CHAPTER 2001-125

Council Substitute for Committee Substitute for House Bill No. 267

An act relating to juvenile justice; amending s. 20.316, F.S.; revising the juvenile justice continuum to include community-based residential commitment programs; deleting a requirement that information systems of the Department of Juvenile Justice support the Juvenile Justice Advisory Board; amending s. 228.041, F.S.; authorizing additional teacher planning days for nonresidential programs of the Department of Juvenile Justice upon the request of the provider; amending s. 230.23161, F.S.; providing legislative goals with respect to education within department programs; amending s. 230.235, F.S.; requiring schools to adopt a policy of zero tolerance for victimization of students; requiring each school district to enter into an agreement with the Department of Juvenile Justice for the purpose of protecting victims; amending s. 231.0851, F.S.; requiring principals to take certain actions when a student has been a victim of a violent crime perpetrated by another student; providing ineligibility for certain performance pay policy incentives under certain circumstances; creating s. 232.265, F.S.; requiring the Department of Juvenile Justice to provide certain notice to school districts under certain circumstances; prohibiting certain persons from attending certain schools or riding on certain school buses under certain circumstances; providing for attending alternate schools; assigning responsibility for certain transportation under certain circumstances; amending s. 435.04, F.S.; revising requirements for level-2 screening standards for persons in positions of trust or responsibility; providing requirements for background investigations for employees of the Department of Juvenile Justice; limiting the department's authority to provide an exemption; creating s. 943.0582, F.S.; providing for prearrest, postarrest, or teen court diversion program expunction in certain circumstances; providing for retroactive effect; amending s. 960.001, F.S.; providing an additional guideline for attendance of a victim at the same school as a juvenile defendant; amending s. 985.228, F.S.; requiring certain court orders to include certain findings; amending s. 985.23, F.S.; requiring a court to determine the appropriateness of a no contact order under certain circumstances; amending s. 943.325, F.S.; requiring DNA analysis of persons who have committed certain offenses and who are transferred to the state under the Interstate Compact on Juveniles; amending ss. 984.01 and 985.01, F.S., relating to personnel standards and screening; requiring the Department of Juvenile Justice and the Department of Children and Family Services to ensure that certain contractors are of good moral character; amending s. 985.02, F.S.; clarifying legislative intent concerning the responsibilities of parents, custodians, and guardians of children in the juvenile justice system; amending s. 985.03, F.S.; revising definitions; defining the term "respite" for purposes of ch. 985, F.S.; amending s. 985.04, F.S.; providing that certain records maintained by the Department of Juvenile Justice

need only be retained for 25 years; expanding the circumstances under which certain juvenile records are not considered confidential and exempt solely because of age; amending ss. 985.207 and 985.213, F.S.; clarifying circumstances under which a juvenile is taken into custody and assessed for placement; requiring the parent or guardian to provide certain information; amending s. 985.21, F.S.; requiring the parent or guardian of a juvenile to provide certain information to the juvenile probation officer; amending s. 985.215, F.S.; revising provisions related to the collection of certain fees; authorizing placing a juvenile into secure detention under certain circumstances for a specified period; authorizing the clerk of the circuit court to act as depository for fees; requiring the parent or guardian to provide certain information; providing for retroactive effect; amending s. 985.227, F.S.; revising requirements for state attorneys with respect to reporting direct-file guidelines; amending ss. 985.231 and 985.233, F.S.; requiring a court placement order or a commitment order to include certain findings; revising certain requirements for testing a juvenile for the use of alcohol or controlled substances; revising provisions related to the collection of certain fees; authorizing the clerk of the circuit court to act as depository for fees; requiring the parent or guardian to provide certain information; providing for retroactive effect; amending s. 985.305, F.S.; revising services provided under the early delinquency intervention program; amending s. 985.3065, F.S.; providing for postarrest diversion programs; providing for expunction of records; amending s. 985.31, F.S., relating to serious or habitual juvenile offenders; conforming provisions to changes made by the act; amending s. 985.3155, F.S.; revising requirements for the multiagency plan for vocational education; amending s. 985.316, F.S.; revising conditions under which a juvenile may be released on conditional release; amending s. 985.404, F.S.; providing legislative intent with regard to contracting with faith-based organizations that provide services to juveniles; clarifying conditions under which a juvenile may be transferred; deleting language relating to the collection and reporting of cost data and program ranking; amending s. 985.412, F.S.; adding requirements relating to the collection and reporting of cost data and program ranking; requiring the Department of Juvenile Justice to submit proposals for funding incentives and disincentives based upon quality assurance performance and cost-effectiveness performance to the Legislature by a date certain; amending s. 985.417, F.S.; revising conditions for transferring a juvenile from the Department of Corrections to the supervision of the Department of Juvenile Justice; amending s. 14 of ch. 2000-134, Laws of Florida; revising requirements for monitoring and supervising juvenile offenders under a pilot program; creating s. 985.42, F.S.; authorizing the secretary to designate certain employees as law enforcement officers; creating s. 985.422, F.S.; authorizing the deposit of repair and maintenance funds into the Administrative Trust Fund; amending s. 985.401, F.S., to conform; requiring the Office of Program Policy Analysis and Government Accountability to annually review certain safety and security best practices; requiring school districts

to use such practices to conduct certain assessments; requiring school district superintendents to make certain recommendations to school boards based on such assessments; requiring school boards to hold public meetings on the assessments and recommendations; repealing s. 985.404(10) and (11), F.S., relating to an annual cost data collection and reporting program of the Department of Juvenile Justice and cost-effectiveness model development and application to commitment programs of the department; amending s. 121.021, F.S.; amending the definition of the term "special risk member"; amending s. 121.0515, F.S.; providing an additional criterion for designation as a special risk member; providing effective dates.

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

Section 1. Paragraph (b) of subsection (1) and paragraph (d) of subsection (4) of section 20.316, Florida Statutes, are amended to read:

20.316 Department of Juvenile Justice.—There is created a Department of Juvenile Justice.

(1) SECRETARY OF JUVENILE JUSTICE.—

(b) The Secretary of Juvenile Justice is responsible for planning, coordinating, and managing the delivery of all programs and services within the juvenile justice continuum. For purposes of this section, the term "juvenile justice continuum" means all children-in-need-of-services programs; families-in-need-of-services programs; other prevention, early intervention, and diversion programs; detention centers and related programs and facilities; community-based residential commitment and nonresidential ~~commitment~~ programs; and delinquency institutions provided or funded by the department.

(4) INFORMATION SYSTEMS.—

(d) The management information system shall, at a minimum:

1. Facilitate case management of juveniles referred to or placed in the department's custody.

2. Provide timely access to current data and computing capacity to support ~~the~~ outcome evaluation ~~activities of the Juvenile Justice Advisory Board as provided in s. 985.401~~, legislative oversight, the Juvenile Justice Estimating Conference, and other research.

3. Provide automated support to the quality assurance and program review functions.

4. Provide automated support to the contract management process.

5. Provide automated support to the facility operations management process.

6. Provide automated administrative support to increase efficiency, provide the capability of tracking expenditures of funds by the department or

contracted service providers that are eligible for federal reimbursement, and reduce forms and paperwork.

7. Facilitate connectivity, access, and utilization of information among various state agencies, and other state, federal, local, and private agencies, organizations, and institutions.

8. Provide electronic public access to juvenile justice information, which is not otherwise made confidential by law or exempt from the provisions of s. 119.07(1).

9. Provide a system for the training of information system users and user groups.

Section 2. Subsection (43) of section 228.041, Florida Statutes, is amended 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. At the request of the provider, a district school board may decrease the minimum number of days of instruction by up to 10 days for teacher planning for residential programs and up to 20 days for teacher planning for nonresidential programs, subject to the approval of the Department of Juvenile Justice and the Department of Education.

Section 3. Subsection (1) of section 230.23161, Florida Statutes, 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. It is the goal ~~intent~~ of the Legislature that youth in the juvenile justice system continue to receive a high-quality ~~be provided with equal opportunity and access to quality and effective~~ education ~~that will meet the individual needs of each child~~. 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 provide ~~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 academic and vocational 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 and interdepartmental local school district or provider collaboration strategies.

Annually, a cooperative agreement and plan for juvenile justice education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the Commissioner of Education by June 30.

Section 4. Section 230.235, Florida Statutes, is amended to read:

230.235 Policy of zero tolerance for crime and victimization.—

(1) Each school district shall, pursuant to this section, adopt a policy of zero tolerance for:

(a) Crime and substance abuse ~~pursuant to this section~~. Such a policy shall include the reporting of delinquent acts and crimes occurring whenever and wherever students are under the jurisdiction of the school district.

(b) Victimization of students. Such a policy shall include taking all steps necessary to protect the victim of any violent crime from any further victimization.

(2) The policy shall require students found to have committed one of the following offenses to be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year, and to be referred for criminal prosecution:

(a) Bringing a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation.

(b) Making a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity.

District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. Superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if it is determined to be in the best

interest of the student and the school system. If a student committing any of the offenses in this subsection is a student with a disability, the school district shall comply with procedures pursuant to s. 232.251 and any applicable state board rule.

(3) Each school district shall enter into an agreement with the county sheriff's office or local police department specifying guidelines for ensuring that felonies and violent misdemeanors, whether committed by a student or adult, and delinquent acts that would be felonies or violent misdemeanors if committed by an adult, are reported to law enforcement. The cooperative agreement, adopted pursuant to s. 230.23161(14) with the Department of Juvenile Justice, shall specify guidelines for ensuring that all no contact orders entered by the court are reported and enforced and that all steps necessary are taken to protect the victim of any such crime. Such agreements shall include the role of school resource officers, if applicable, in handling reported incidents, special circumstances in which school officials may handle incidents without filing a report to law enforcement, and a procedure for ensuring that school personnel properly report appropriate delinquent acts and crimes. The school principal shall be responsible for ensuring that all school personnel are properly informed as to their responsibilities regarding crime reporting, that appropriate delinquent acts and crimes are properly reported, and that actions taken in cases with special circumstances are properly taken and documented.

Section 5. Section 231.0851, Florida Statutes, is amended to read:

231.0851 Reports of school safety and discipline.—

(1) Each principal must ensure that standardized forms prescribed by rule of the State Board of Education are used to report data concerning school safety and discipline to the Department of Education. The principal must develop a plan to verify the accuracy of reported incidents.

(2) When a student has been the victim of a violent crime perpetrated by another student who attends the same school, the principal shall make full and effective use of the provisions of ss. 232.26(2) and 232.265. A principal who fails to comply with this subsection shall be ineligible for any portion of the performance pay policy incentive under s. 230.23(5)(c). However, if any party responsible for notification fails to properly notify the school, the principal shall be eligible for the incentive.

Section 6. Section 232.265, Florida Statutes, is created to read:

232.265 School attendance and transportation of certain offenders.—

(1) Notwithstanding any provision of law prohibiting the disclosure of the identity of a minor, whenever any person who is attending public school is adjudicated guilty of or delinquent for, or is found to have committed, regardless of whether adjudication is withheld, or pleads guilty or nolo contendere to, a felony violation of:

(a) Chapter 782, relating to homicide;

(b) Chapter 784, relating to assault, battery, and culpable negligence;

(c) Chapter 787, relating to kidnapping, false imprisonment, luring or enticing a child, and custody offenses;

(d) Chapter 794, relating to sexual battery;

(e) Chapter 800, relating to lewdness and indecent exposure;

(f) Chapter 827, relating to abuse of children;

(g) Section 812.13, relating to robbery;

(h) Section 812.131, relating to robbery by sudden snatching;

(i) Section 812.133, relating to carjacking; or

(j) Section 812.135, relating to home-invasion robbery,

and, before or at the time of such adjudication, withholding of adjudication, or plea, the offender was attending a school attended by the victim or a sibling of the victim of the offense, the Department of Juvenile Justice shall notify the appropriate school district of the adjudication or plea and the operation of this section and whether the offender is prohibited from attending that school or riding on a school bus whenever the victim or a sibling of the victim is attending the same school or riding on the same school bus, except as provided pursuant to a written disposition order under s. 985.23(1)(d). Upon receipt of such notice, the school district shall take appropriate action to effectuate the provisions of subsection (2).

(2) Any offender described in subsection (1), who is not exempted as provided in subsection (1), shall not attend any school attended by the victim or a sibling of the victim of the offense or ride on a school bus on which the victim or a sibling of the victim is riding. The offender shall be permitted by the school district in which the offender resides to attend another school within the district, provided the other school is not attended by the victim or sibling of the victim of the offense or may be permitted by another school district to attend a school in that district if the offender is unable to attend any school in the district in which the offender resides due to the operation of this section.

(3) If the offender is unable to attend any other school in the district in which the offender resides and is prohibited from attending school in another school district, the school district in which the offender resides shall take every reasonable precaution to keep the offender separated from the victim while on school grounds or on school transportation. The steps to be taken by a school district to keep the offender separated from the victim shall include, but not be limited to, in-school suspension of the offender and the scheduling of classes, lunch, or other school activities of the victim and the offender so as not to coincide.

(4) The offender, or the parents or legal guardian of the offender if the offender is a juvenile, shall be responsible for arranging and paying for

transportation associated with or required by the offender's attending another school or that would be required as a consequence of the prohibition against riding on a school bus on which the victim or a sibling of the victim is riding. However, the offender or the parents or the legal guardian of the offender shall not be charged for existing modes of transportation that can be used by the offender at no additional cost to the district.

Section 7. Subsection (1) of section 435.04, Florida Statutes, is amended, and present subsections (3) and (4) of said section are renumbered as subsections (4) and (5), respectively, and a new subsection (3) is added to said section, 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.

(3) The security background investigations conducted under this section for employees of the Department of Juvenile Justice 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 784.07, relating to assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers.

(b) Section 810.02, relating to burglary, if the offense is a felony.

(c) Section 944.40, relating to escape.

The Department of Juvenile Justice may not remove a disqualification from employment or grant an exemption to any person who is disqualified under this section for any offense disposed of during the most recent 7-year period.

Section 8. Section 943.0582, Florida Statutes, is created to read:

943.0582 Prearrest, postarrest, or teen court diversion program expunction.—

(1) Notwithstanding any law dealing generally with the preservation and destruction of public records, the department may provide, by rule adopted pursuant to chapter 120, for the expunction of any nonjudicial record of the

arrest of a minor who has successfully completed a prearrest or postarrest diversion program for minors as authorized by s. 985.3065.

(2)(a) As used in this section, the term "expunction" has the same meaning ascribed in s. 943.0585, except that:

1. The provisions of s. 943.0585(4)(a) do not apply, except that the criminal history record of a person whose record is expunged pursuant to this section shall be made available only to criminal justice agencies for the purpose of determining eligibility for prearrest, postarrest, or teen court diversion programs; when the record is sought as part of a criminal investigation; or when the subject of the record is a candidate for employment with a criminal justice agency. For all other purposes, a person whose record is expunged under this section may lawfully deny or fail to acknowledge the arrest and the charge covered by the expunged record.

2. Records maintained by local criminal justice agencies in the county in which the arrest occurred which are eligible for expunction pursuant to this section shall be sealed as the term is used in s. 943.059.

(b) As used in this section, the term "nonviolent misdemeanor" includes simple assault or battery when prearrest or postarrest diversion expunction is approved in writing by the state attorney for the county in which the arrest occurred.

(3) The department shall expunge the nonjudicial arrest record of a minor who has successfully completed a prearrest or postarrest diversion program if that minor:

(a) Submits an application for prearrest or postarrest diversion expunction, on a form prescribed by the department, signed by the minor's parent or legal guardian, or by the minor if he or she has reached the age of majority at the time of applying.

(b) Submits the application for prearrest or postarrest diversion expunction no later than 6 months after completion of the diversion program.

(c) Submits to the department, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that he or she has successfully completed that county's prearrest or postarrest diversion program and that participation in the program is strictly limited to minors arrested for a nonviolent misdemeanor who have not otherwise been charged with or found to have committed any criminal offense or comparable ordinance violation.

(d) Participated in a prearrest or postarrest diversion program that expressly authorizes or permits such expunction to occur.

(e) Participated in a prearrest or postarrest diversion program based on an arrest for a nonviolent misdemeanor that would not qualify as an act of domestic violence as that term is defined in s. 741.28.

(f) Has never, prior to filing the application for expunction, been charged with or found to have committed any criminal offense or comparable ordinance violation.

(4) The department is authorized to charge a $75 processing fee for each request received for prearrest or postarrest diversion program expunction, for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(5) This section operates retroactively to permit the expunction of any nonjudicial record of the arrest of a minor who has successfully completed a prearrest or postarrest diversion program on or after July 1, 2000; however, in the case of a minor whose completion of the program occurred before the effective date of this section, the application for prearrest or postarrest diversion expunction must be submitted within 6 months after the effective date of this section.

(6) Expunction or sealing granted under this section does not prevent the minor who receives such relief from petitioning for the expunction or sealing of a later criminal history record as provided for in ss. 943.0585 and 943.059, if the minor is otherwise eligible under those sections.

Section 9. Paragraph (a) of subsection (1) of section 943.325, Florida Statutes, is amended to read:

943.325 Blood specimen testing for DNA analysis.—

(1)(a) Any person who is convicted or was previously convicted in this state for any offense or attempted offense defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s. 810.02, s. 812.133, or s. 812.135, and any person who is transferred to this state under Article VII of the Interstate Compact on Juveniles, part V of chapter 985, who has committed or attempted to commit an offense similarly defined by the transferring state, who is either:

1. Still incarcerated, or

2. No longer incarcerated but is within the confines of the legal state boundaries and is on probation, community control, parole, conditional release, control release, or any other court-ordered supervision,

shall be required to submit two specimens of blood to a Department of Law Enforcement designated testing facility as directed by the department.

Section 10. Paragraph (s) is added to subsection (1) of section 960.001, Florida Statutes, 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:

(s) Attendance of victim at same school as defendant.—When the victim of an offense committed by a juvenile is a minor, the Department of Juvenile Justice shall request information to determine if the victim, or any sibling of the victim, attends or is eligible to attend the same school as the offender. However, if the offender is subject to a presentence investigation by the Department of Corrections, the Department of Corrections shall make such request. If the victim or any sibling of the victim attends or is eligible to attend the same school as that of the offender, the appropriate agency shall notify the victim's parent or legal guardian of the right to attend the sentencing or disposition of the offender and request that the offender be required to attend a different school.

Section 11. Paragraph (a) of subsection (2) of section 984.01, Florida Statutes, is amended to read:

984.01 Purposes and intent; personnel standards and screening.—

(2) The Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the Department of Juvenile Justice or the Department of Children and Family Services contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. Each contract entered into by either department for services delivered on an appointment or intermittent basis by a provider that does not have regular custodial responsibility for children and each contract with a school for before or aftercare services must ensure that the owners, operators, and all personnel who have direct contact with children are of good moral character. A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

Section 12. Paragraph (a) of subsection (2) of section 985.01, Florida Statutes, is amended to read:

985.01 Purposes and intent; personnel standards and screening.—

(2) The Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the Department of Juvenile Justice or the Department of Children and Family Services contracts with a provider for any program for

children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. Each contract entered into by either department for services delivered on an appointment or intermittent basis by a provider that does not have regular custodial responsibility for children and each contract with a school for before or aftercare services must ensure that the owners, operators, and all personnel who have direct contact with children are of good moral character. A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

Section 13. Subsection (7) of section 985.02, Florida Statutes, is amended to read:

985.02 Legislative intent for the juvenile justice system.—

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

Section 14. Subsections (13), (26), (30), (31), (32), and paragraph (c) of subsection (45) of section 985.03, Florida Statutes, are amended, subsections (46) through (58) of said section are renumbered as subsections (47) through (59), respectively, a new subsection (46) is added to said section, and renumbered subsection (56) of said section is amended, to read:

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

(13) "Conditional release" 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 conditional release 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. Conditional release includes, but is not limited to, ~~minimum-risk~~ nonresidential community-based programs ~~and postcommitment probation~~.

(26) "Halfway house" means a community-based residential program for 10 or more committed delinquents at the moderate-risk commitment ~~restric-~~

~~tiveness~~ level which ~~that~~ is operated or contracted by the Department of Juvenile Justice.

(30) "Juvenile probation officer" means the authorized agent of the Department of Juvenile Justice who performs the intake, ~~or~~ case management, or supervision functions ~~function for a child alleged to be delinquent~~.

(31) "Juvenile sexual offender" means:

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

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

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

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

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

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

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

c. Awareness of potential consequences and alternatives.

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

e. Voluntary decision.

f. Mental competence.

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

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

(45) "Residential commitment level" means the level of security provided by programs that service the supervision, custody, care, and treatment needs of committed children. Sections 985.3141 and 985.404(13) apply to children placed in programs at any residential commitment level. The levels of residential commitment are as follows:

(c) High-risk residential.—Programs or program models at this commitment level are residential and shall not allow youth to have access to the community. Facilities are hardware-secure with perimeter fencing and locking doors. Facilities shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for this level of placement require close supervision in a structured residential setting. Placement in programs at this level is prompted by a concern for public safety that outweighs placement in programs at lower commitment ~~restrictiveness~~ levels. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. The facility may provide for single cell occupancy.

(46) "Respite" means a placement that is available for the care, custody, and placement of a youth charged with domestic violence as an alternative to secure detention or for placement of a youth when a shelter bed for a child in need of services or a family in need of services is unavailable.

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

Section 15. Subsection (2), paragraph (a) of subsection (3), paragraph (a) of subsection (4), and subsection (5) of section 985.04, Florida Statutes, are amended to read:

985.04 Oaths; records; confidential information.—

(2) Records maintained by the Department of Juvenile Justice, including copies of records maintained by the court, which pertain to a child found to have committed a delinquent act which, if committed by an adult, would be a crime specified in ss. 435.03 and 435.04 ~~110.1127, 393.0655, 394.457, 397.451, 402.305(2), 409.175, and 409.176~~ may not be destroyed pursuant to this section for a period of 25 years after the youth's final referral to the department, except in cases of the death of the child. Such records, however, shall be sealed by the court for use only in meeting the screening requirements for personnel in s. 402.3055 and the other sections cited above, or

pursuant to departmental rule; however, current criminal history information must be obtained from the Department of Law Enforcement in accordance with s. 943.053. The information shall be released to those persons specified in the above cited sections for the purposes of complying with those sections. The court may punish by contempt any person who releases or uses the records for any unauthorized purpose.

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

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

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

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

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

(c) Transferred to the adult system pursuant to s. 985.227, indicted pursuant to s. 985.225, or waived pursuant to s. 95.226;

(d) Taken into custody by a law enforcement officer for a violation of law subject to the provisions of s. 985.227(2)(b) or (d); or

(e) Transferred to the adult system but sentenced to the juvenile system pursuant to s. 985.233

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

Section 16. Paragraph (d) of subsection (1) and subsection (2) of section 985.207, Florida Statutes, are 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 probation, home detention, postcommitment probation ~~community control~~, or conditional release supervision or has escaped ~~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.

(2) When a child is taken into custody as provided in this section, the person taking the child into custody shall attempt to notify the parent, guardian, or legal custodian of the child. The person taking the child into custody shall continue such attempt until the parent, guardian, or legal custodian of the child is notified or the child is delivered to a juvenile probation officer pursuant to s. 985.21, whichever occurs first. If the child is delivered to a juvenile probation officer before the parent, guardian, or legal custodian is notified, the juvenile probation officer shall continue the attempt to notify until the parent, guardian, or legal custodian of the child is notified. Following notification, the parent or guardian must provide identifying information, including name, address, date of birth, social security number, and driver's license number or identification card number of the parent or guardian to the person taking the child into custody or the juvenile probation officer.

Section 17. Subsection (5) of section 985.21, Florida Statutes, is amended to read:

985.21 Intake and case management.—

(5) Prior to requesting that a delinquency petition be filed or prior to filing a dependency petition, the juvenile probation officer may request the parent or legal guardian of the child to attend a course of instruction in parenting skills, training in conflict resolution, and the practice of nonviolence; to accept counseling; or to receive other assistance from any agency in the community which notifies the clerk of the court of the availability of its services. Where appropriate, the juvenile probation officer shall request both parents or guardians to receive such parental assistance. The juvenile probation officer may, in determining whether to request that a delinquency petition be filed, take into consideration the willingness of the parent or legal guardian to comply with such request. The parent or guardian must provide the juvenile probation officer with identifying information, including the parent's or guardian's name, address, date of birth, social security number, and driver's license number or identification card number in order to comply with ss. 985.215(6), 985.231(1)(b), and 985.233(4)(d).

Section 18. Paragraph (b) of subsection (2) of section 985.213, Florida Statutes, is amended to read:

985.213 Use of detention.—

(2)

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

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

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

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

b. It is necessary to place the child in secure detention in order to protect the victim from injury.

The child may not be held in secure detention under this subparagraph for more than 48 hours unless ordered by the court. After 48 hours, the court shall hold a hearing if the state attorney or victim requests that secure detention be continued. The child may continue to be held in detention care if the court makes a specific, written finding that detention care is necessary to protect the victim from injury. However, the child may not be held in detention care beyond the time limits set forth in s. 985.215.

4. For a child who is under the supervision of the department through probation ~~community control~~, home detention, nonsecure detention, conditional release ~~aftercare~~, postcommitment probation ~~community control~~, or commitment and who is charged with committing a new offense, the risk assessment instrument may be completed and scored based on the underlying charge for which the child was placed under the supervision of the department and the new offense.

Section 19. Paragraph (a) of subsection (2) of section 985.215, Florida Statutes, is amended, and paragraph (f) is added to subsection (10) of said section, to read:

985.215 Detention.—

(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 probation program, ~~furlough,~~ or conditional release supervision, or is alleged to have escaped while being lawfully transported to or from such program or supervision.

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).

(10)

(f) Regardless of detention status, a child being transported by the department to a commitment facility of the department may be placed in secure detention overnight, not to exceed a 24-hour period, for the specific purpose of ensuring the safe delivery of the child to his or her commitment program, court, appointment, transfer, or release.

Section 20. Effective upon this act becoming a law and operating retroactively to July 1, 2000, subsection (6) of section 985.215, Florida Statutes, is amended to read:

985.215 Detention.—

(6)(a) When any child is placed into secure, nonsecure, or home detention care or into other placement pursuant to a court order following a detention hearing, the court shall order the ~~natural or adoptive~~ parents or guardians of such child~~, including the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child,~~ to pay to the Department of Juvenile Justice fees in the ~~an~~ amount of $5 ~~$20~~ per day that the child is under the care or supervision of the department in order to partially offset ~~related to~~ the cost of the care, support, ~~and~~ maintenance, and other usual and ordinary obligations of parents to provide for the needs of their children ~~of the child, as established by the Department of Juvenile Justice~~, unless the court makes a finding on the record that the parent or guardian of the child is indigent.

(b) At the time of the detention hearing, the department shall report to the court, verbally or in writing, any available information concerning the ability of the parent or guardian of the child to pay such fee. If the court makes a finding of indigency, the parent or guardian shall pay to the department a nominal subsistence fee of $2 per day that the child is securely detained outside the home or $1 per day if the child is otherwise detained in lieu of other fees related to the parent's obligation for the child's cost of care. The nominal subsistence fee may only be waived or reduced if the court makes a finding that such payment would constitute a significant financial hardship. Such finding shall be in writing and shall contain a detailed description of the facts that led the court to make both the finding of indigency and the finding of significant financial hardship. ~~As to each parent or~~

~~guardian for whom the court makes a finding of indigency, the court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the fees specified herein. If the court makes a finding of indigency or inability to pay the full cost of care, support, and maintenance of the child, the court shall order the parent or guardian to pay to the department a nominal subsistence fee on behalf of the child in the amount of at least $2 per day that the child is detained outside the home or at least $1 per day if the child is otherwise detained, unless the court makes a finding on the record that the parent or guardian would suffer a significant hardship if obligated for such amount.~~

(c) In addition, the court may reduce the fees or waive the fees as to each parent or guardian if the court makes a finding on the record that the parent or guardian was the victim of the delinquent act or violation of law for which the child is detained and that the parent or guardian is cooperating in the investigation of the offense. ~~As to each parent or guardian, the court may reduce the fees or waive the fees if the court makes a finding on the record that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law.~~

(d) The court must include specific findings in the detention order as to what fees are ordered, reduced, or waived. If the court fails to enter an order as required by this subsection, it shall be presumed that the court intended the parent or guardian to pay to the department the fee of $5 ~~$20~~ per day that the child remains in detention care.

(e) With respect to a child who has been found to have committed a delinquent act or violation of law, whether or not adjudication is withheld, and whose parent or guardian receives public assistance for any portion of that child's care, the department must seek a federal waiver to garnish or otherwise order the payments of the portion of the public assistance relating to that child to offset the costs of providing care, custody, maintenance, rehabilitation, intervention, or corrective services to the child. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(f) The clerk of the circuit court shall act as a depository for these fees. Upon each payment received, the clerk of the circuit court shall receive a fee from the total payment of 3 percent of any payment made except that no fee shall be less than $1 nor more than $5 per payment made. This fee shall serve as a service charge for the administration, management, and maintenance of each payment. At the end of each month, the clerk of the circuit court shall send all money collected under this section to the state Grants and Donations Trust Fund.

(g) The parent or guardian shall provide to the department the parent's or guardian's name, address, social security number, date of birth, and driver's license number or identification card number and sufficient financial information for the department to be able to determine the parent's or guardian's ability to pay. If the parent or guardian refuses to provide the department with any identifying information or financial information, the court shall order the parent to comply and may pursue contempt of court sanctions for failure to comply.

(h) The department may employ a collection agency for the purpose of receiving, collecting, and managing the payment of unpaid and delinquent fees. The collection agency must be registered and in good standing under chapter 559. The department may pay to the collection agency a fee from the amount collected under the claim or may authorize the agency to deduct the fee from the amount collected. The department may also pay for collection services from available authorized funds.

(i) The department may enter into agreements with parents or guardians to establish a schedule of periodic payments if payment of the obligation in full presents an undue hardship. Any such agreement may provide for payment of interest consistent with prevailing loan rates.

(j) The Department of Juvenile Justice shall provide to the payor documentation of any amounts paid by the payor to the Department of Juvenile Justice on behalf of the child. All payments received by the department pursuant to this subsection shall be deposited in the state Grants and Donations Trust Fund. Neither the court nor the department may extend the child's length of stay in detention care solely for the purpose of collecting fees.

Section 21. Subsection (4) of section 985.227, Florida Statutes, is amended 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.—

(4) DIRECT-FILE POLICIES AND GUIDELINES.—Each state attorney shall develop 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, and the Speaker of the House of Representatives~~, and the Juvenile Justice Advisory Board~~ not later than January 1 of each year.

Section 22. Subsection (4) of section 985.228, Florida Statutes, is amended to read:

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

(4) If the court finds that the child named in the petition has committed a delinquent act or violation of law, it may, in its discretion, enter an order stating the facts upon which its finding is based but withholding adjudication of delinquency and placing the child in a probation program under the supervision of the department or under the supervision of any other person or agency specifically authorized and appointed by the court. The court may, as a condition of the program, impose as a penalty component restitution in money or in kind, community service, a curfew, urine monitoring, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense, and may impose as a rehabilitative component a requirement of participation in substance abuse treatment, or school or other educational program attendance. If the child is attending

public school and the court finds that the victim or a sibling of the victim in the case was assigned to attend or is eligible to attend the same school as the child, the court order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d). If the court later finds that the child has not complied with the rules, restrictions, or conditions of the community-based program, the court may, after a hearing to establish the lack of compliance, but without further evidence of the state of delinquency, enter an adjudication of delinquency and shall thereafter have full authority under this chapter to deal with the child as adjudicated.

Section 23. Paragraph (d) of subsection (1) of section 985.23, Florida Statutes, is amended to read:

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

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

(d) Give all parties present at the hearing an opportunity to comment on the issue of disposition and any proposed rehabilitative plan. Parties to the case shall include the parents, legal custodians, or guardians of the child; the child's counsel; the state attorney; representatives of the department; the victim if any, or his or her representative; representatives of the school system; and the law enforcement officers involved in the case. If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court shall, on its own motion or upon the request of any party or any parent or legal guardian of the victim, determine whether it is appropriate to enter a no contact order in favor of the victim or a sibling of the victim. If appropriate and acceptable to the victim and the victim's parent or parents or legal guardian, the court may reflect in the written disposition order that the victim or the victim's parent stated in writing or in open court that he or she did not object to the offender being permitted to attend the same school or ride on the same school bus as the victim or a sibling of the victim.

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

Section 24. Paragraph (a) of subsection (1) and subsection (2) of section 985.231, Florida Statutes, 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 probation program or a postcommitment probation 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 probation 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. If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d). 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 postcommitment probation ~~or conditional release 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 probation supervision requirements to reasonably ensure the public safety. Probation 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 probation 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 probation for a child who has substantially complied with the terms and conditions of probation.

c. If the conditions of the probation program or the postcommitment probation program are violated, the department 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 probation or postcommitment probation must be brought before the court if sanctions are sought. A child taken into custody under s. 985.207 for violating the conditions of probation or postcommitment probation 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 probation or postcommitment probation. 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 probation or postcommitment probation, or who have been found by the court to have violated the conditions of probation or postcommitment probation. 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 probation or postcommitment probation, 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 probation or postcommitment probation, the court shall enter an order revoking, modifying, or continuing probation or postcommitment probation. 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 probation or postcommitment probation, 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 probation program or postcommitment probation program.

(IV) Revoke probation or postcommitment probation 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 probation 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 residential commitment ~~restrictiveness~~ level defined in s. 985.03. 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 of the child into the community in a postcommitment nonresidential conditional release program. If the child is eligible to attend public school following residential commitment and the court finds that the victim or a sibling of the victim in the case is or may be attending the same school as the child, the commitment order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d). If the child is not successful in the conditional release 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 probation 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 probation 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.

(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(46)~~(47)~~ and 985.23(3).

Section 25. Effective upon this act becoming a law and operating retroactively to July 1, 2000, paragraph (b) of subsection (1) of section 985.231, Florida Statutes, is amended to read:

985.231 Powers of disposition in delinquency cases.—

(1)

(b)1. When any child is adjudicated by the court to have committed a delinquent act and temporary legal custody of the child has been placed with a licensed child-caring agency or the Department of Juvenile Justice, the court shall order the ~~natural or adoptive~~ parents of such child, ~~including the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets that under law may be disbursed for the care, support, and maintenance of the child,~~ to pay fees to the department in the amount of $5 per day that the child is under the care or supervision of the department in order to partially offset the ~~not to exceed the actual~~ cost of the care, support, ~~and~~ maintenance, and other usual and ordinary obligations of parents to provide for the needs of their children while ~~of the child~~ in the recommended residential commitment level, unless the court makes a finding on the record that the parent or guardian of the child is indigent.

2. No later than the disposition hearing, the department shall provide the court with information concerning the actual cost of care, support, and maintenance of the child in the recommended residential commitment level

and concerning the ability of the parent or guardian of the child to pay any fees. If the court makes a finding of indigency, the parent or guardianship shall pay to the department a nominal subsistence fee of $2 per day that the child is committed outside the home or $1 per day if the child is otherwise supervised in lieu of other fees related to the parents' obligation for the child's cost of care. The nominal subsistence fee may only be waived or reduced if the court makes a finding that such payment would constitute a significant financial hardship. Such finding shall be in writing and shall contain a detailed description of the facts that led the court to make both the finding of indigency and the finding of significant financial hardship. ~~As to each parent or guardian for whom the court makes a finding of indigency, the court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the full cost of the care, support, and maintenance of the child. If the court makes a finding of indigency or inability to pay the full cost of care, support, and maintenance of the child, the court shall order the parent or guardian to pay to the department a nominal subsistence fee on behalf of the child in the amount of at least $2 per day that the child is placed outside the home or at least $1 per day if the child is otherwise placed, unless the court makes a finding on the record that the parent or guardian would suffer a significant hardship if obligated for such amount.~~

3. In addition, the court may reduce the fees or waive the fees as to each parent or guardian if the court makes a finding on the record that the parent or guardian was the victim of the delinquent act or violation of law for which the child is subject to placement under this section and that the parent or guardian has cooperated in the investigation and prosecution of the offense. ~~As to each parent or guardian, the court may reduce the fees or waive the fees if the court makes a finding on the record that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law.~~

4. All orders committing a child to a residential commitment program shall include specific findings as to what fees are ordered, reduced, or waived. If the court fails to enter an order as required by this paragraph, it shall be presumed that the court intended the parent or guardian to pay fees to the department in an amount of $5 per day related to ~~not to exceed the actual cost of~~ the care, support, and maintenance of the child. With regard to a child who reaches the age of 18 prior to the disposition hearing, the court may elect to direct an order required by this paragraph to such child, rather than the parent or guardian. With regard to a child who reaches the age of 18 while in the custody of the department, the court may, upon proper motion of any party, hold a hearing as to whether any party should be further obligated respecting the payment of fees. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

5. The clerk of the circuit court shall act as a depository for these fees. Upon each payment received, the clerk of the circuit court shall receive a fee from the total payment of 3 percent of any payment made except that no fee shall be less than $1 nor more than $5 per payment made. This fee shall

serve as a service charge for the administration, management, and maintenance of each payment. At the end of each month, the clerk of the circuit court shall send all money collected under this section to the state Grants and Donations Trust Fund.

6. The parent or guardian shall provide to the department the parent or guardian's name, address, social security number, state of birth, and driver's license number or identification card number and sufficient financial information for the department to be able to determine the parent or guardian's ability to pay. If the parent or guardian refuses to provide the department with any identifying information or financial information, the court shall order the parent to comply and may pursue contempt of court sanctions for failure to comply.

7. The department may employ a collection agency for the purpose of receiving, collecting, and managing the payment of unpaid and delinquent fees. The collection agency must be registered and in good standing under chapter 559. The department may pay to the collection agency a fee from the amount collected under the claim or may authorize the agency to deduct the fee from the amount collected. The department may also pay for collection services from available authorized funds.

8. The department may enter into agreements with parents or guardians to establish a schedule of periodic payments if payment of the obligation in full presents an undue hardship. Any such agreement may provide for payment of interests consistent with prevailing loan rates.

9. The Department of Juvenile Justice shall provide to the payor documentation of any amounts paid by the payor to the Department of Juvenile Justice on behalf of the child. All payments received by the department pursuant to this subsection shall be deposited in the state Grants and Donations Trust Fund.

10. Neither the court nor the department may extend the child's length of stay in placement care solely for the purpose of collecting fees.

Section 26. Effective upon this act becoming a law and operating retroactively to July 1, 2000, paragraph (d) of subsection (4) of section 985.233, Florida Statutes, is amended to read:

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

(4) SENTENCING ALTERNATIVES.—

(d)1. Recoupment of cost of care in juvenile justice facilities.—When the court orders commitment of a child to the Department of Juvenile Justice for treatment in any of the department's programs for children, the court shall order the ~~natural or adoptive~~ parents of such child~~, including the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child,~~ to pay fees in the amount of $5 per day that

the child is under the care or supervision of the department in order to partially offset the ~~not to exceed the actual~~ cost of the care, support, ~~and~~ maintenance, and other usual and ordinary obligations of parents to provide for the needs of their children ~~of the child~~, unless the court makes a finding on the record that the parent or legal guardian of the child is indigent.

2. Prior to commitment, the department shall provide the court with information concerning the actual cost of care in the recommended residential commitment level and concerning the ability of the parent or guardian of the child to pay specified fees. If the court makes a finding of indigency, the parent or guardian shall pay to the department a nominal subsistence fee of $2 per day that the child is committed outside the home or $1 per day if the child is otherwise supervised in lieu of other fees related to the parent's obligation for the child's cost of care. The nominal subsistence fee may only be waived or reduced if the court makes a finding that such payment would constitute a significant financial hardship. Such finding shall be in writing and shall contain a detailed description of the facts that led the court to make both the finding of indigency and the finding of significant financial hardship. ~~As to each parent or guardian for whom the court makes a finding of indigency, the court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the full cost of the care, support, and maintenance of the child. If the court makes a finding of indigency or inability to pay the full cost of care, support, and maintenance of the child, the court shall order the parent or guardian to pay the department a nominal subsistence fee on behalf of the child in the amount of at least $2 per day that the child is placed outside the home or at least $1 per day if the child is otherwise placed, unless the court makes a finding on the record that the parent or guardian would suffer a significant hardship if obligated for such amount.~~

3. In addition, the court may reduce the fees or waive the fees as to each parent or guardian if the court makes a finding on the record that the parent or guardian was the victim of the delinquent act or violation of law for which the child is subject to commitment under this section and that the parent or guardian has cooperated in the investigation and prosecution of the offense. ~~As to each parent or guardian, the court may reduce the fees or waive the fees if the court makes a finding on the record that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law.~~ When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

4. All orders committing a child to a residential commitment program shall include specific findings as to what fees are ordered, reduced, or waived. If the court fails to enter an order as required by this paragraph, it shall be presumed that the court intended the parent or guardian to pay fees to the department in an amount of $5 per day related to ~~not to exceed the actual cost of~~ the care, support, and maintenance of the child. With regard to a child who reaches the age of 18 prior to the disposition hearing, the court may elect to direct an order required by this paragraph to such child, rather than the parent or guardian. With regard to a child who reaches the age of 18 while in the custody of the department, the court may,

upon proper motion of any party, hold a hearing as to whether any party should be further obligated respecting the payment of fees.

5. The clerk of the circuit court shall act as a depository for these fees. Upon each payment received, the clerk of the circuit court shall receive a fee from the total payment of 3 percent of any payment made except that no fee shall be less than $1 nor more than $5 per payment made. This fee shall serve as a service charge for the administration, management, and maintenance of each payment. At the end of each month, the clerk of the circuit court shall send all money collected under this section to the state Grants and Donations Trust Fund.

6. The parent or guardian shall provide to the department the parent or guardian's name, address, social security number, date of birth, and driver's license number or identification card number and sufficient financial information for the department to be able to determine the parent or guardian's ability to pay. If the parent or guardian refuses to provide the department with any identifying information or financial information, the court shall order the parent to comply and may pursue contempt of court sanctions for failure to comply.

7. The department may employ a collection agency for the purpose of receiving, collecting, and managing the payment of unpaid and delinquent fees. The collection agency must be registered and in good standing under chapter 559. The department may pay to the collection agency a fee from the amount collected under the claim or may authorize the agency to deduct the fee from the amount collected. The department may also pay for collection services from available authorized funds. The Department of Juvenile Justice shall provide to the payor documentation of any amounts paid by the payor to the Department of Juvenile Justice on behalf of the child. All payments received by the department pursuant to this subsection shall be deposited in the state Grants and Donations Trust Fund.

8. Neither the court nor the department may extend the child's length of stay in commitment care solely for the purpose of collecting fees.

Section 27. Paragraph (f) is added to subsection (4) of section 985.233, Florida Statutes, to read:

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

(4) SENTENCING ALTERNATIVES.—

(f) School attendance.—If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding pursuant to the proceeding described in s. 985.23(1)(d).

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this

subsection is subject to the right of the child to appellate review under s. 985.234.

Section 28. Subsection (2) of section 985.305, Florida Statutes, is amended to read:

985.305 Early delinquency intervention program; criteria.—

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

Section 29. Section 985.3065, Florida Statutes, is amended to read:

985.3065 Prearrest or postarrest diversion programs.—

(1) A law enforcement agency or school district, in cooperation with the state attorney, may establish a prearrest or postarrest diversion program.

(2) As part of the prearrest or postarrest diversion program, a child who is alleged to have committed a delinquent act may be required to surrender his or her driver's license, or refrain from applying for a driver's license, for not more than 90 days. If the child fails to comply with the requirements of the program, the state attorney may notify the Department of Highway Safety and Motor Vehicles in writing to suspend the child's driver's license for a period that may not exceed 90 days.

(3) The prearrest or postarrest diversion program may, upon agreement of the agencies that establish the program, provide for the expunction of the nonjudicial arrest record of a minor who successfully completes such a program pursuant to s. 943.0582.

Section 30. Paragraph (e) of subsection (3) and paragraph (a) of subsection (4) of section 985.31, Florida Statutes, 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(48)~~(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(48)~~(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 31. Subsection (4) of section 985.3155, Florida Statutes, is amended to read:

985.3155 Multiagency plan for vocational education.—

(4) The plan must also address strategies to facilitate involvement of business and industry in the design, delivery, and evaluation of vocational programming in juvenile justice commitment facilities and conditional release ~~aftercare~~ programs, including apprenticeship and work experience programs, mentoring and job shadowing, and other strategies that lead to postrelease employment. Incentives for business involvement, such as tax breaks, bonding, and liability limits should be investigated, implemented where appropriate, or recommended to the Legislature for consideration.

Section 32. Subsections (4) and (5) of section 985.316, Florida Statutes, are amended to read:

985.316 Conditional release.—

(4) ~~After a youth is released from a residential commitment program, conditional release services may be delivered through either minimum-risk nonresidential commitment restrictiveness programs or postcommitment probation.~~ 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 postcommitment probation will be subject to the provisions under s. 985.231(1)(a).~~

(5) Participation in the educational program by students of compulsory school attendance age pursuant to s. 232.01 is mandatory for juvenile justice youth on conditional release ~~aftercare~~ or postcommitment probation ~~community control~~ status. A student of noncompulsory school-attendance age who has not received a high school diploma or its equivalent must participate in the educational program. A youth who has received a high school diploma or its equivalent and is not employed must participate in workforce develop-

ment or other vocational or technical education or attend a community college or a university while in the program, subject to available funding.

Section 33. Subsections (3) and (4) of section 985.404, Florida Statutes, are amended to read:

985.404 Administering the juvenile justice continuum.—

(3)(a) The department shall develop or contract for diversified and innovative programs to provide rehabilitative treatment, including early intervention and prevention, diversion, comprehensive intake, case management, diagnostic and classification assessments, individual and family counseling, shelter care, diversified detention care emphasizing alternatives to secure detention, diversified probation, halfway houses, foster homes, community-based substance abuse treatment services, community-based mental health treatment services, community-based residential and nonresidential programs, environmental programs, and programs for serious or habitual juvenile offenders. Each program shall place particular emphasis on reintegration and conditional release for all children in the program.

(b) The Legislature intends that, whenever possible and reasonable, the department make every effort to consider qualified faith-based organizations on an equal basis with other private organizations when selecting contract providers of services to juveniles.

(c) The department may contract with faith-based organizations on the same basis as any other nongovernmental provider, without impairing the religious character of such organizations. Any faith-based organization may act as a contractor in the delivery of services under any program, on the same basis as any other nongovernmental provider, without impairing the religious character of such organization. A faith-based organization, which has entered into a contract with the department, shall retain its independence from state and local governments with regard to control over the definition, development, practice, and expression of its religious beliefs. The department shall not require a faith-based organization to alter its form of internal government or remove religious art, icons, scripture, or other symbols in order to be eligible to contract as a provider.

(d) The department may include in any services contract a requirement that providers prepare plans describing their implementation of paragraphs (a) and (c) of this subsection. A failure to deliver such plans, if required, may be considered by the department as a breach of the contract that may result in cancellation of the contract.

(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~~ nonresidential conditional release program. The department shall notify the court that committed the child to the department and any attorney of record, in writing, of its intent to transfer 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.

Section 34. Section 985.412, Florida Statutes, is amended to read:

985.412 Quality assurance and cost-effectiveness.—

(1)~~(a)~~ It is the intent of the Legislature that the department ~~to~~:

(a)~~1.~~ Ensure that information be provided to decisionmakers in a timely manner so that resources are allocated to programs of the department which achieve desired performance levels.

(b)~~2.~~ Provide information about the cost of such programs and their differential effectiveness so that the quality of such programs can be compared and improvements made continually.

(c)~~3.~~ Provide information to aid in developing related policy issues and concerns.

(d)~~4.~~ Provide information to the public about the effectiveness of such programs in meeting established goals and objectives.

(e)~~5.~~ Provide a basis for a system of accountability so that each client is afforded the best programs to meet his or her needs.

(f)~~6.~~ Improve service delivery to clients.

(g)~~7.~~ Modify or eliminate activities that are not effective.

(2)~~(b)~~ As used in this section ~~subsection~~, the term:

(a)~~1.~~ "Client" means any person who is being provided treatment or services by the department or by a provider under contract with the department.

(b)~~2.~~ "Program component" means an aggregation of generally related objectives which, because of their special character, related workload, and interrelated output, can logically be considered an entity for purposes of organization, management, accounting, reporting, and budgeting.

(c)~~3.~~ "Program effectiveness" means the ability of the program to achieve desired client outcomes, goals, and objectives.

(3) 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 fiscal 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 in cooperation with 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).

(4)(a) The Department of Juvenile Justice, in consultation with the Office of Economic and Demographic Research, and contract service providers, shall develop a cost-effectiveness model and apply the model to each commitment program. Program recidivism rates shall be a component of the model. The cost-effectiveness model shall compare program costs to client outcomes and program outputs. It is the intent of the Legislature that continual development efforts take place to improve the validity and reliability of the cost-effectiveness model and to integrate the standard methodology developed under s. 985.401(4) for interpreting program outcome evaluations.

(b) The department shall rank commitment programs based on the cost-effectiveness model and shall submit a report to the appropriate substantive and fiscal committees of each house of the Legislature by December 31 of each year.

(c) Based on reports of the department on client outcomes and program outputs and on the department's most recent cost-effectiveness rankings, the department may terminate a program operated by the department or a provider if the program has failed to achieve a minimum threshold of program effectiveness. This paragraph does not preclude the department from terminating a contract as provided under s. 985.412 or as otherwise provided by law or contract, and does not limit the department's authority to enter into or terminate a contract.

(d) In collaboration with the Office of Economic and Demographic Research, and contract service providers, the department shall develop a work plan to refine the cost-effectiveness model so that the model is consistent with the performance-based program budgeting measures approved by the Legislature to the extent the department deems appropriate. The department shall notify the Office of Program Policy Analysis and Government Accountability of any meetings to refine the model.

(e) Contingent upon specific appropriation, the department, in consultation with the Office of Economic and Demographic Research, and contract service providers, shall:

1. Construct a profile of each commitment program that uses the results of the quality assurance report required by s. 985.412, the cost-effectiveness report required in this subsection, and other reports available to the department.

2. Target, for a more comprehensive evaluation, any commitment program that has achieved consistently high, low, or disparate ratings in the reports required under subparagraph 1.

3. Identify the essential factors that contribute to the high, low, or disparate program ratings.

4. Use the results of these evaluations in developing or refining juvenile justice programs or program models, client outcomes and program outputs, provider contracts, quality assurance standards, and the cost-effectiveness model.

(5)~~(c)~~ The department shall:

(a)~~1.~~ Establish a comprehensive quality assurance system for each program operated by the department or operated by a provider under contract with the department. Each contract entered into by the department must provide for quality assurance.

(b)~~2.~~ Provide operational definitions of and criteria for quality assurance for each specific program component.

(c)~~3.~~ Establish quality assurance goals and objectives for each specific program component.

(d)~~4.~~ Establish the information and specific data elements required for the quality assurance program.

(e)~~5.~~ Develop a quality assurance manual of specific, standardized terminology and procedures to be followed by each program.

(f)~~6.~~ Evaluate each program operated by the department or a provider under a contract with the department and establish minimum thresholds for each program component. If a provider fails to meet the established minimum thresholds, such failure shall cause the department to cancel the provider's contract unless the provider achieves compliance with minimum thresholds within 6 months or unless there are documented extenuating circumstances. In addition, the department may not contract with the same provider for the canceled service for a period of 12 months. If a department-operated program fails to meet the established minimum thresholds, the department must take necessary and sufficient steps to ensure and document program changes to achieve compliance with the established minimum thresholds. If the department-operated program fails to achieve compliance with the established minimum thresholds within 6 months and if there are no documented extenuating circumstances, the department must notify the Executive Office of the Governor and the Legislature of the corrective action taken. Appropriate corrective action may include, but is not limited to:

1.~~a.~~ Contracting out for the services provided in the program;

2.~~b.~~ Initiating appropriate disciplinary action against all employees whose conduct or performance is deemed to have materially contributed to the program's failure to meet established minimum thresholds;

3.~~c.~~ Redesigning the program; or

4.~~d.~~ Realigning the program.

The department shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and fiscal committees of each house of the Legislature, and the Governor, no later than February 1 of each year. The annual report must contain, at a minimum, for each specific program component: a comprehensive description of the population served by the program; a specific description of the services provided by the program; cost; a comparison of expenditures to federal and state funding; immediate and long-range concerns; and recommendations to maintain, expand, improve, modify, or eliminate each program component so that changes in services lead to enhancement in program quality. The department shall ensure the reliability and validity of the information contained in the report.

(6)~~(2)~~ The department shall collect and analyze available statistical data for the purpose of ongoing evaluation of all programs. The department shall provide the Legislature with necessary information and reports to enable the Legislature to make informed decisions regarding the effectiveness of, and any needed changes in, services, programs, policies, and laws.

(7) No later than November 1, 2001, the department shall submit a proposal to the Legislature concerning funding incentives and disincentives for the department and for providers under contract with the department. The recommendations for funding incentives and disincentives shall be based upon both quality assurance performance and cost-effectiveness performance. The proposal should strive to achieve consistency in incentives and disincentives for both department-operated and contractor-provided programs. The department may include recommendations for the use of liquidated damages in the proposal; however, the department is not presently authorized to contract for liquidated damages in non-hardware-secure facilities until January l, 2002.

Section 35. Subsection (1) 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.—

(1) When any child under the age of 18 years is sentenced by any court of competent jurisdiction to the Department of Corrections, the Secretary of Juvenile Justice may transfer such child to the department for the remainder of the sentence, or until his or her 21st birthday, whichever results in the shorter term. If, upon such person's attaining his or her 21st birthday, the sentence has not terminated, he or she shall be transferred to the Department of Corrections for placement in a youthful offender program, transferred ~~or, with the commission's consent,~~ to the supervision of the department, or be given any other transfer that may lawfully be made.

Section 36. Subsections (2) and (3) of section 14 of chapter 2000-134, Laws of Florida, are amended to read:

Section 14. Juvenile Arrest and Monitor Unit pilot program; creation; operation; duties of Orange County Sheriff's Office and Department of Juvenile Justice.—

(2) Under the pilot program created in subsection (1), the Orange County Sheriff's Office shall monitor selected juvenile offenders on probation ~~community control~~ in Orange County. The Department of Juvenile Justice shall recommend juvenile offenders on probation ~~community control~~, post-commitment probation ~~community control~~, and conditional release ~~aftercare~~ to be supervised under this program. The Orange County Sheriff's Office has the sole right and authority to accept or reject any or all juvenile offenders who have been recommended by the Department of Juvenile Justice to the Juvenile Arrest and Monitor Unit. The sheriff's office shall determine the number of juvenile offenders it will supervise. The Department of Juvenile Justice shall monthly recommend juvenile offenders to the sheriff's office, to ensure that the program operates at maximum capacity as determined by the sheriff's office. The Juvenile Arrest and Monitor Unit shall supervise up to 25 juveniles per deputy assigned to the unit. The Juvenile Arrest and Monitor Unit will accept juvenile offenders who have been determined by the Department of Juvenile Justice to be on probation ~~community control~~, post-commitment probation ~~community control~~, and conditional release ~~aftercare~~. The Orange County Sheriff's Office shall use all statutorily available means, ranging from a verbal warning to arrest and incarceration, to effect offenders' compliance with the terms of probation ~~community control~~.

(3) The Department of Juvenile Justice shall maintain all files and paperwork relating to all juveniles on probation ~~community control~~, post-commitment probation ~~community control~~, and conditional release ~~aftercare~~ who are supervised under this pilot program as required by the Florida Statutes.

Section 37. Section 985.42, Florida Statutes, is created to read:

985.42 Inspector general; inspectors.—The secretary is authorized to designate persons holding law enforcement certification within the Office of the Inspector General as law enforcement officers, as necessary, to enforce any criminal law, and conduct any criminal investigation that relates to state-operated programs or state-operated facilities over which the department has jurisdiction. Persons designated as law enforcement officers must be certified pursuant to s. 943.1395.

Section 38. Effective upon this act becoming a law, section 985.422, Florida Statutes, is created to read:

985.422 Maintenance of state-owned facilities.—

(1) If the terms of a provider contract require or allow the department to withhold a portion of the provider's payment to establish a fund for significant maintenance, repairs, or upgrades to state-owned or leased facilities, the department shall deposit all such withheld payments into the Administrative Trust Fund, which shall be used for such purposes pursuant to lawful appropriation.

(2) This section is repealed July 1, 2002.

Section 39. Paragraph (b) of subsection (4) of section 985.401, Florida Statutes, is amended to read:

985.401 Juvenile Justice Advisory Board.—

(4)

(b) In developing the standard methodology, the board shall consult with the department, the Office of Economic and Demographic Research, contract service providers, and other interested parties. It is the intent of the Legislature that this effort result in consensus recommendations, and, to the greatest extent possible, integrate the goals and legislatively approved measures of performance-based program budgeting provided in chapter 94-249, Laws of Florida, and the quality assurance program provided in s. 985.412~~, and the cost-effectiveness model provided in s. 985.404(11)~~. The board shall notify the Office of Program Policy Analysis and Government Accountability of any meetings to develop the methodology.

Section 40. (1) The "Safety and Security Best Practices" developed by the Office of Program Policy Analysis and Government Accountability and approved by the Commissioner of Education shall be reviewed annually by the Office of Program Policy Analysis and Government Accountability and the Partnership for School Safety and Security established in s. 229.8347, Florida Statutes, and each entity shall make recommendations to the Commissioner of Education for the addition, revision, or deletion of best practices.

(2) Each school district shall use the Safety and Security Best Practices to conduct a self-assessment of the school districts' current safety and security practices. Based on these self-assessment findings, the superintendent of each school district shall provide recommendations to the school board which identify strategies and activities that the school district should implement in order to improve school safety and security.

(3) By July 1, 2002, and annually thereafter, each school board must receive the self-assessment results at a publicly notice school board meeting to provide the public an opportunity to hear the school board members discuss and take action on the report findings. Each superintendent shall report the self-assessment results and school board action to the Commissioner of Education within 30 days following the school board meeting.

Section 41. Subsections (10) and (11) of section 985.404, Florida Statutes, are repealed.

Section 42. Paragraph (e) is added to subsection (15) of section 121.021, Florida Statutes, to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(15)

(e) Effective July 1, 2001, the term "special risk member" includes any member who is employed as a youth custody officer by the Department of Juvenile Justice and meets the special criteria set forth in s. 121.0515(2)(g).

Section 43. Paragraph (g) is added to subsection (2) of section 121.0515, Florida Statutes, to read:

121.0515 Special risk membership.—

(2) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(g) The member must be employed as a youth custody officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, apprehension, arrest, and counseling of assigned juveniles within the community.

Section 44. Except as otherwise provided herein, this act shall take effect October 1, 2001.

Approved by the Governor May 31, 2001.

Filed in Office Secretary of State May 31, 2001.