

Senate Bill No. 1548

An act relating to the prosecution of juveniles; amending s. 985.227, F.S.; requiring that the state attorney prosecute a juvenile between certain ages as an adult if the juvenile is charged with a specified violent felony and possessed a firearm or destructive device during the commission of the felony in certain circumstances or discharged a firearm or destructive device during the commission of the felony which resulted in death or great bodily harm; providing for a juvenile convicted under the act to be sentenced as an adult in certain circumstances; specifying circumstances in which the provisions of this act do not apply; authorizing the Department of Corrections to spend allocated resources to advertise the penalties provided in this act; providing an effective date.

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

Section 1. Paragraph (d) is added to subsection (2) of section 985.227, Florida Statutes, 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.—

(2) MANDATORY DIRECT FILE.—

(d)1. 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 charged with committing or attempting to commit an offense listed in s. 775.087(2)(a)1.a.-q., and, during the commission of or attempt to commit the offense, the child:

a. Actually possessed a firearm or destructive device, as those terms are defined in s. 790.001.

b. Discharged a firearm or destructive device, as described in s. 775.087(2)(a)2.

c. Discharged a firearm or destructive device, as described in s. 775.087(2)(a)3., and, as a result of the discharge, death or great bodily harm was inflicted upon any person.

2. Upon transfer, any child who is:

a. Charged pursuant to subparagraph 1.a. and who has been previously adjudicated or had adjudication withheld for a forcible felony offense or any offense involving a firearm, or who has been previously placed in a residential commitment program, shall be subject to sentencing under s. 775.087(2)(a), notwithstanding s. 985.233.

b. Charged pursuant to subparagraph 1.b. or subparagraph 1.c., shall be subject to sentencing under s. 775.087(2)(a), notwithstanding s. 985.233.

3. Upon transfer, any child who is charged pursuant to this paragraph, but who does not meet the requirements specified in subparagraph 2., shall be sentenced pursuant to s. 985.233; however, if the court imposes a juvenile sanction, the court must commit the child to a high-risk or maximum-risk juvenile facility.

4. This paragraph shall not apply if the state attorney has good cause to believe that exceptional circumstances exist which preclude the just prosecution of the child in adult court.

5. The Department of Corrections shall make every reasonable effort to ensure that any child 16 or 17 years of age who is convicted and sentenced under this paragraph be completely separated such that there is no physical contact with adult offenders in the facility, to the extent that it is consistent with chapter 958.

Section 2. The Department of Corrections may spend up to \$300,000 from resources available from the department's appropriation for the 1999-2000 fiscal year to provide statewide public service announcements to advertise the penalties provided in section 985.227(2)(d), Florida Statutes.

Section 3. This act shall take effect October 1, 2000.

Approved by the Governor May 17, 2000.

Filed in Office Secretary of State May 17, 2000.