

House Bill No. 1851

An act relating to the costs of supervision and care for juvenile offenders; clarifying the authority of the court to assess fees to parents for the costs associated with the supervision or care of a child by the Department of Juvenile Justice; creating s. 985.2311, F.S.; requiring the court to order the parent of a child placed in home detention, probation, or other supervision status or placed into secure detention or on committed status with the department to pay a daily fee for the cost of such child's supervision or care; specifying the amount of the fee associated with the cost of supervision; specifying the amount of the fee associated with the cost of care; requiring the parent of such child to provide specified identifying information and information pertaining to the parent's ability to pay such fees; providing for enforcement of such requirement through contempt proceedings; authorizing the court to apportion the payment obligation; requiring the court to waive or reduce such fees upon a finding of indigency or significant financial hardship; requiring such finding to be supported by facts and detailed in writing; authorizing the court to reduce or waive such fees as to any parent who was a victim of the child's delinquent act in certain circumstances; requiring the court to make written findings as to what fees are ordered, reduced, or waived; providing a presumption in the absence of such order; authorizing the court to order a child to pay such fees in certain circumstances; requiring the department to seek a federal waiver to garnish public assistance benefits in certain circumstances; providing procedures if an order for payment of such fees affects the guardianship of an estate; authorizing the department to employ certain agencies in the collection of delinquent or unpaid fees; providing for payment for the services of such collection agency; requiring that certain documentation be provided relating to the payment of such fees; providing for all moneys collected by the department or collection agency in connection with such fees to be transferred to the Grants and Donations Trust Fund; prohibiting the court or the department from extending a child's length of supervision or care solely for the purpose of collecting such fees; providing a limitation of the responsibility of a parent or child for such fees; providing for a refund in certain circumstances; defining the term "parent"; amending s. 985.21, F.S.; revising cross references, to conform; amending s. 985.215, F.S.; requiring the court to order a parent to pay fees associated with the cost of the supervision or care of any child placed on detention status with the department; providing a cross reference; deleting provisions relating to the assessment and collection of fees associated with the cost of such care to conform; amending s. 985.231, F.S.; requiring the court to order a parent to pay fees associated with the cost of the supervision or care of any child found to have committed a delinquent act, regardless of adjudication, and placed under the supervision or in the temporary custody of the department; providing a cross reference; deleting provisions relating to the assessment and collection of fees associated with the

cost of such supervision or care to conform; amending s. 985.233, F.S.; providing for the recoupment of the cost of supervision or care in juvenile justice programs or facilities; requiring the court to order a parent to pay fees associated with the cost of the supervision or care of any child supervised by or committed to the department; providing a cross reference; deleting provisions relating to the assessment and collection of fees associated with the cost of such supervision or care to conform; requiring the court to reduce the fees owed by parents or guardians for the cost of a child's care or supervision by the department in certain circumstances where the parent or guardian successfully completes a parenting course; providing a limit on the amount that such fees may be reduced; providing for the future repeal of the requirement; providing an effective date.

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

Section 1. Section 985.2311, Florida Statutes, is created to read:

985.2311 Cost of supervision; cost of care.—

(1) Except as provided in subsection (3) or subsection (4):

(a) When any child is placed into home detention, probation, or other supervision status with the Department of Juvenile Justice, the court shall order the parent of such child to pay to the department a fee for the cost of the supervision of such child in the amount of \$1 per day for each day that the child is in supervision status.

(b) When any child is placed into secure detention or placed on committed status and the temporary legal custody of such child is placed with the Department of Juvenile Justice, the court shall order the parent of such child to pay to the department a fee for the cost of the care of such child in the amount of \$5 per day for each day that the child is in the temporary legal custody of the department.

(2) The parent of any child who has been placed under the supervision or care of the department shall provide to the department his or her name, address, social security number, date of birth, driver's license number or identification card number, and sufficient financial information so as to assist the court in determining the parent's ability to pay any fee associated with the cost of the child's supervision or care. If the parent refuses to provide the department with the information required by this subsection, the court shall order the parent to provide such information. The failure of the parent to comply with such order of the court constitutes contempt of court, and the court may punish the parent accordingly.

(3) At the time of any detention or disposition hearing, the court shall receive the information described in subsection (2), as well as any other verbal or written information offered as to the ability of the parent of a child who is being placed under the supervision or care of the department to pay any fee imposed pursuant to this section and whether the payment of such fee will create a significant financial hardship. The court may apportion the

obligation for the fee to each parent in a manner it deems appropriate; however, the total amount of the daily fee may not exceed the amounts specified in this section. Any finding made by the court as to the ability of the parent to pay such fee, including any finding of indigency or significant financial hardship, shall be in writing and shall contain a detailed description of the facts supporting such finding. If the court makes a finding of indigency and significant financial hardship, the court shall waive the fee or reduce it to an amount deemed appropriate.

(4) Notwithstanding subsection (3), the court may reduce or waive the fee as to each parent if the court makes a finding on the record that the parent was the victim of the delinquent act or violation of law for which the child has been placed under the supervision or care of the department and that the parent is cooperating or has cooperated with the investigation of the offense.

(5) The court shall order the payment of any fees required in this section as part of the detention or disposition order. Such order must include specific written findings as to what fees are ordered, reduced, or waived. If the court fails to enter an order as required by this section, the parent is deemed to have an obligation to pay to the department a fee in the amount of \$1 per day for each day that the child is under the supervision of the department and \$5 per day for each day that the child remains in the care of the department.

(6) Notwithstanding subsection (1), with respect to a child who reaches the age of 18 prior to the detention or disposition hearing, the court may elect to direct an order required by this section to such child, rather than to the child's parent. With regard to a child who reaches 18 while under the supervision or care of the department, the court may, upon proper motion of any party, hold a hearing as to whether any party should be further obligated to pay any fee associated with cost of the supervision or care of such child. If the court does not enter an order under this subsection, it shall be presumed that the court intended for the parent to pay or to continue to pay the fees specified in this section. Any order entered pursuant to this subsection must include specific findings as to what fees are ordered, reduced, or waived as to the child.

(7) With respect to a child who has been placed under the supervision or care of the department and whose parent receives public assistance for any portion of such child's care, the department must seek a federal waiver to garnish or otherwise order the payment of a portion of the public assistance relating to such child, in an amount not to exceed the amount of the parent's obligation, in order to offset the costs to the department associated with providing supervision or care of such child.

(8) If any order entered pursuant to this section affects the guardianship of an estate, a certified copy of such order shall be delivered to the judge having jurisdiction over the guardianship of the estate.

(9) The department may employ a collection agency for the purpose of receiving, collecting, and managing the payment of any fees ordered pursuant to this section that have gone delinquent or unpaid for 90 days or more.

The collection agency must be registered and in good standing under chapter 559. The department may pay for the services of the collection agency from available authorized funds or from funds generated by any collections under this subsection. Alternatively, the department may authorize the collection agency to withhold a specified amount of any fee collected as payment for its services.

(10) The department or the collection agency shall provide to the payor documentation of the payment of any fee paid pursuant to this section. Except as provided in subsection (9), all payments received by the department or the collection agency pursuant to this section shall be deposited in the state Grants and Donations Trust Fund within the Department of Juvenile Justice.

(11) Under no circumstance shall the court or the department extend the child's length of stay in the department's supervision or care solely for the purpose of collecting the fees specified in this section.

(12) No parent or child shall be liable for any fee provided in this section unless:

(a) The child is adjudicated delinquent, or has adjudication of delinquency withheld, for the offense that gave rise to the supervision or care; or

(b) The child is found to have violated an order of the court, including any order of supervision or care, and the costs are associated with the violation of such order.

If any funds are paid for the supervision or care of a child who is determined not to meet the criteria specified in paragraph (a) or paragraph (b), such funds shall be refunded to the payor forthwith.

(13) For purposes of this section, "parent" means any person who meets the definition of "parent" or "legal custody or guardian" in s. 985.03.

Section 2. 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 s. 985.2311 ss. ~~985.215(6)~~, ~~985.231(1)(b)~~, and ~~985.233(4)(d)~~.

Section 3. Subsection (6) of section 985.215, Florida Statutes, as amended by section 140 of chapter 2003-402, Laws of Florida, 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 for the purpose of being supervised by the Department of Juvenile Justice pursuant to a court order following a detention hearing, the court shall order the parents or guardians of such child to pay to the Department of Juvenile Justice fees as provided under s. 985.2311 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 cost of the care, support, maintenance, and other usual and ordinary obligations of parents to provide for the needs of their children, 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 indigence, 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 indigence and the finding of significant financial hardship.~~

~~(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.~~

~~(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 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 4. Paragraph (b) of subsection (1) of section 985.231, Florida Statutes, as amended by section 141 of chapter 2003-402, Laws of Florida, is amended to read:

985.231 Powers of disposition in delinquency cases.—

(1)

~~(b)1.~~ When any child is found adjudicated by the court to have committed a delinquent act and is placed on probation, regardless of adjudication, under the supervision of or in the 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 parents of such child to pay fees to the department as provided under s. 985.2311 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 cost of the care, support, maintenance, and other usual and ordinary obligations of parents to provide for the needs of their children while 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 indigence, 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 indigence and the finding of significant financial hardship.~~

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.~~

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 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 5. Paragraph (d) of subsection (4) of section 985.233, Florida Statutes, as amended by section 142 of chapter 2003-402, Laws of Florida, is amended to read:

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

(4) SENTENCING ALTERNATIVES.—

(d) Recoupment of cost of care or supervision in juvenile justice programs or facilities.—

1. When the court orders any child to be supervised by or committed ~~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 parents of such child to pay fees as provided under s. 985.2311 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 cost of the care, support, maintenance, and other usual and ordinary obligations of parents to provide for the needs of their children, 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.

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. 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 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.~~

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 6. Notwithstanding any contrary provision of s. 985.2311, Florida Statutes, for the period beginning July 1, 2004 through June 30, 2005, the court shall reduce the fees required under that section for parents or guardians of children whose cases come before the juvenile court in the Ninth Judicial Circuit who successfully complete a voluntary parenting course approved by the Department of Juvenile Justice. The amount of the reduction shall be equivalent to 20 percent of the obligation owed by the parent or guardian for such fees; however, the total value of the reduction shall not exceed \$450. The parent or guardian shall be responsible for any balance of fees associated with the cost of the child's supervision or care that remains after the application of the reduction authorized under this section. Any reduction in the amount of the obligation owed by the parent or guardian pursuant to an order of the court shall be contingent upon the agreement of the parent or guardian to stay current in his or her obligation for the remaining fees owed and to successfully complete the parenting course and present the department with notarized documentation of such completion. The court shall proceed under its contempt authority against any parent or guardian who, after having agreed to such conditions, fails to stay current in his or her obligation for the remaining balance of fees or who fails to successfully complete the parenting course. Upon a finding of contempt, the court shall require the parent or guardian to pay the full amount of the fees as provided under s. 985.2311, Florida Statutes. A parent or guardian may only have fees reduced under this section once. This section shall expire June 30, 2005.

Section 7. This act shall take effect July 1, 2004.

Approved by the Governor May 25, 2004.

Filed in Office Secretary of State May 25, 2004.