offense; amending s. 985.228, F.S.; specifying disqualification for possessing a firearm until a certain age for persons adjudicated delinquent for certain felony offenses; amending s. 790.23, F.S.; providing a prohibition against possession of firearms or weapons by certain persons who were found to have committed delinquent acts classified as felonies; amending s. 985.313, F.S.; redesignating "maximum-risk" residential programs as "juvenile correctional facilities" or "juvenile prisons"; providing that a juvenile may be committed to such a facility if adjudicated on certain additional offenses; amending s. 228.041, F.S.; defining "juvenile justice provider" and "school year for juvenile justice programs"; amending s. 228.051, F.S., relating to the organization and funding of required public schools; requiring the public schools of the state to provide instruction for youth in Department of Juvenile Justice programs; amending s. 228.081, F.S.; requiring the development and adoption of a rule articulating expectations for education programs for youth in Department of Juvenile Justice programs; requiring the development of model contracts for the delivery of educational services to youth in Department of Juvenile Justice programs; requiring the Department of Education to provide training and technical assistance; requiring the development of model procedures for transitioning youth into and out of Department of Juvenile Justice programs; requiring the development of model procedures regarding education records; requiring the Department of Education to provide, or contract for the provision of, quality assurance reviews of all juvenile justice education programs; amending s. 229.57, F.S.; revising provisions relating to the statewide assessment program to include schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs; requiring the Department of Education to develop and implement assessment tools to be used in juvenile justice programs; amending s. 229.58, F.S.; authorizing the establishment of district advisory councils for juvenile justice education programs; amending s. 229.592, F.S.; revising provisions relating to the implementation of the state system of school improvement and education accountability to include schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs; deleting obsolete language; amending s. 230.23, F.S., relating to powers and duties of the school board; revising provisions relating to school improvement plans and public disclosure to include schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs;

amending s. 230.23161, F.S., relating to educational services in Department of Juvenile Justice programs; providing legislative intent; requiring the Department of Education to serve as the lead agency; requiring the Department of Education and the Department of Juvenile Justice to designate a coordinator to ensure department participation in certain activities; requiring student access to GED programs; requiring certain funding; revising provisions relating to compulsory school attendance; requiring the development of an academic improvement plan for certain students; providing requirements regarding academic records; requiring provisions for the earning and transfer of credits; providing funding requirements; revising provisions relating to quality assurance standards; requiring the Department of Juvenile Justice site visit and the education quality assurance site visit to take place during the same visit; requiring the establishment of minimum standards; requiring the State Board of Education to adopt rules establishing sanctions for performance below minimum standards; revising requirements regarding an annual report; creating s. 235.1975, F.S., relating to cooperative development of educational facilities in juvenile justice programs; requiring the Department of Juvenile Justice to provide certain information to school districts and the Department of Education regarding new juvenile justice facilities; providing requirements regarding planning and budgeting; amending s. 237.34, F.S.; requiring each district to expend a specified percentage of the funds generated by juvenile justice programs on the aggregate total school costs for such programs; amending s. 985.401, F.S.; requiring the Juvenile Justice Accountability Board to study the extent and nature of education programs for juvenile offenders; amending s. 985.413, F.S.; revising the duties of district juvenile justice boards; requiring the development and submission of a plan for education programs in detention centers; amending s. 985.404, F.S., relating to the administration of the juvenile justice continuum; correcting a cross-reference; providing an effective date.

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

Section 1. Section 790.22, Florida Statutes, 1998 Supplement, is amended to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.—

(1) The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices, by any minor under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult who is acting with the consent of the minor's parent.

(2) Any adult responsible for the welfare of any child under the age of 16 years who knowingly permits such child to use or have in his or her possession any BB gun, air or gas-operated gun, electric weapon or device, or firearm in violation of the provisions of subsection (1) of this section commits

a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his or her home, unless:

(a) The minor is engaged in a lawful hunting activity and is:

1. At least 16 years of age; or
2. Under 16 years of age and supervised by an adult.

(b) The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:

1. At least 16 years of age; or
2. Under 16 years of age and supervised by an adult who is acting with the consent of the minor's parent or guardian.

(c) The firearm is unloaded and is being transported by the minor directly to or from an event authorized in paragraph (a) or paragraph (b).

(4)(a) Any parent or guardian of a minor, or other adult responsible for the welfare of a minor, who knowingly and willfully permits the minor to possess a firearm in violation of subsection (3) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any natural parent or adoptive parent, whether custodial or noncustodial, or any legal guardian or legal custodian of a minor, if that minor possesses a firearm in violation of subsection (3) may, if the court finds it appropriate, be required to participate in classes on parenting education which are approved by the Department of Juvenile Justice, upon the first conviction of the minor. Upon any subsequent conviction of the minor, the court may, if the court finds it appropriate, require the parent to attend further parent education classes or render community service hours together with the child.

(c) No later than July 1, 1994, the district juvenile justice boards or county juvenile justice councils or the Department of Juvenile Justice shall establish appropriate community service programs to be available to the alternative sanctions coordinators of the circuit courts in implementing this subsection. The boards or councils or department shall propose the implementation of a community service program in each circuit, and may submit a circuit plan, to be implemented upon approval of the circuit alternative sanctions coordinator.

(d) For the purposes of this section, community service may be provided on public property as well as on private property with the expressed permission of the property owner. Any community service provided on private property is limited to such things as removal of graffiti and restoration of vandalized property.

(5)(a) A minor who violates subsection (3) commits a misdemeanor of the first degree; for a first offense, may serve a period of detention of up to 3 days in a secure detention facility; and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service; and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 1 year.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.

(b) For a second or subsequent offense, the a minor who violates subsection (3) commits a felony of the third degree and shall serve a period of detention of up to 15 days in a secure detention facility and shall be required to perform not less than 100 nor more than 250 hours of community service, and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(6) Any firearm that is possessed or used by a minor in violation of this section shall be promptly seized by a law enforcement officer and disposed of in accordance with s. 790.08(1)-(6).

(7) The provisions of this section are supplemental to all other provisions of law relating to the possession, use, or exhibition of a firearm.

(8) Notwithstanding s. 985.213 or s. 985.215(1), if a minor under 18 years of age is charged with an offense that involves the use or possession of a firearm, as defined in s. 790.001, ~~including other than~~ a violation of subsection (3), or is charged for any offense during the commission of which the minor possessed a firearm, the minor shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention in accordance with the applicable time periods specified in s. 985.215(5), if the court finds that the minor meets the criteria specified in s. 985.215(2), or if the court finds by clear and convincing evidence that the minor is a clear and present danger to himself or herself or the community. The Department of Juvenile Justice shall prepare a form for all minors charged under this subsection that states the period of detention and the relevant demographic information, including, but not limited to, the sex, age, and race of the minor; whether or not the minor was represented by private counsel or a public defender; the current offense; and the minor's complete prior record, including any pending cases. The form shall be provided to the judge to be considered when determining whether the minor should be continued in secure detention under this subsection. An order placing a minor in secure detention because the minor is a clear and present danger to himself or herself or the community must be in writing, must specify the need for detention and the benefits derived by the minor or the community by placing the minor in secure detention, and must include a copy of the form provided by the department. The Department of Juvenile Justice must send the form, including a copy of any order, without client-identifying information, to the Office of Economic and Demographic Research.

(9) Notwithstanding s. 985.214, if the minor is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of subsection (3), or an offense during the commission of which the minor possessed a firearm, and the minor is not committed to a residential commitment program of the Department of Juvenile Justice, in addition to any other punishment provided by law, the court shall order:

(a) For a first offense, that the minor shall serve a minimum mandatory period of detention of 15 ~~5~~ days in a secure detention facility; and

1. Perform 100 hours of community service; and may.

2. Be placed on community control or in a nonresidential commitment program.

(b) For a second or subsequent offense, that the minor shall serve a mandatory period of detention of at least 21 ~~10~~ days in a secure detention facility; and

1. Perform not less than 100 nor more than 250 hours of community service; and may.
2. Be placed on community control or in a nonresidential commitment program.

The minor shall not receive credit for time served before adjudication. For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(10) If a minor is found to have committed an offense under subsection (9), the court shall impose the following penalties in addition to any penalty imposed under paragraph (9)(a) or paragraph (9)(b):

(a) For a first offense:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 1 year.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.

(b) For a second or subsequent offense:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

Section 2. Paragraph (b) of subsection (3) of section 943.051, Florida Statutes, is amended to read:



943.051 Criminal justice information; collection and storage; fingerprinting.—

(3)

(b) A minor who is charged with or found to have committed the following ~~offenses misdemeanors~~ shall be fingerprinted and the fingerprints shall be submitted to the department:

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 s. 827.05.
6. Assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b).
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(3).
11. Cruelty to animals, as defined in s. 828.12(1).
12. Arson, as defined in s. 806.031(1).
13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115.

Section 3. Section 790.115, Florida Statutes, is amended to read:

790.115 Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited; penalties; exceptions.—

(1) A person who exhibits any sword, sword cane, firearm, electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife, except as authorized in support of school-sanctioned activities, in the presence of one or more persons in a rude, careless, angry, or threatening manner and not in lawful self-defense, at a school-sponsored event or on the grounds or facilities of any school, school bus, or school bus stop, or within 1,000 feet of the real property that comprises a public or private elementary school, middle school, or secondary school, during school hours or during the time of a sanctioned school activity, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not apply to the exhibition of a firearm or weapon on private real property within 1,000 feet of a school

by the owner of such property or by a person whose presence on such property has been authorized, licensed, or invited by the owner.

(2)(a) A person shall not possess any firearm, electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife, except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop; however, a person may carry a firearm:

1. In a case to a firearms program, class or function which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried;

2. In a case to a vocational school having a firearms training range; or

3. In a vehicle pursuant to s. 790.25(5); except that school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges.

For the purposes of this section, "school" means any preschool, elementary school, middle school, junior high school, secondary school, vocational school, or postsecondary school, whether public or nonpublic.

(b) A person who willfully and knowingly possesses any electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife, except as authorized in support of school-sanctioned activities, in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)1. A person who willfully and knowingly possesses any firearm in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A person who stores or leaves a loaded firearm within the reach or easy access of a minor who obtains the firearm and commits a violation of subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; except that this does not apply if the firearm was stored or left in a securely locked box or container or in a location which a reasonable person would have believed to be secure, or was securely locked with a firearm-mounted push-button combination lock or a trigger lock; if the minor obtains the firearm as a result of an unlawful entry by any person; or to members of the Armed Forces, National Guard, or State Militia, or to police or other law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

(d) A person who discharges any weapon or firearm while in violation of paragraph (a), unless discharged for lawful defense of himself or herself or another or for a lawful purpose, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) The penalties of this subsection shall not apply to persons licensed under s. 790.06. Persons licensed under s. 790.06 shall be punished as

provided in s. 790.06(12), except that a licenseholder who unlawfully discharges a weapon or firearm on school property as prohibited by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to any law enforcement officer as defined in s. 943.10(1), (2), (3), (4), (6), (7), (8), (9), or (14).

(4) Notwithstanding s. 985.213, s. 985.214, or s. 985.215(1), any minor under 18 years of age who is charged under this section with possessing or discharging a firearm on school property shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a probable cause hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention for a period of 21 days, during which time the minor shall receive medical, psychiatric, psychological, or substance abuse examinations pursuant to s. 985.224 and a written report shall be completed.

Section 4. Paragraph (b) of subsection (1) and subsection (2) of section 985.215, Florida Statutes, 1998 Supplement, are amended to read:

985.215 Detention.—

(1) The juvenile probation officer 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.

(b) The juvenile probation officer 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. However, a child charged with possessing or discharging a firearm on school property in violation of s. 790.115 shall be placed in secure detention care.

Under no circumstances shall the juvenile probation officer 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.

(e) The child is charged with possession or discharging a firearm on school property in violation of 790.115.

~~(f)~~(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.

~~(g)~~(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.

(h)~~(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) or paragraph (e), the court shall utilize the results of the risk assessment performed by the juvenile probation officer 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).

Section 5. Section 435.04, Florida Statutes, 1998 Supplement, is amended to read:

435.04 Level 2 screening standards.—

(1) All employees in positions designated by law as positions of trust or responsibility shall be required to undergo security background investigations as a condition of employment and continued employment. For the purposes of this subsection, security background investigations shall include, but not be limited to, employment history checks, fingerprinting for all purposes and checks in this subsection, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(a) Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.

(b) Section 782.04, relating to murder.

(c) Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.

(d) Section 782.071, relating to vehicular homicide.

(e) Section 782.09, relating to killing of an unborn child by injury to the mother.

(f) Section 784.011, relating to assault, if the victim of the offense was a minor.

(g) Section 784.021, relating to aggravated assault.

(h) Section 784.03, relating to battery, if the victim of the offense was a minor.

(i) Section 784.045, relating to aggravated battery.

(j) Section 784.075, relating to battery on a detention or commitment facility staff.

(k)(j) Section 787.01, relating to kidnapping.

(l)(k) Section 787.02, relating to false imprisonment.

(m) Section 787.04(2), relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.

(n) Section 787.04(3), relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.

(o) Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

(p) Section 790.115(2)(b), relating to possessing an electric weapon or device, destructive device, or other weapon on school property.

(q)(l) Section 794.011, relating to sexual battery.

(r)(m) Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

(s)(n) Chapter 796, relating to prostitution.

(t)(o) Section 798.02, relating to lewd and lascivious behavior.

(u)(p) Chapter 800, relating to lewdness and indecent exposure.

(v)(q) Section 806.01, relating to arson.

(w)(r) Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.

(x)(s) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.

(y)(t) Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.

(z)(u) Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.

(aa)(v) Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.

(bb)(w) Section 826.04, relating to incest.

~~(cc)(x)~~ Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

~~(dd)(y)~~ Section 827.04, relating to contributing to the delinquency or dependency of a child.

~~(ee)(z)~~ Section 827.05, relating to negligent treatment of children.

~~(ff)(aa)~~ Section 827.071, relating to sexual performance by a child.

~~(gg)~~ Section 843.01, relating to resisting arrest with violence.

~~(hh)~~ Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.

~~(ii)~~ Section 843.12, relating to aiding in an escape.

~~(jj)~~ Section 843.13, relating to aiding in the escape of juvenile inmates in correctional institutions.

~~(kk)(bb)~~ Chapter 847, relating to obscene literature.

~~(ll)~~ Section 874.05(1), relating to encouraging or recruiting another to join a criminal gang.

~~(mm)(cc)~~ Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

~~(nn)~~ Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

~~(oo)~~ Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

~~(pp)~~ Section 944.47, relating to introduction of contraband into a correctional facility.

~~(qq)~~ Section 985.4045, relating to sexual misconduct in juvenile justice programs.

~~(rr)~~ Section 985.4046, relating to contraband introduced into detention facilities.

(3) Standards must also ensure that the person:

(a) For employees or employers licensed or registered pursuant to chapter 400, does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5), which has been uncontested or upheld under s. 415.103.

(b) Has not committed an act that constitutes domestic violence as defined in s. 741.30.

(4) Under penalty of perjury, all employees in such positions of trust or responsibility shall attest to meeting the requirements for qualifying for employment and agreeing to inform the employer immediately if convicted of any of the disqualifying offenses while employed by the employer. Each employer of employees in such positions of trust or responsibilities which is licensed or registered by a state agency shall submit to the licensing agency annually, under penalty of perjury, an affidavit of compliance with the provisions of this section.

Section 6. Subsection (1) of section 943.0515, Florida Statutes, 1998 Supplement, is amended to read:

943.0515 Retention of criminal history records of minors.—

(1)(a) The Criminal Justice Information Program shall retain the criminal history record of a minor who is classified as a serious or habitual juvenile offender or committed to a juvenile correctional facility or juvenile prison under chapter 985 for 5 years after the date the offender reaches 21 years of age, at which time the record shall be expunged unless it meets the criteria of paragraph (2)(a) or paragraph (2)(b).

(b) If the minor is not classified as a serious or habitual juvenile offender or committed to a juvenile correctional facility or juvenile prison under chapter 985, the program shall retain the minor's criminal history record for 5 years after the date the minor reaches 19 years of age, at which time the record shall be expunged unless it meets the criteria of paragraph (2)(a) or paragraph (2)(b).

Section 7. Paragraph (r) is added to subsection (1) of section 960.001, Florida Statutes, 1998 Supplement, to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.—

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Parole Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement the provisions of s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(r) Implementing crime prevention in order to protect the safety of persons and property, as prescribed in the State Comprehensive Plan.—By preventing crimes that create victims or further harm former victims, crime-prevention efforts are an essential part of providing effective service for victims and witnesses. Therefore, the agencies identified in this subsection may participate in and expend funds for crime prevention, public awareness, public participation, and educational activities directly relating to, and in furtherance of, existing public safety statutes. Furthermore, funds may not



be expended for the purpose of influencing public opinion on public policy issues that have not been resolved by the Legislature or the electorate.

Section 8. Subsection (16) of section 984.03, Florida Statutes, 1998 Supplement, is amended to read:

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

(16) “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 chapter 985.

Section 9. Paragraph (a) of present subsection (15) and paragraphs (a) and (e) of present subsection (46) of section 985.03, Florida Statutes, 1998 Supplement, are amended, and present subsections (4) through (59) are redesignated as subsections (5) through (60), respectively, and a new subsection (4) is added to that section, to read:

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

(4) “Aftercare” means the care, treatment, help, and supervision provided to a juvenile released from a residential commitment program which is intended to promote rehabilitation and prevent recidivism. The purpose of aftercare is to protect the public, reduce recidivism, increase responsible productive behavior, and provide for a successful transition of the youth from the department to the family. Aftercare includes, but is not limited to, minimum-risk nonresidential programs, reentry services, and postcommitment community control.

(16)(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.

(47)(46) “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, including any nonresidential program or supervision program that is used for aftercare placement.

(e) Juvenile correctional facilities or juvenile prison ~~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 other maximum-security program models authorized by the Legislature and established by rule. Section 985.3141 applies to children placed in programs in this restrictiveness level.

Section 10. Paragraph (b) of subsection (4) of section 39.0132, Florida Statutes, 1998 Supplement, is amended to read:

39.0132 Oaths, records, and confidential information.—

(4)

(b) The department shall disclose to the school superintendent the presence of any child in the care and custody or under the jurisdiction or supervision of the department who has a known history of criminal sexual behavior with other juveniles; is an alleged juvenile sex offender, as defined in s. 39.01 s. 415.50165; or has pled guilty or nolo contendere to, or has been found to have committed, a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless of adjudication. Any employee of a district school board who knowingly and willfully discloses such information to an unauthorized person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 11. Paragraph (b) of subsection (3) of section 985.04, Florida Statutes, 1998 Supplement, is amended to read:

985.04 Oaths; records; confidential information.—

(3)

(b) The department shall disclose to the school superintendent the presence of any child in the care and custody or under the jurisdiction or supervision of the department who has a known history of criminal sexual behavior with other juveniles; is an alleged juvenile sex offender, as defined in s. 39.01 s. 415.50165; or has pled guilty or nolo contendere to, or has been found to have committed, a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless of adjudication. Any employee of a district school board who knowingly and willfully discloses such information to an unauthorized person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 12. Paragraph (d) of subsection (1) of section 985.207, Florida Statutes, 1998 Supplement, is amended to read:

985.207 Taking a child into custody.—

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

(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, home detention furlough, or aftercare supervision or has absconded from commitment.

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.

Section 13. Section 985.208, Florida Statutes, 1998 Supplement, is amended to read:

985.208 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). 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 juvenile probation officer of the department.

Section 14. Paragraph (b) of subsection (1) of section 985.212, Florida Statutes, is amended to read:

985.212 Fingerprinting and photographing.—

(1)

(b) A child who is charged with or found to have committed one of the following offenses 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).
13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115.

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 are shall not be available for public disclosure and inspection under s. 119.07(1) except as provided in ss. 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. In addition, such records may be submitted to the Department of Law Enforcement for inclusion in the state criminal history records and used by criminal justice agencies for criminal justice purposes. 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.

Section 15. Paragraphs (a) and (c) of subsection (1) and subsection (2) of section 985.231, Florida Statutes, 1998 Supplement, are amended 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 a postcommitment community control ~~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. Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child's conditions of community control or aftercare supervision, the court may order the child to submit to random testing for the purpose of detecting and monitoring the use of alcohol or controlled substances.

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 postcommitment community control ~~aftercare~~ program are violated, the department 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 postcommitment community control ~~aftercare~~ must be brought before the court if sanctions are sought. A child taken into custody under s. 985.207 for violating the conditions of community control or postcommitment community control ~~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 postcommitment community control ~~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 postcommitment community control ~~aftercare~~, or who have been found by the court to have violated the conditions of community control or postcommitment community control ~~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 postcommitment community control ~~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 postcommitment community control ~~aftercare~~, the court shall enter an order revoking, modifying, or continuing community control or postcommitment community control ~~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 postcommitment community control ~~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 residential consequence unit is not available.

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

(IV) Revoke community control or postcommitment community control ~~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 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 ~~release~~ furlough of the child into the community in a postcommitment nonresidential aftercare program. If the child is not successful in the aftercare program, the department may use the transfer procedure under s. 985.404. 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.

(c) Any order made pursuant to paragraph (a) shall be in writing as prepared by the clerk of court and may thereafter be modified or set aside by the court.

(2) Following a delinquency adjudicatory hearing pursuant to s. 985.228 and a delinquency disposition hearing pursuant to s. 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(49) 985.03(47) and 985.23(3).

Section 16. Subsections (14) and (15) of section 985.308, Florida Statutes, 1998 Supplement, are amended to read:

985.308 Juvenile sexual offender commitment programs; sexual abuse intervention networks.—

(14) Subject to specific appropriation, availability of funds, or receipt of appropriate grant funds, the Office of the Attorney General, the Department of Children and Family Services, the Department of Juvenile Justice, or local juvenile justice councils shall award grants to sexual abuse intervention networks that apply for such grants. The grants may be used for training, treatment, aftercare, evaluation, public awareness, and other specified community needs that are identified by the network. A grant shall be awarded based on the applicant's level of local funding, level of collaboration, number of juvenile sexual offenders to be served, number of victims to be served, and level of unmet needs. ~~The Department of Legal Affairs' Office of the Attorney General, in collaboration with the Department of Juvenile Justice and the Department of Children and Family Services, shall establish by rule minimum standards for each respective department for residential and day treatment juvenile sexual offender programs funded under this subsection.~~



~~(15) The Department of Legal Affairs may adopt rules necessary to award grants under this section.~~

Section 17. Section 985.316, Florida Statutes, is amended to read:

~~985.316 Furlough and intensive Aftercare.—~~

(1) The Legislature finds that:

(a) Aftercare is the care, treatment, help, and supervision provided juveniles released from residential commitment programs to promote rehabilitation and prevent recidivism.

(b) Aftercare services can contribute significantly to a successful transition of a juvenile from a residential commitment to the juvenile's home, school, and community. Therefore, the best efforts should be made to provide for a successful transition.

(c) The purpose of aftercare is to protect safety; reduce recidivism; increase responsible productive behaviors; and provide for a successful transition of care and custody of the youth from the state to the family.

(d) Accordingly, aftercare should be included in the continuum of care.

(2) It is the intent of the Legislature that:

(a) Commitment programs include rehabilitative efforts on preparing committed juveniles for a successful release to the community.

(b) Aftercare transition planning begins as early in the commitment process as possible.

(c) Each juvenile committed to a residential commitment program be assessed to determine the need for aftercare services upon release from the commitment program.

(3) For juveniles referred or committed to the department, the function of the department may include, but shall not be limited to, assessing each committed juvenile to determine the need for aftercare services upon release from a commitment program, supervising the juvenile when released into the community from a residential commitment facility of the department, providing such counseling and other services as may be necessary for the families and assisting their preparations for the return of the child. Subject to specific appropriation, the department shall provide for outpatient sexual offender counseling for any juvenile sexual offender released from a commitment program as a component of aftercare.

(4) After a youth is released from a residential commitment program, aftercare services may be delivered through either minimum-risk nonresidential commitment restrictiveness programs or postcommitment community control. A juvenile under minimum-risk nonresidential commitment placement will continue to be on commitment status and subject to the transfer provision under s. 985.404. A juvenile on post-commitment community control will be subject to the provisions under s. 985.231(1)(a).

~~(1) With regard to children referred or committed to the department, the function of the department may include, but shall not be limited to, supervising the child when furloughed into the community from a facility of the department, including providing such counseling and other services as may be necessary for the families and assisting their preparations for the return of the child.~~

~~(2) Whenever a delinquent child is committed to a residential program operated by a private vendor under contract, the department may negotiate with such vendor to provide intensive aftercare for the child in the home community following successful completion of the residential program. Intensive aftercare shall involve regular contact between the child and the staff of the vendor with whom the child has developed a relationship during the course of the commitment program. Contingent upon specific appropriation, a contract for intensive aftercare provided by the residential commitment program vendor shall provide for caseloads of 10 or fewer children, intensive aftercare for 1 year, and a transfer of the ongoing case management and reentry responsibilities from the department to the vendor at the time the vendor admits the child into the commitment program. The department shall annually seek the necessary resources to provide intensive aftercare.~~

~~(3) Subject to specific appropriation, the department shall provide or contract for outpatient sexual offender counseling for any juvenile sexual offender furloughed from a commitment program, as a component of aftercare services.~~

~~(4) Upon a recommendation that a child committed to the department have his or her furlough revoked, the department shall, within 30 days after the date the recommendation is made, hold an administrative hearing pursuant to chapter 120.~~

~~(5) It is the legislative intent that, to prevent recidivism of juvenile offenders, reentry and aftercare services be provided statewide to each juvenile who returns to his or her community from a residential commitment program. Accordingly, the Legislature further intends that reentry and aftercare services be included in the continuum of care.~~

Section 18. Subsections (4) and (10) of section 985.404, Florida Statutes, 1998 Supplement, are amended, and subsection (13) is added to that section, to read:

985.404 Administering the juvenile justice continuum.—

(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, including a postcommitment minimum-risk non-residential aftercare program. 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.

(10) 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 December 1 of each year. Cost-benefit analysis for educational programs will be developed and implemented in collaboration with and cooperation by the Department of Education, local providers, and local school districts. Cost data for the report shall include data collected by the Department of Education for the purposes of preparing the annual report required by s. 230.23161(21)(17).

(13) The department shall implement procedures to ensure that educational support activities are provided throughout the juvenile justice continuum. Such activities may include, but are not limited to, mentoring, tutoring, group discussions, homework assistance, library support, designated reading times, independent living, personal finance, and other appropriate educational activities.

Section 19. Subsection (3) of section 985.406, Florida Statutes, 1998 Supplement, is amended to read:

985.406 Juvenile justice training academies established; Juvenile Justice Standards and Training Commission created; Juvenile Justice Training Trust Fund created.—

(3) JUVENILE JUSTICE TRAINING PROGRAM.—The commission shall establish a certifiable program for juvenile justice training pursuant to ~~the provisions of this section~~, and all Department of Juvenile Justice program staff and providers who deliver direct care services pursuant to contract with the department shall be required to participate in and successfully complete the commission-approved program of training pertinent to their areas of responsibility. Judges, state attorneys, and public defenders, law enforcement officers, and school district personnel may participate in such training program. For the juvenile justice program staff, the commission shall, based on a job-task analysis:

(a) Design, implement, maintain, evaluate, and revise a basic training program, including a competency-based ~~curriculum-based~~ examination, for the purpose of providing minimum employment training qualifications for all juvenile justice personnel. All program staff of the Department of Juve-

nile Justice and providers who deliver direct-care services who are hired after October 1, 1999, must meet the following minimum requirements:

1. Be at least 19 years of age.
2. Be a high school graduate or its equivalent as determined by the commission.
3. Not have been convicted of any felony or a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States. Any person who, after September 30, 1999, pleads guilty or nolo contendere to or is found guilty of any felony or a misdemeanor involving perjury or false statement is not eligible for employment, notwithstanding suspension of sentence or withholding of adjudication. Notwithstanding this subparagraph, any person who pleads nolo contendere to a misdemeanor involving a false statement before October 1, 1999, and who has had such record of that plea sealed or expunged is not ineligible for employment for that reason.
4. Abide by all the provisions of s. 985.01(2) regarding fingerprinting and background investigations and other screening requirements for personnel.
5. Execute and submit to the department an affidavit-of-application form, adopted by the department, attesting to his or her compliance with subparagraphs 1. through 4. The affidavit must be executed under oath and constitutes an official statement under s. 837.06. The affidavit must include conspicuous language that the intentional false execution of the affidavit constitutes a misdemeanor of the second degree. The employing agency shall retain the affidavit.

(b) Design, implement, maintain, evaluate, and revise an advanced training program, including a competency-based curriculum-based examination for each training course, which is intended to enhance knowledge, skills, and abilities related to job performance.

(c) Design, implement, maintain, evaluate, and revise a career development training program, including a competency-based curriculum-based examination for each training course. Career development courses are intended to prepare personnel for promotion.

(d) The commission is encouraged to design, implement, maintain, evaluate, and revise juvenile justice training courses, or to enter into contracts for such training courses, that are intended to provide for the safety and well-being of both citizens and juvenile offenders.

Section 20. Section 985.4145, Florida Statutes, is created to read:

985.4145 Direct-support organization; definition; use of property; board of directors; audit.—

(1) DEFINITION.—As used in this section, the term “direct-support organization” means an organization whose sole purpose is to support the juvenile justice system and which is:

(a) A corporation not-for-profit incorporated under chapter 617 and which is approved by the Department of State;

(b) Organized and operated to conduct programs and activities; to raise funds; to request and receive grants, gifts, and bequests of moneys; to acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and to make expenditures to or for the direct or indirect benefit of the Department of Juvenile Justice or the juvenile justice system operated by a county commission or a district board;

(c) Determined by the Department of Juvenile Justice to be consistent with the goals of the juvenile justice system, in the best interest of the state, and in accordance with the adopted goals and mission of the Department of Juvenile Justice.

Expenditures of the organization shall be expressly used to prevent and ameliorate juvenile delinquency. The expenditures of the direct-support organization may not be used for the purpose of lobbying as defined in s. 11.045.

(2) CONTRACT.—The direct-support organization shall operate under written contract with the department. The contract must provide for:

(a) Approval of the articles of incorporation and bylaws of the direct-support organization by the department.

(b) Submission of an annual budget for the approval of the department.

(c) Certification by the department that the direct-support organization is complying with the terms of the contract and in a manner consistent with the goals and purposes of the department and in the best interest of the state. Such certification must be made annually and reported in the official minutes of a meeting of the direct-support organization.

(d) The reversion of moneys and property held in trust by the direct-support organization for the benefit of the juvenile justice system to the state if the department ceases to exist or to the department if the direct-support organization is no longer approved to operate for the department, a county commission, or a district board or if the direct-support organization ceases to exist;

(e) The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year;

(f) The disclosure of material provisions of the contract, and the distinction between the department and the direct-support organization, to donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications.

(3) BOARD OF DIRECTORS.—The Secretary of Juvenile Justice shall appoint a board of directors of the direct-support organization. Members of the organization must include representatives from businesses, representa-

tives from each of the juvenile justice service districts, and one representative appointed at-large.

(4) USE OF PROPERTY.—The department may permit, without charge, appropriate use of fixed property and facilities of the juvenile justice system by the direct-support organization, subject to the provisions of this section.

(a) The department may prescribe any condition with which the direct-support organization must comply in order to use fixed property or facilities of the juvenile justice system.

(b) The department may not permit the use of any fixed property or facilities of the juvenile justice system by the direct-support organization if it does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

(c) The department shall adopt rules prescribing the procedures by which the direct-support organization is governed and any conditions with which a direct-support organization must comply to use property or facilities of the department.

(5) Any moneys may be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the contract with the department.

(6) The direct-support organization shall provide for an annual financial and compliance postaudit of its financial accounts and records by an independent certified public accountant in accordance with rules of the Auditor General. The annual audit report must include a management letter and must be submitted to the Auditor General and the department for review. The department and the Auditor General may require and receive from the direct-support organization, or from its independent auditor, any detail or supplemental data relative to the operation of the organization.

Section 21. Paragraph (b) of subsection (1) and paragraphs (a) and (b) of subsection (2) of section 985.415, Florida Statutes, 1998 Supplement, are amended to read:

985.415 Community Juvenile Justice Partnership Grants.—

(1) GRANTS; CRITERIA.—

(b) In awarding these grants, the department shall ~~only~~ consider applications that which at a minimum provide for the following:

1. The participation of the agencies and programs needed to implement the project or program for which the applicant is applying; ~~and~~

2. The reduction of truancy and in-school and out-of-school suspensions and expulsions, ~~and~~ the enhancement of school safety, and other delinquency early-intervention and diversion services;

3. The number of youths from 10 through 17 years of age within the geographic area to be served by the program, giving those geographic areas

having the highest number of youths from 10 to 17 years of age priority for selection;

4. The extent to which the program targets high-juvenile-crime neighborhoods and those public schools serving juveniles from high-crime neighborhoods;

5. The validity and cost-effectiveness of the program; and

6. 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.

(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 most likely to be involved 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.~~

1.5. The recommendations of the juvenile justice council as to the priority that should be given to proposals submitted by entities within a county.

2.6. The recommendations of the juvenile justice board as to the priority that should be given to proposals submitted by entities within a district.

Section 22. Subsection (5) of section 985.417, Florida Statutes, is amended to read:

985.417 Transfer of children from the Department of Corrections to the Department of Juvenile Justice.—

(5) Any child who has been convicted of a capital felony while under the age of 18 years may not be released ~~furloughed~~ on community control without the consent of the Governor and three members of the Cabinet.

Section 23. Paragraph (d) of subsection (1) of section 419.001, Florida Statutes, 1998 Supplement, is amended to read:

419.001 Site selection of community residential homes.—

(1) For the purposes of this section, the following definitions shall apply:

(d) “Resident” means any of the following: a frail elder as defined in s. 400.618; a physically disabled or handicapped person as defined in s. 760.22(7)(a); a developmentally disabled person as defined in s. 393.063(11); a nondangerous mentally ill person as defined in s. 394.455(18); or a child as defined in s. 39.01(11), s. 984.03(9) or (12), or s. 985.03(9) ~~s. 985.03(8)~~.

Section 24. Section 784.075, Florida Statutes, 1998 Supplement, is amended to read:

784.075 Battery on detention or commitment facility staff.—A person who commits a battery on a juvenile probation officer ~~an intake counselor or case manager~~, as defined in s. 984.03 ~~s. 984.03(31)~~ or s. 985.03 ~~s. 985.03(30)~~, on other staff of a detention center or facility as defined in s. 984.03 ~~s. 984.03(19)~~ or s. 985.03 ~~s. 985.03(19)~~, or on a staff member of a



commitment facility as defined in s. 985.03(47) ~~s. 985.03(45)~~, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this section, a staff member of the facilities listed includes persons employed by the Department of Juvenile Justice, persons employed at facilities licensed by the Department of Juvenile Justice, and persons employed at facilities operated under a contract with the Department of Juvenile Justice.

Section 25. Section 984.05, Florida Statutes, 1998 Supplement, is amended to read:

984.05 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 as necessary for the implementation of ss. 232.19, 984.03(29), and 985.03(28) ~~985.03(27)~~.

Section 26. Subsections (1), (2), (3), and (4) of section 985.227, Florida Statutes, are amended, and subsection (5) is added to that section, 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 for the commission of, attempt to commit, or conspiracy to commit:

1. Arson;
2. Sexual battery;
3. Robbery;
4. Kidnapping;
5. Aggravated child abuse;
6. Aggravated assault;
7. Aggravated stalking;
8. Murder;
9. Manslaughter;
10. Unlawful throwing, placing, or discharging of a destructive device or bomb;

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

12. Aggravated battery;

13. 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);

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

17. Home invasion robbery; or

18. Carjacking.

(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 an act classified as a felony, which adjudication was for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, and the child 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(47) 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 an 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 adult circuit appropriate court all felony preadjudicatory cases pertaining to the child, for prosecution of the child as an adult, which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If a child is acquitted of all charged offenses or lesser included offenses contained in the original case transferred to adult court, all felony cases that were transferred to adult court as a result of this paragraph shall be subject to the same penalties to which such cases would have been subject before being transferred to adult court 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.

(5) An information filed pursuant to this section may include all charges that are based on the same act, criminal episode, or transaction as the primary offenses.

Section 27. Paragraph (e) of subsection (3) and paragraph (a) of subsection (4) of section 985.31, Florida Statutes, 1998 Supplement, are amended to read:

985.31 Serious or habitual juvenile offender.—

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(e) After a child has been adjudicated delinquent pursuant to s. 985.228, the court shall determine whether the child meets the criteria for a serious or habitual juvenile offender pursuant to s. 985.03(49) ~~s. 985.03(47)~~. If the court determines that the child does not meet such criteria, the provisions of s. 985.231(1) shall apply.

(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(49) ~~s. 985.03(47)~~ 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.

Section 28. Paragraph (e) of subsection (3) and paragraph (a) of subsection (4) of section 985.311, Florida Statutes, 1998 Supplement, are amended to read:

985.311 Intensive residential treatment program for offenders less than 13 years of age.—

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(e) After a child has been adjudicated delinquent pursuant to s. 985.228(5), 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(8) ~~s. 985.03(7)~~. If the court determines that the child does not meet the criteria, the provisions of s. 985.231(1) shall apply.

## (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(8) ~~s. 985.03(7)~~ 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.

Section 29. Section 985.312, Florida Statutes, is amended to read:

985.312 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(8) ~~s. 985.03(7)~~, may be committed to any intensive residential treatment program for offenders less than 13 years of age as established in s. 985.311, unless such program has been established by the department through existing resources or specific appropriation, for such program.

Section 30. Section 985.3141, Florida Statutes, is amended to read:

985.3141 Escapes from secure detention or residential commitment facility.—An escape from:

(1) Any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement;

(2) Any residential commitment facility described in s. 985.03(47) ~~s. 985.03(45)~~, maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or

(3) Lawful transportation to or from any such secure detention facility or residential commitment facility,

constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 31. Subsection (1) of section 985.234, Florida Statutes, is amended to read:

985.234 Appeal.—

(1) An appeal from an order of the court affecting a party to a case involving a child pursuant to this part may be taken to the appropriate district court of appeal within the time and in the manner prescribed by s. 924.051 and the Florida Rules of Appellate Procedure by:

- (a) Any child, and any parent or legal guardian or custodian of any child.
- (b) The state, which may appeal from:
  1. An order dismissing a petition or any section thereof;
  2. An order granting a new adjudicatory hearing;
  3. An order arresting judgment;
  4. A ruling on a question of law when the child is adjudicated delinquent and appeals from the judgment;
  5. The disposition, on the ground that it is illegal;
  6. A judgment discharging a child on habeas corpus;
  7. An order adjudicating a child insane under the Florida Rules of Juvenile Procedure; and
  8. All other preadjudicatory hearings, except that the state may not take more than one appeal under this subsection in any case.

In the case of an appeal by the state, the notice of appeal shall be filed by the appropriate state attorney or his or her authorized assistant pursuant to the provisions of s. 27.18. Such an appeal shall embody all assignments of error in each preadjudicatory hearing order that the state seeks to have reviewed. The state shall pay all costs of the appeal except for the child's attorney's fee.

Section 32. Section 985.315, Florida Statutes, 1998 Supplement, is amended to read:

985.315 Educational/technical and vocational work-related work training programs.—

(1)(a) It is the finding of the Legislature that the educational/technical and vocational work-related 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 these the work programs provide juveniles with useful information and activities that can lead to meaningful employment after release in order to assist in reducing the return of juveniles to the system.

(b) It is further the finding of the Legislature that the mission of a juvenile educational/technical and vocational work-related work program is, in order of priority:

1. To provide a joint effort between the department, the juvenile work programs, and educational/technical and other vocational training programs to reinforce relevant education, training, and postrelease job placement, and help reduce recidivism.

2. 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.

3. To teach youth in juvenile justice programs relevant job skills and the fundamentals of a trade in order to prepare them for placement in the workforce.

(c) 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 is strongly encouraged to ~~may~~ require juveniles placed in a high-risk residential, maximum-risk residential, or a serious/habitual offender program to participate in an educational/technical or a vocational work-related work program 5 hours per day, 5 days per week. 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 educational/technical and vocational training 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) Education and 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) Education and 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 educational/technical or 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 educational/technical and vocational work-related ~~work~~ programs, which shall include the following procedures:

1. Participation in the educational/technical and vocational work-related programs shall be on a 5-day-per-week, 5-hour-per-day basis.

2.1. The education, training, 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 juvenile inmate into the various processes best suited for educational/technical or vocational training.

3.2. When feasible, the department shall attempt to obtain education or training credit for a juvenile seeking apprenticeship status or a high school diploma or its equivalent.

4.3. The juvenile may begin in a general education and work skills program and progress to a specific work skills training program, depending upon the ability, desire, and education and work record of the juvenile.

5.4. 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 educational/technical and vocational work-related ~~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 the 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.
4. Assist in the placement of youth into meaningful jobs upon release from the residential program.

(d) The department and providers are strongly encouraged to work in partnership with local businesses and trade groups in the development and operation of educational/technical and vocational programs.

(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.

(6) The Juvenile Justice Accountability Board shall conduct a study regarding the types of effective juvenile vocational and work programs in operation across the country, relevant research on what makes programs effective, the key ingredients of effective juvenile vocational and work programs, and the status of such programs in juvenile facilities across the state. The board shall report its findings and make recommendations on how to expand and improve these programs no later than January 31, 2000, to the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Juvenile Justice.

(7) The department, working with providers, shall inventory juvenile vocational and work training programs in use in commitment programs across the state. The inventory shall list the commitment program, the type of vocational or work program offered, the relevant job skills provided, and which programs work with the trades industry to place youth in jobs upon release.

Section 33. Paragraph (c) of subsection (4) of section 985.201, Florida Statutes, is amended to read:

985.201 Jurisdiction.—

(4)

(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(5) ~~s. 775.089(6)~~.

Section 34. Subsection (4) of section 985.21, Florida Statutes, 1998 Supplement, is amended to read:

985.21 Intake and case management.—

(4) The juvenile probation officer 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 juvenile probation officer or the state attorney finds that the report, affidavit, or complaint is insufficient by the standards for a probable cause affidavit, the juvenile probation officer 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 juvenile probation officer, 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.~~

(a)(b) The juvenile probation officer, 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 juvenile probation officer 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 juvenile probation officer, 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.

(b)(c) The juvenile probation officer, 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 juvenile probation officer 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 juvenile probation officer 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.

(c)(d) Subject to the interagency agreement authorized under this paragraph, the juvenile probation officer for each case in which a child is alleged to have committed a violation of law or delinquent act and is not detained  
~~In all cases in which the child is alleged to have committed a violation of law or delinquent act and is not detained, the juvenile probation officer 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 may include a recommendation must recommend either that a petition or information be filed or that no petition or information be filed, and may must set forth reasons for the recommendation. The State Attorney and the Department of Juvenile Justice may, on a district-by-district basis, enter into interagency agreements denoting the cases that will require a recommendation and those for which a recommendation is unnecessary.~~

(d)(e) The state attorney may in all cases take action independent of the action or lack of action of the juvenile probation officer, and shall determine the action 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, 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;

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;
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.

(e)(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.

Section 35. Subsection (4) of section 985.225, Florida Statutes, is amended to read:

985.225 Indictment of a juvenile.—

(4)(a) 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.

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

Section 36. Subsection (6) of section 985.218, Florida Statutes, 1998 Supplement, is repealed.

Section 37. Subsections (2) and (4) of section 985.226, Florida Statutes, 1998 Supplement, are amended to read:

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

(2) INVOLUNTARY WAIVER.—

(a) Discretionary ~~involuntary~~ waiver.—Except as provided in paragraph (b), 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.

(b) Mandatory waiver.—

1. If the child was 14 years of age or older, and if the child has been previously adjudicated delinquent for an act classified as a felony, which adjudication was for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, or burglary with an assault or battery, and the child is currently charged with a second or subsequent violent crime against a person; or, 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).

2.(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.

(4) EFFECT OF ORDER WAIVING JURISDICTION.—

(a) 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.

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

to this paragraph shall be subject to the same penalties such cases were subject to before being transferred to adult court.

Section 38. Subsection (7) is added to section 985.228, Florida Statutes, to read:

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

(7) Notwithstanding any other provision of law, an adjudication of delinquency for an offense classified as a felony shall disqualify a person from lawfully possessing a firearm until such person reaches 24 years of age.

Section 39. Subsections (1) and (2) of section 790.23, Florida Statutes, 1998 Supplement, are amended to read:

790.23 Felons and delinquents; possession of firearms or electric weapons or devices unlawful.—

(1) It is unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm or electric weapon or device, or to carry a concealed weapon, including a tear gas gun or chemical weapon or device, if that person has been:

~~(a) Convicted of a felony or found to have committed a delinquent act that would be a felony if committed by an adult in the courts of this state;~~

(b) Found, in the courts of this state, to have committed a delinquent act that would be a felony if committed by an adult and such person is under 24 years of age.

~~(c)(b)~~ Convicted of or found to have committed a crime against the United States which is designated as a felony;

~~(d)(c)~~ Found to have committed a delinquent act in another state, territory, or country that would be a felony if committed by an adult and which was punishable by imprisonment for a term exceeding 1 year and such person is under 24 years of age; or

~~(e)(d)~~ Found guilty of an offense that is a felony in another state, territory, or country and which was punishable by imprisonment for a term exceeding 1 year.

(2) This section shall not apply to a person convicted of a felony whose civil rights and firearm authority have been restored, ~~or to a person found to have committed a delinquent act that would be a felony if committed by an adult with respect to which the jurisdiction of the court pursuant to chapter 985 has expired.~~

Section 40. Section 985.313, Florida Statutes, is amended to read:

985.313 Juvenile correctional facilities or juvenile prison Maximum-risk residential program.—~~A juvenile correctional facility or juvenile prison maximum-risk residential program~~ is a physically secure residential commitment program with a designated length of stay from 18 months to 36

months, primarily serving children 13 years of age to 19 years of age, or until the jurisdiction of the court expires. The court may retain jurisdiction over the child until the child reaches the age of 21, specifically for the purpose of the child completing the program. Each child committed to this level must meet one of the following criteria:

(1) 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:

- (a) Arson;
- (b) Sexual battery;
- (c) Robbery;
- (d) Kidnapping;
- (e) Aggravated child abuse;
- (f) Aggravated assault;
- (g) Aggravated stalking;
- (h) Murder;
- (i) Manslaughter;
- (j) Unlawful throwing, placing, or discharging of a destructive device or bomb;
- (k) Armed burglary;
- (l) Aggravated battery;
- (m) Carjacking;
- (n) Home-invasion robbery;
- (o) Burglary with an assault or battery;
- ~~(p)(m)~~ Lewd or lascivious assault or act in the presence of a child; or
- ~~(q)(n)~~ Carrying, displaying, using, threatening to use, or attempting to use a weapon or firearm during the commission of a felony.

(2) 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 three or more times to a delinquency commitment program.

(3) 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.

(4) The youth is at least 13 years of age at the time of the disposition for the current offense, the youth is eligible for prosecution as an adult for the current offense, and the current offense is ranked at level 7 or higher on the



Criminal Punishment Code offense severity ranking chart pursuant to s. 921.0022.

Section 41. Subsections (43) and (44) are added to section 228.041, Florida Statutes, 1998 Supplement, to read:

228.041 Definitions.—Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida School Code, they shall be used as follows:

(43) SCHOOL YEAR FOR JUVENILE JUSTICE PROGRAMS.—For schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, the school year shall be comprised of 250 days of instruction distributed over 12 months. A district school board may decrease the minimum number of days of instruction by up to 10 days for teacher planning.

(44) JUVENILE JUSTICE PROVIDER.—“Juvenile justice provider” means the Department of Juvenile Justice or a private, public, or other governmental organization under contract with the Department of Juvenile Justice which provides treatment, care and custody, or educational programs for youth in juvenile justice intervention, detention, or commitment programs.

Section 42. Section 228.051, Florida Statutes, is amended to read:

228.051 Organization and funding of required public schools.—The public schools of the state shall provide 13 consecutive years of instruction, beginning with kindergarten, and shall also provide such instruction for exceptional children and youth in Department of Juvenile Justice programs as may be required by law. The funds for support and maintenance of such schools shall be derived from state, district, federal, or other lawful sources or combinations of sources and shall include any tuition fees charged nonresidents as provided by law. Public schools, institutions, and agencies providing this instruction shall constitute the uniform system of free public schools prescribed by Art. IX of the State Constitution.

Section 43. Section 228.081, Florida Statutes, is amended to read:

228.081 Other public educational services.—

(1) The general control of other public educational services shall be vested in the state board except as provided herein. The state board shall, at the request of the Department of Children and Family Services and the Department of Juvenile Justice, advise as to standards and requirements relating to education to be met in all state schools or institutions under their control which provide educational programs. The Department of Education shall provide supervisory services for the educational programs of all such schools or institutions. The direct control of any of these services provided as part of the district program of education shall rest with the school board. These services shall be supported out of state, district, federal, or other lawful funds, depending on the requirements of the services being supported.

(2) The Department of Education shall recommend and by August 1, 1999, the state board shall adopt an administrative rule articulating expectations for high-quality, effective education programs for youth in Department of Juvenile Justice programs, including, but not limited to, education programs in juvenile justice commitment and detention facilities. The rule shall articulate policies and standards for education programs for youth in Department of Juvenile Justice programs and shall include the following:

(a) The interagency collaborative process needed to ensure effective programs with measurable results.

(b) The responsibilities of the Department of Education, the Department of Juvenile Justice, school districts, and providers of education services to youth in Department of Juvenile Justice programs.

(c) Academic expectations.

(d) Service delivery options available to school districts, including direct service and contracting.

(e) Assessment procedures, which:

1. Include appropriate academic and vocational assessments administered at program entry and exit which are selected by the Department of Education in partnership with representatives from the Department of Juvenile Justice, school districts, and providers.

2. Require school districts to be responsible for ensuring the completion of the assessment process.

3. Require assessments for students in detention who will move on to commitment facilities, to be designed to create the foundation for developing the student's education program in the assigned commitment facility.

4. Require assessments of students sent directly to commitment facilities to be completed within the first week of the student's commitment.

The results of these assessments, together with a portfolio depicting the student's academic and vocational accomplishments, shall be included in the discharge package assembled for each youth.

(f) Recommended instructional programs including, but not limited to, vocational training and job preparation.

(g) Funding requirements, which shall include the requirement that at least 80 percent of the FEP funds generated by students in Department of Juvenile Justice Programs be spent on instructional costs for those students. One hundred percent of the formula-based categorial funds generated by students in Department of Juvenile Justice Programs must be spent on appropriate categoricals such as instructional materials and public school technology for those students.

(h) Qualifications of instructional staff, procedures for the selection of instructional staff, and procedures to ensure consistent instruction and qualified staff year round.

(i) Transition services, including the roles and responsibilities of appropriate personnel in school districts, provider organizations, and the Department of Juvenile Justice.

(j) Procedures and timeframe for transfer of education records when a youth enters and leaves a facility.

(k) The requirement that each school district maintain an academic transcript for each student enrolled in a juvenile justice facility which delineates each course completed by the student as provided by the State Course Code Directory.

(l) The requirement that each school district make available and transmit a copy of a student's transcript in the discharge packet when the student exits a facility.

(m) Contract requirements.

(n) Performance expectations for providers and school districts, including the provision of academic improvement plan as required in s. 232.245.

(o) The role and responsibility of the school district in securing workforce development funds.

(p) A series of graduated sanctions for school districts whose educational programs in Department of Juvenile Justice facilities are considered to be unsatisfactory and for instances in which school districts fail to meet standards prescribed by law, rule, or State Board of Education policy. These sanctions shall include the option of requiring a school district to contract with a provider or another school district if the educational program at the Department of Juvenile Justice facility has failed a quality assurance review and after 6 months, is still performing below minimum standards.

(q) Other aspects of program operations.

(3) By January 1, 2000, the Department of Education in partnership with the Department of Juvenile Justice, school districts, and providers shall:

(a) Develop model contracts for the delivery of appropriate education services to youth in Department of Juvenile Justice programs to be used for the development of future contracts. The model contracts shall reflect the policy and standards included in subsection (2). The Department of Education shall ensure that appropriate school district personnel are trained and held accountable for the management and monitoring of contracts for education programs for youth in juvenile justice residential and nonresidential facilities.

(b) Develop model procedures for transitioning youth into and out of Department of Juvenile Justice programs. These procedures shall reflect the policy and standards adopted pursuant to subsection (2).

(c) Develop standardized required content of education records to be included as part of a youth's commitment record. These requirements shall

reflect the policy and standards adopted pursuant to subsection (2) and shall include, but not be limited to, the following:

1. A copy of the student's individualized education plan;
2. Assessment data, including grade level proficiency in reading, writing, and mathematics, and performance on tests taken according to s. 229.57;
3. A copy of the student's permanent cumulative record; and
4. A copy of the student's academic transcript.
5. A portfolio reflecting the youth's academic accomplishments while in the Department of Juvenile Justice program.

(d) Develop model procedures for securing the education record and the roles and responsibilities of the juvenile probation officer and others involved in the withdrawal of the student from school and assignment to a commitment or detention facility. Effective for the 2000-2001 school year and thereafter, school districts shall be required to respond to requests for student education records received from another school district or a juvenile justice facility within 5 working days of receiving the request.

(4) The Department of Education shall ensure that school districts notify students in juvenile justice residential or nonresidential facilities who attain the age of 16 years of the provisions of s. 232.01(1)(c) regarding compulsory school attendance and make available the option of enrolling in a program to attain a general education development diploma prior to release from the facility. School districts or community colleges, or both, shall waive GED testing fees for youth in Department of Juvenile Justice residential programs and shall, upon request, designate schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs as GED testing centers, subject to GED testing center requirements.

(5) The Department of Education shall establish and operate, either directly or indirectly through a contract, a mechanism to provide quality assurance reviews of all juvenile justice education programs and shall provide technical assistance and related research to school districts and providers on how to establish, develop, and operate educational programs that exceed the minimum quality assurance standards.

Section 44. Subsection (3) of section 229.57, Florida Statutes, 1998 Supplement, is amended to read.

229.57 Student assessment program.—

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner is directed to design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The program must be designed, as far as possible, so as

not to conflict with ongoing district assessment programs and so as to use information obtained from district programs. Pursuant to the statewide assessment program, the commissioner shall:

(a) Submit to the state board a list that specifies student skills and competencies to which the goals for education specified in the state plan apply, including, but not limited to, reading, writing, and mathematics. The skills and competencies must include problem-solving and higher-order skills as appropriate. The commissioner shall select such skills and competencies after receiving recommendations from educators, citizens, and members of the business community. The commissioner shall submit to the state board revisions to the list of student skills and competencies in order to maintain continuous progress toward improvements in student proficiency.

(b) Develop and implement a uniform system of indicators to describe the performance of public school students and the characteristics of the public school districts and the public schools. These indicators must include, without limitation, information gathered by the comprehensive management information system created pursuant to s. 229.555 and student achievement information obtained pursuant to this section.

(c) Develop and implement a student achievement testing program as part of the statewide assessment program, to be administered at designated times at the elementary, middle, and high school levels to measure reading, writing, and mathematics. The testing program must be designed so that:

1. The tests measure student skills and competencies adopted by the state board as specified in paragraph (a). The tests must measure and report student proficiency levels in reading, writing, and mathematics. Other content areas may be included as directed by the commissioner. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the testing program from state educators and the public.

2. The tests are criterion-referenced and include, to the extent determined by the commissioner, items that require the student to produce information or perform tasks in such a way that the skills and competencies he or she uses can be measured.

3. Each testing program, whether at the elementary, middle, or high school level, includes a test of writing in which students are required to produce writings which are then scored by appropriate methods.

4. A score is designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

5. All 11th grade students take a high school competency test developed by the state board to test minimum student performance skills and competencies in reading, writing, and mathematics. The test must be based on the

skills and competencies adopted by the state board pursuant to paragraph (a). Upon recommendation of the commissioner, the state board shall designate a passing score for each part of the high school competency test. In establishing passing scores, the state board shall consider any possible negative impact of the test on minority students. The commissioner may establish criteria whereby a student who successfully demonstrates proficiency in either reading or mathematics or both may be exempted from taking the corresponding section of the high school competency test or the college placement test. A student must earn a passing score or have been exempted from each part of the high school competency test in order to qualify for a regular high school diploma. The school districts shall provide appropriate remedial instruction to students who do not pass part of the competency test.

6. Participation in the testing program is mandatory for all students, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the commissioner. The commissioner shall recommend rules to the state board for the provision of test adaptations and modifications of procedures as necessary for students in exceptional education programs and for students who have limited English proficiency.

7. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

8. By January 1, 2000, the Department of Education must develop, or select, and implement a common battery of assessment tools which will be used in all juvenile justice programs in the state. These tools must accurately reflect criteria established in the Florida Sunshine State Standards.

The commissioner may design and implement student testing programs for any grade level and subject area, based on procedures designated by the commissioner to monitor educational achievement in the state.

(d) Obtain or develop a career planning assessment to be administered to students, at their option, in grades 7 and 10 to assist them in preparing for further education or entering the workforce. The statewide student assessment program must include career planning assessment.

(e) Conduct ongoing research to develop improved methods of assessing student performance, including, without limitation, the use of technology to administer tests, the use of electronic transfer of data, the development of work-product assessments, and the development of process assessments.

(f) Conduct ongoing research and analysis of student achievement data, including, without limitation, monitoring trends in student achievement, identifying school programs that are successful, and analyzing correlates of school achievement.

(g) Provide technical assistance to school districts in the implementation of state and district testing programs and the use of the data produced pursuant to such programs.

Section 45. Paragraph (c) is added to subsection (1) of section 229.58, Florida Statutes, 1998 Supplement, to read:

229.58 District and school advisory councils.—

(1) ESTABLISHMENT.—

(c) For those schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, school boards may establish a district advisory council with appropriate representatives for the purpose of developing and monitoring a district school improvement plan which encompasses all such schools in the district, pursuant to s. 230.23(16)(a).

Section 46. Subsections (1), (3), and (4) of section 229.592, Florida Statutes, 1998 Supplement, are amended to read:

229.592 Implementation of state system of school improvement and education accountability.—

(1) DEVELOPMENT.—It is the intent of the Legislature that every public school in the state, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, shall have a school improvement plan, as required by s. 230.23(16), ~~fully implemented and operational by the beginning of the 1993-1994 school year.~~ Vocational standards considered pursuant to s. 239.229 shall be incorporated into the school improvement plan for each area technical center operated by a school board by the 1994-1995 school year, and area technical centers shall prepare school report cards incorporating such standards, pursuant to s. 230.23(16), for the 1995-1996 school year. In order to accomplish this, the Florida Commission on Education Reform and Accountability and the school districts and schools shall carry out the duties assigned to them by ss. 229.594 and 230.23(16), respectively.

(3) COMMISSIONER.—The commissioner shall be responsible for implementing and maintaining a system of intensive school improvement and stringent education accountability.

(a) Based on the recommendations of the Florida Commission on Education Reform and Accountability, the commissioner shall develop and implement the following programs and procedures:

1. A system of data collection and analysis that will improve information about the educational success of individual students and schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The information and analyses must be capable of identifying educational programs or activities in need of improvement, and reports prepared pursuant to this subparagraph shall be distributed to the appropriate school boards prior to distribution to the general public. This provision shall not preclude access to public records as provided in chapter 119.

2. A program of school improvement that will analyze information to identify schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, educational programs, or educational activities in need of improvement.

3. A method of delivering services to assist school districts and schools to improve, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs.

4. A method of coordinating with the state educational goals and school improvement plans any other state program that creates incentives for school improvement.

(b) The commissioner shall be held responsible for the implementation and maintenance of the system of school improvement and education accountability outlined in this subsection. There shall be an annual determination of whether adequate progress is being made toward implementing and maintaining a system of school improvement and education accountability.

(c) The annual feedback report shall be developed by the commission and the Department of Education.

(d) The commissioner and the commission shall review each school board's feedback report and submit its findings to the State Board of Education. If adequate progress is not being made toward implementing and maintaining a system of school improvement and education accountability, the State Board of Education shall direct the commissioner to prepare and implement a corrective action plan. The commissioner and State Board of Education shall monitor the development and implementation of the corrective action plan.

(e) As co-chair of the Florida Commission on Education Reform and Accountability, the commissioner shall appear before the appropriate committees of the legislature annually in October to report and recommend changes in state policy necessary to foster school improvement and education accountability. The report shall reflect the recommendations of the Florida Commission on Education Reform and Accountability. Included in the report shall be a list of the schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, for which school boards have developed assistance and intervention plans and an analysis of the various strategies used by the school boards. School reports shall be distributed pursuant to this paragraph and s. 230.23(16)(e) according to guidelines adopted by the State Board of Education.

(4) DEPARTMENT.—

(a) The Department of Education shall implement a training program to develop among state and district educators a cadre of facilitators of school improvement. These facilitators shall assist schools and districts to conduct needs assessments and develop and implement school improvement plans to meet state goals.

(b) Upon request, the department shall provide technical assistance and training to any school, including any school operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, school advisory council, district, or school board for conducting



needs assessments, developing and implementing school improvement plans, developing and implementing assistance and intervention plans, or implementing other components of school improvement and accountability. Priority for these services shall be given to school districts in rural and sparsely populated areas of the state.

(c) Pursuant to s. 24.121(5)(d), the department shall not release funds from the Educational Enhancement Trust Fund to any district in which a school, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, does not have an approved school improvement plan, pursuant to s. 230.23(16), after 1 full school year of planning and development, or does not comply with school advisory council membership composition requirements pursuant to s. 229.58(1). The department shall send a technical assistance team to each school without an approved plan to develop such school improvement plan or to each school without appropriate school advisory council membership composition to develop a strategy for corrective action. The department shall release the funds upon approval of the plan or upon establishment of a plan of corrective action. Notice shall be given to the public of the department's intervention and shall identify each school without a plan or without appropriate school advisory council membership composition.

Section 47. Paragraphs (a) and (e) of subsection (16) of section 230.23, Florida Statutes, 1998 Supplement, are amended to read:

230.23 Powers and duties of school board.—The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(16) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—Maintain a system of school improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district's continuing system of planning and budgeting required by this section and ss. 229.555 and 237.041. This system of school improvement and education accountability shall include, but not be limited to, the following:

(a) School improvement plans.—Annually approve and require implementation of a new, amended, or continuation school improvement plan for each school in the district, except that a school board may establish a district school improvement plan which includes all schools in the district operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. Such plan shall be designed to achieve the state education goals and student performance standards pursuant to ss. 229.591(3) and 229.592. Beginning in 1999-2000, each plan shall also address issues relative to budget, training, instructional materials, technology, staffing, student support services, and other matters of resource allocation, as determined by school board policy.

(e) Public disclosure.—Provide information regarding performance of students and educational programs as required pursuant to s. 229.555 and implement a system of school reports as required by statute and State Board of Education rule which shall include schools operating for the purpose of

providing educational services to youth in Department of Juvenile Justice programs, and for those schools, report on the elements specified in s. 230.23161(21).

Section 48. Section 230.23161, Florida Statutes, 1998 Supplement, is amended to read.

230.23161 Educational services in Department of Juvenile Justice programs.—

(1) The Legislature finds that education is the single most important factor in the rehabilitation of adjudicated delinquent youth in the custody of the Department of Juvenile Justice in detention or commitment facilities. The Department of Education shall serve as the lead agency for juvenile justice education programs to ensure that curriculum, support services, and resources are provided to maximize the public's investment in the custody and care of these youth. To this end, the Department of Education and the Department of Juvenile Justice shall each designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by local district school boards and to ensure each department's participation in the following activities:

(a) Training, collaborating, and coordinating with the Department of Juvenile Justice, local school districts, educational contract providers, and juvenile justice providers, whether state operated or contracted.

(b) Collecting information on the academic performance of students in juvenile justice commitment and detention programs and reporting on the results.

(c) Developing protocols that provide guidance to school districts and providers in all aspects of education programming, including records transfer and transition.

(d) Prescribing the roles of program personnel.

(2)(1) The Legislature finds that juvenile assessment centers are an important source of information about youth who are entering the juvenile justice system. Juvenile assessment centers document the condition of youth entering the system, thereby providing baseline data which is essential to evaluate changes in the condition of youth as a result of treatment. The cooperation and involvement of the local school system, including the commitment of appropriate resources for determining the educational status and special learning problems and needs of youth, are essential if the full potential benefits of juvenile assessment centers are to be achieved.

(3)(2) Students participating in a detention, commitment, or rehabilitation program pursuant to chapter 985 which is sponsored by a community-based agency or is operated or contracted for by the Department of Juvenile Justice shall receive educational programs according to rules of the State Board of Education. These students shall be eligible for services afforded to students enrolled in programs pursuant to s. 230.2316 and all corresponding State Board of Education rules.

(4)(3) The district school board of the county in which the residential or nonresidential care facility or juvenile assessment facility is located shall provide appropriate educational assessments and an appropriate program of instruction and special education services. The district school board shall make provisions for each student to participate in basic, vocational, and exceptional student programs as appropriate. Students served in Department of Juvenile Justice programs shall have access to the appropriate courses and instruction to prepare them for the GED test. Students participating in GED preparation programs shall be funded at the basic program cost factor for Department of Juvenile Justice programs in the Florida Education Finance Program. Each program shall be conducted according to applicable law providing for the operation of public schools and rules of the state board.

(5)(4) A school day for any student serviced in a Department of Juvenile Justice program shall be the same as specified in s. 228.041(13). Educational services shall be provided at times of the day most appropriate for the program. School programming in juvenile justice detention, commitment, and rehabilitation programs shall be made available during the regular school year and the summer school by the local school district.

(6)(5) The educational program shall consist of appropriate basic academic, vocational, or exceptional curricula and related services which support the treatment goals and reentry and which may lead to completion of the requirements for receipt of a high school diploma or its equivalent. If the duration of a program is less than 40 days, the educational component may be limited to tutorial activities and vocational employability skills.

(7)(6) Participation in the program by students of compulsory school attendance age as provided for in s. 232.01 shall be mandatory. All students of noncompulsory school-attendance age who have not received a high school diploma or its equivalent shall participate in the educational program, unless the student files a formal declaration of his or her intent to terminate school enrollment as described in s. 232.01(1)(c) and is afforded the opportunity to attain a general education development diploma prior to release from a facility.

(8) An academic improvement plan shall be developed for students who score below the level specified in local school board policy in reading, writing, and mathematics or below the level specified by the Commissioner of Education on statewide assessments as required by s. 232.245. These plans shall address academic, literacy, and life skills and shall include provisions for intensive remedial instruction in the areas of weakness.

(9) Each school district shall maintain an academic record for each student enrolled in a juvenile justice facility as prescribed by s. 228.081. Such record shall delineate each course completed by the student according to procedures in the State Course Code Directory. The school district shall include a copy of a student's academic record in the discharge packet when the student exits the facility.

(10) The Department of Education shall ensure that all school districts make provisions for high school level committed youth to earn credits to

ward high school graduation while in residential and nonresidential juvenile justice facilities. Provisions must be made for the transfer of credits and partial credits earned.

(11)(7) The school district shall recruit and train teachers who are interested, qualified, or experienced in educating students in juvenile justice programs. Students in juvenile justice programs shall be provided a wide range of educational programs and opportunities including textbooks, technology, instructional support, and other resources available to students in public schools. Teachers assigned to educational programs in juvenile justice settings in which the school district operates the educational program shall be selected by the school district in consultation with the director of the juvenile justice facility. Educational programs in juvenile justice facilities shall have access to the substitute teacher pool utilized by the school district.

(12)(8) School districts are authorized and strongly encouraged to contract with a private provider for the provision of educational programs to youths placed with the Department of Juvenile Justice and shall generate local, state, and federal funding, including funding through the Florida Education Finance Program for such students. The school district's planning and budgeting process shall include the needs of Department of Juvenile Justice programs in the district's plan for expenditures for state categorical and federal funds.

(13)(9) The local school district shall fund the education program in a Department of Juvenile Justice facility at the same or higher level of funding for equivalent students in the county school system based on the funds generated by state funding through the Florida Education Finance Program for such students. It is the intent of the Legislature that the school district maximize its available local, state, and federal funding to a juvenile justice program.

(a) Juvenile justice education programs shall be funded in the appropriate FEFP program based on the educational services needed by the student for Department of Juvenile Justice programs in accordance with s. 236.081.

(b) Juvenile justice education programs to receive the appropriate FEFP program funding for Department of Juvenile Justice programs shall include those operated through a contract with the Department of Juvenile Justice and which are under purview of the Department of Juvenile Justice quality assurance standards for education.

(c) Consistent with the rules of the State Board of Education, local school districts are authorized and required to request an alternative FTE survey for Department of Juvenile Justice programs experiencing fluctuations in student enrollment.

(d) FTE count periods shall be prescribed in rules of the State Board of Education. The summer school period for students in Department of Juvenile Justice programs shall begin on the day immediately following the end of the regular school year and end on the day immediately preceding the subsequent regular school year. Students shall be funded for no more than 25 hours per week of direct instruction. The Department of Education shall

develop a method which captures all direct instructional time provided to such students during the summer school period.

~~(14)~~(10) Each school district shall negotiate a cooperative agreement with the Department of Juvenile Justice on the delivery of educational services to youths under the jurisdiction of the department. Such agreement must include, but is not limited to:

(a) Roles and responsibilities of each agency, including the roles and responsibilities of contract providers.

(b) Administrative issues including procedures for sharing information.

(c) Allocation of resources including maximization of local, state, and federal funding.

(d) Procedures for educational evaluation for educational exceptionalities and special needs.

(e) Curriculum and delivery of instruction.

(f) Classroom management procedures and attendance policies.

(g) Procedures for provision of qualified instructional personnel, whether supplied by the school district or provided under contract by the provider, and for performance of duties while in a juvenile justice setting.

(h) Provisions for improving skills in teaching and working with juvenile delinquents.

(i) Transition plans for students moving into and out of juvenile facilities.

(j) Procedures and timelines for the timely documentation of credits earned and transfer of student records.

(k) Methods and procedures for dispute resolution.

(l) Provisions for ensuring the safety of education personnel and support for the agreed-upon education program.

(m) Strategies for correcting any deficiencies found through the quality assurance process.

(15)(11) The cooperative agreement pursuant to subsection ~~(14)~~ (10) does not preclude the development of an operating agreement or contract between the school district and the provider for each juvenile justice program in the school district where educational programs are to be provided. Any of the matters which must be included in the agreement pursuant to subsection ~~(14)~~ (10) may be defined in the operational agreements or operating contracts rather than in the cooperative agreement if agreed to by the Department of Juvenile Justice. Nothing in this section or in a cooperative agreement shall be construed to require the school board to provide more services than can be supported by the funds generated by students in the juvenile justice programs.

~~(16)(a)(42)~~ The Department of Education in consultation with the Department of Juvenile Justice, school districts and providers shall establish objective and measurable quality assurance standards for the educational component of residential and nonresidential juvenile justice facilities. These standards shall rate the school district's performance both as a provider and contractor. The quality assurance rating for the education component shall be disaggregated from the overall quality assurance score and reported separately.

(b) The Department of Education shall develop and a comprehensive quality assurance review process and schedule for the evaluation of the educational component in juvenile justice programs. The Department of Juvenile Justice quality assurance site visit and the education quality assurance site visit shall be conducted during the same visit.

(c) The Department of Education, in consultation with school districts and providers, shall establish minimum thresholds for the standards and key indicators for education programs in juvenile justice facilities. If a school district fails to meet the established minimum standards, the district will be given 6 months to achieve compliance with the standards. If after 6 months, the school district's performance is still below minimum standards, the Department of Education shall exercise sanctions as prescribed by rules adopted by the State Board of Education. If a provider, under contract with the school district, fails to meet minimum standards, such failure shall cause the school district to cancel the provider's contract unless the provider achieves compliance within 6 months or unless there are documented extenuating circumstances.

~~(17)(43)~~ The district school board shall not be charged any rent, maintenance, utilities, or overhead on such facilities. Maintenance, repairs, and remodeling of existing facilities shall be provided by the Department of Juvenile Justice.

~~(18)(44)~~ When additional facilities are required, the district school board and the Department of Juvenile Justice shall agree on the appropriate site based on the instructional needs of the students. When the most appropriate site for instruction is on district school board property, a special capital outlay request shall be made by the commissioner in accordance with s. 235.41. When the most appropriate site is on state property, state capital outlay funds shall be requested by the Department of Juvenile Justice provided by s. 216.043 and shall be submitted as specified by s. 216.023. Any instructional facility to be built on state property shall have educational specifications jointly developed by the school district and the Department of Juvenile Justice and approved by the Department of Education. The size of space and occupant design capacity criteria as provided by state board rules shall be used for remodeling or new construction whether facilities are provided on state property or district school board property.

~~(19)(45)~~ The parent or guardian of exceptional students shall have the due process rights provided for in chapter 232.

~~(20)(46)~~ Department of Juvenile Justice detention and commitment programs may be designated as second chance schools pursuant to s.

230.2316(3)(d). Admission to such programs shall be governed by chapter 985.

~~(21)~~(17) The Department of Education and Department of Juvenile Justice, after consultation with and assistance from local providers and local school districts, shall report annually to the Legislature by ~~February~~ December 1 on the progress towards developing effective educational programs for juvenile delinquents including the amount of funding provided by local school districts to juvenile justice programs, the amount retained for administration including documenting the purposes for such expenses, the status of the development of cooperative agreements, ~~and the results of the quality assurance reviews including recommendations for system improvement, and information on the identification of, and services provided to, exceptional students in juvenile justice commitment facilities to determine whether these students are properly reported for funding and are appropriately served.~~

~~(22)~~(18) The educational programs at the Arthur Dozier School for Boys in Jackson County and the Florida School for Boys in Okeechobee shall be operated by the Department of Education, either directly or through grants or contractual agreements with other public or duly accredited education agencies approved by the Department of Education.

~~(23)~~(19) The Department of Education shall have the authority to adopt any rules necessary to implement the provisions of this section, including uniform curriculum, funding, and second chance schools. Such rules shall require the minimum amount of paperwork and reporting necessary to comply with this act.

Section 49. Section 235.1975, Florida Statutes, is created to read:

235.1975 Cooperative Development of Educational Facilities in Juvenile Justice Programs.—The Department of Juvenile Justice shall provide early notice to school districts regarding the siting of new juvenile justice facilities. School districts shall include the projected number of students in the districts' annual estimates. School districts should be consulted regarding the types of students expected to be assigned to commitment facilities for education planning and budgeting purposes. The Department of Juvenile Justice shall notify, in writing, the Department of Education when a request for proposals is issued for the construction or operation of a commitment or detention facility anywhere in the state. The Department of Juvenile Justice shall notify, in writing, the appropriate school district when a request for proposals is issued for the construction or operation of a commitment or detention facility when a county or site is specifically identified. The Department of Juvenile Justice is also required to notify the district school superintendent within 30 days of the award of a contract for the construction or operation of a commitment or detention facility within that school district.

Section 50. Paragraph (a) of subsection (3) of section 237.34, Florida Statutes, is amended to read.

237.34 Cost accounting and reporting.—

## (3) PROGRAM EXPENDITURE REQUIREMENTS.—

(a) Each district shall expend at least the percent of the funds generated by each of the programs listed herein on the aggregate total school costs for such programs:

1. Kindergarten and grades 1, 2, and 3, 90 percent.
2. Grades 4, 5, 6, 7, and 8, 80 percent.
3. Grades 9, 10, 11, and 12, 80 percent.
4. Programs for exceptional students, on an aggregate program basis, 80 percent.
5. Grades 7 through 12 vocational education programs, on an aggregate program basis, 80 percent.
6. Students-at-risk programs, on an aggregate program basis, 80 percent.
7. Juvenile justice programs, on an aggregate program basis, 80 percent.

~~8.7.~~ Any new program established and funded under s. 236.081(1)(c), that is not included under subparagraphs 1. through 6., on an aggregate basis as appropriate, 80 percent.

Section 51. Subsection (6) of section 985.401, Florida Statutes, 1998 Supplement, is renumbered as subsection (7), and a new subsection (6) is added to said section to read:

## 985.401 Juvenile Justice Accountability Board.—

(6) The board shall study the extent and nature of education programs for juvenile offenders committed by the court to the Department of Juvenile Justice and for juvenile offenders under court supervision in the community. The board shall utilize a subcommittee of interested board members and may request other interested persons to participate and act as a juvenile justice education task force for the study. The task force shall address, at a minimum, the following issues:

(a) The impact of education services on students in commitment programs;

(b) The barriers impeding the timely transfer of education records;

(c) The development and implementation of vocational programming in commitment programs;

(d) The implementation of provisions for earning high school credits regardless of varied lengths of stay; and

(e) The accountability of school districts and providers regarding the expenditure of education funds.



(7)(6) 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 Services, and the department.

Section 52. Paragraph (d) of subsection (3) of section 985.413, Florida Statutes, 1998 Supplement, is amended to read:

985.413 District juvenile justice boards.—

(3) DISTRICT JUVENILE JUSTICE BOARDS.—

(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, including the educational services in Department of Juvenile Justice programs.

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 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 Accountability 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.

Section 53. The Department of Education shall work in consultation with the Department of Juvenile Justice and the local school districts to develop a plan for educational programs in detention centers. The plan shall reflect the unique needs, variability in lengths of stay, and diversity of youth assigned to juvenile justice detention centers, and instructional strategies to improve student achievement. The plan shall anticipate the use of all state and local funding categories available to ensure the success of students who are being educated in juvenile justice facilities. The plan shall provide for appropriate performance outcome measures. The plan shall be submitted to the Governor, the Speaker of the House of Representatives, and the President of the Senate prior to January 1, 2000, and shall include appropriate cost estimates.

Section 54. This act shall take effect July 1, 1999.

Approved by the Governor June 8, 1999.

Filed in Office Secretary of State June 8, 1999.