

CHAPTER 2011-70

Committee Substitute for Senate Bill No. 618

An act relating to juvenile justice; repealing ss. 985.02(5), 985.03(48), 985.03(56), 985.47, 985.483, 985.486, and 985.636, F.S., relating to, respectively, legislative intent for serious or habitual juvenile offenders in the juvenile justice system, definitions of terms for a training school and the serious or habitual juvenile offender program, the serious or habitual juvenile offender program in the juvenile justice system, the intensive residential treatment program for offenders less than 13 years of age, and the designation of persons holding law enforcement certification within the Office of the Inspector General to act as law enforcement officers; amending s. 985.494, F.S.; requiring a child who is adjudicated delinquent, or for whom adjudication is withheld, to be committed to a maximum-risk residential program for an act that would be a felony if committed by an adult if the child has completed two different high-risk residential commitment programs; repealing s. 985.445, F.S., relating to cases involving grand theft of a motor vehicle committed by a child; amending ss. 985.0301, 985.47, and 985.565, F.S.; conforming references to changes made by the act; amending s. 985.66, F.S.; removing all references to the Juvenile Justice Standards and Training Commission; requiring the Department of Juvenile Justice to be responsible for staff development and training; specifying the duties and responsibilities of the department for staff development and training; removing obsolete provisions to conform to changes made by the act; repealing s. 985.48(8), F.S., relating to activities of the Juvenile Justice Standards and Training Commission with respect to training and treatment services for juvenile sexual offenders; providing an effective date.

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

Section 1. Subsection (5) of section 985.02, Florida Statutes, is repealed.

Section 2. Subsection (48) of section 985.03, Florida Statutes, is repealed.

Section 3. Subsection (56) of section 985.03, Florida Statutes, is repealed.

Section 4. Section 985.47, Florida Statutes, is repealed.

Section 5. Section 985.483, Florida Statutes, is repealed.

Section 6. Section 985.486, Florida Statutes, is repealed.

Section 7. Section 985.636, Florida Statutes, is repealed.

Section 8. Section 985.494, Florida Statutes, is amended to read:

985.494 Commitment programs for juvenile felony offenders.—

(1) Notwithstanding any other law and regardless of the child’s age, a child who is adjudicated delinquent, or for whom adjudication is withheld, for an act that would be a felony if committed by an adult, shall be committed to:

~~(a) A program for serious or habitual juvenile offenders under s. 985.47 or an intensive residential treatment program for offenders less than 13 years of age under s. 985.483, if the child has participated in an early delinquency intervention program and has completed a sheriff’s training and respect program.~~

~~(b) a maximum-risk residential program, if the child has completed two different high-risk residential commitment programs participated in an early delinquency intervention program, has completed a sheriff’s training and respect program, and has completed a program for serious or habitual juvenile offenders or an intensive residential treatment program for offenders less than 13 years of age. The commitment of a child to a maximum-risk residential program must be for an indeterminate period, but may not exceed the maximum term of imprisonment that an adult may serve for the same offense.~~

(2) In committing a child to the appropriate program, the court may consider an equivalent program of similar intensity as being comparable to a program required under subsection (1).

Section 9. Section 985.445, Florida Statutes, is repealed.

Section 10. Paragraph (c) of subsection (5) of section 985.0301, Florida Statutes, is amended to read:

985.0301 Jurisdiction.—

(5)

(c) Notwithstanding ss. 743.07 and 985.455(3), and except as provided in s. 985.47, 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 years. Notwithstanding ss. 743.07, 985.435, 985.437, 985.439, 985.441, ~~985.445~~, 985.455, and 985.513, and except as provided in this section and s. 985.47, a child may not be held under a commitment from a court under s. 985.439, s. 985.441(1)(a) or (b), ~~s. 985.445~~, or s. 985.455 after becoming 21 years of age.

Section 11. Subsection (2) of section 985.47, Florida Statutes, is amended to read:

985.47 Serious or habitual juvenile offender.—

(2) DETERMINATION.—After a child has been adjudicated delinquent under s. 985.35, the court shall determine whether the child meets the criteria for a serious or habitual juvenile offender under subsection (1). If the court determines that the child does not meet such criteria, ss. 985.435, 985.437, 985.439, 985.441, ~~985.445~~, 985.45, and 985.455 shall apply.

Section 12. Paragraph (b) of subsection (4) of section 985.565, Florida Statutes, is amended to read:

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

(4) SENTENCING ALTERNATIVES.—

(b) *Juvenile sanctions.*—For juveniles transferred to adult court but who do not qualify for such transfer under s. 985.556(3) or s. 985.557(2)(a) or (b), the court may impose juvenile sanctions under this paragraph. If juvenile sentences are imposed, the court shall, under this paragraph, adjudge the child to have committed a delinquent act. Adjudication of delinquency shall not be deemed a conviction, nor shall it operate to impose any of the civil disabilities ordinarily resulting from a conviction. The court shall impose an adult sanction or a juvenile sanction and may not sentence the child to a combination of adult and juvenile punishments. An adult sanction or a juvenile sanction may include enforcement of an order of restitution or probation previously ordered in any juvenile proceeding. However, if the court imposes a juvenile sanction and the department determines that the sanction is unsuitable for the child, the department shall return custody of the child to the sentencing court for further proceedings, including the imposition of adult sanctions. Upon adjudicating a child delinquent under subsection (1), the court may:

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

2. Commit the child to the department for treatment in an appropriate program for children for an indeterminate period of time until the child is 21 or sooner if discharged by the department. The department shall notify the court of its intent to discharge no later than 14 days prior to discharge. Failure of the court to timely respond to the department's notice shall be considered approval for discharge.

3. Order disposition under ss. 985.435, 985.437, 985.439, 985.441, 985.445, 985.45, and 985.455 as an alternative to youthful offender or adult sentencing if the court determines not to impose youthful offender or adult sanctions.

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. 985.534.

Section 13. Section 985.66, Florida Statutes, is amended to read:

985.66 Juvenile justice training academies; staff development and training; ~~Juvenile Justice Standards and Training Commission~~; Juvenile Justice Training Trust Fund.—

(1) **LEGISLATIVE PURPOSE.**—In order to enable the state to provide a systematic approach to staff development and training for judges, state attorneys, public defenders, law enforcement officers, school district personnel, and juvenile justice program staff that will meet the needs of such persons in their discharge of duties while at the same time meeting the requirements for the American Correction Association accreditation by the Commission on Accreditation for Corrections, it is the purpose of the Legislature to require the department to establish, maintain, and oversee the operation of juvenile justice training academies in the state. The purpose of the Legislature in establishing staff development and training programs is to foster better staff morale and reduce mistreatment and aggressive and abusive behavior in delinquency programs; to positively impact the recidivism of children in the juvenile justice system; and to afford greater protection of the public through an improved level of services delivered by a professionally trained juvenile justice program staff to children who are alleged to be or who have been found to be delinquent.

(2) **STAFF DEVELOPMENT JUVENILE JUSTICE STANDARDS AND TRAINING COMMISSION.**—

~~(a) There is created under the Department of Juvenile Justice the Juvenile Justice Standards and Training Commission, hereinafter referred to as the commission. The 17-member commission shall consist of the Attorney General or designee, the Commissioner of Education or designee, a member of the juvenile court judiciary to be appointed by the Chief Justice of the Supreme Court, and 14 members to be appointed by the Secretary of Juvenile Justice as follows:~~

~~1. Seven members shall be juvenile justice professionals: a superintendent or a direct care staff member from an institution; a director from a contracted community-based program; a superintendent and a direct care staff member from a regional detention center or facility; a juvenile probation officer supervisor and a juvenile probation officer; and a director of a day treatment or conditional release program. No fewer than three of these members shall be contract providers.~~

~~2. Two members shall be representatives of local law enforcement agencies.~~

~~3. One member shall be an educator from the state's university and community college program of criminology, criminal justice administration, social work, psychology, sociology, or other field of study pertinent to the training of juvenile justice program staff.~~

~~4. One member shall be a member of the public.~~

~~5. One member shall be a state attorney, or assistant state attorney, who has juvenile court experience.~~

~~6.— One member shall be a public defender, or assistant public defender, who has juvenile court experience.~~

~~7.— One member shall be a representative of the business community.~~

All appointed members shall be appointed to serve terms of 2 years.

~~(b)— The composition of the commission shall be broadly reflective of the public and shall include minorities and women. The term “minorities” as used in this paragraph means a member of a socially or economically disadvantaged group that includes blacks, Hispanics, and American Indians.~~

~~(c)— The Department of Juvenile Justice shall provide the commission with staff necessary to assist the commission in the performance of its duties.~~

~~(d)— The commission shall annually elect its chairperson and other officers. The commission shall hold at least four regular meetings each year at the call of the chairperson or upon the written request of three members of the commission. A majority of the members of the commission constitutes a quorum. Members of the commission shall serve without compensation but are entitled to be reimbursed for per diem and travel expenses as provided by s. 112.061 and these expenses shall be paid from the Juvenile Justice Training Trust Fund.~~

~~(e) The department powers, duties, and functions of the commission shall be to:~~

~~(a)1. Designate the location of the training academies; develop, implement, maintain, and update the curriculum to be used in the training of juvenile justice program staff; establish timeframes for participation in and completion of training by juvenile justice program staff; develop, implement, maintain, and update job-related examinations; develop, implement, and update the types and frequencies of evaluations of the training academies; approve, modify, or disapprove the budget for the training academies, and the contractor to be selected to organize and operate the training academies and to provide the training curriculum.~~

~~(b)2. Establish uniform minimum job-related training courses and examinations for juvenile justice program staff.~~

~~(c)3. Consult and cooperate with the state or any political subdivision; any private entity or contractor; and with private and public universities, colleges, community colleges, and other educational institutions concerning the development of juvenile justice training and programs or courses of instruction, including, but not limited to, education and training in the areas of juvenile justice.~~

~~(d)4. Enter into With the approval of the department, make and enter into such contracts and agreements with other agencies, organizations, associations, corporations, individuals, or federal agencies as the commission~~

determines are necessary in the execution of ~~the~~ its powers of the department or the performance of its duties.

~~5. Make recommendations to the Department of Juvenile Justice concerning any matter within the purview of this section.~~

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

(a) Design, implement, maintain, evaluate, and revise a basic training program, including a competency-based examination, for the purpose of providing minimum employment training qualifications for all juvenile justice personnel. All program staff of the department and providers who deliver direct-care services who are hired after October 1, 1999, must meet the following minimum requirements:

1. Be at least 19 years of age.
2. Be a high school graduate or its equivalent as determined by the ~~department commission~~.
3. Not have been convicted of any felony or a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States. Any person who, after September 30, 1999, pleads guilty or nolo contendere to or is found guilty of any felony or a misdemeanor involving perjury or false statement is not eligible for employment, notwithstanding suspension of sentence or withholding of adjudication. Notwithstanding this subparagraph, any person who pled nolo contendere to a misdemeanor involving a false statement before October 1, 1999, and who has had such record of that plea sealed or expunged is not ineligible for employment for that reason.
4. Abide by all the provisions of s. 985.644(1) regarding fingerprinting and background investigations and other screening requirements for personnel.
5. Execute and submit to the department an affidavit-of-application form, adopted by the department, attesting to his or her compliance with subparagraphs 1.-4. The affidavit must be executed under oath and constitutes an official statement under s. 837.06. The affidavit must include conspicuous language that the intentional false execution of the affidavit

constitutes a misdemeanor of the second degree. The employing agency shall retain the affidavit.

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

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

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

(4) JUVENILE JUSTICE TRAINING TRUST FUND.—

(a) There is created within the State Treasury a Juvenile Justice Training Trust Fund to be used by the department of ~~Juvenile Justice~~ for the purpose of funding the development and updating of a job-task analysis of juvenile justice personnel; the development, implementation, and updating of job-related training courses and examinations; and the cost of commission-approved juvenile justice training courses; and reimbursement for expenses as provided in s. 112.061 for members of the commission and staff.

(b) One dollar from every noncriminal traffic infraction collected pursuant to ss. 318.14(10)(b) and 318.18 shall be deposited into the Juvenile Justice Training Trust Fund.

(c) In addition to the funds generated by paragraph (b), the trust fund may receive funds from any other public or private source.

(d) Funds that are not expended by the end of the budget cycle or through a supplemental budget approved by the department shall revert to the trust fund.

(5) ESTABLISHMENT OF JUVENILE JUSTICE TRAINING ACADEMIES.—The number, location, and establishment of juvenile justice training academies shall be determined by the department ~~commission~~.

(6) SCHOLARSHIPS AND STIPENDS.—

(a) By rule, the department ~~commission~~ shall establish criteria to award scholarships or stipends to qualified juvenile justice personnel who are residents of the state who want to pursue a bachelor's or associate in arts degree in juvenile justice or a related field. The department shall handle the administration of the scholarship or stipend. The Department of Education shall handle the notes issued for the payment of the scholarships or stipends.

All scholarship and stipend awards shall be paid from the Juvenile Justice Training Trust Fund upon vouchers approved by the Department of Education and properly certified by the Chief Financial Officer. Prior to the award of a scholarship or stipend, the juvenile justice employee must agree in writing to practice her or his profession in juvenile justice or a related field for 1 month for each month of grant or to repay the full amount of the scholarship or stipend together with interest at the rate of 5 percent per annum over a period not to exceed 10 years. Repayment shall be made payable to the state for deposit into the Juvenile Justice Training Trust Fund.

(b) The department ~~commission~~ may establish the scholarship program by rule and implement the program on or after July 1, 1996.

(7) ADOPTION OF RULES.—The department ~~commission~~ shall adopt rules as necessary to carry out the provisions of this section.

(8) PARTICIPATION OF CERTAIN PROGRAMS IN THE STATE RISK MANAGEMENT TRUST FUND.—Pursuant to s. 284.30, the Division of Risk Management of the Department of Financial Services is authorized to insure a private agency, individual, or corporation operating a state-owned training school under a contract to carry out the purposes and responsibilities of any program of the department. The coverage authorized herein shall be under the same general terms and conditions as the department is insured for its responsibilities under chapter 284.

~~(9) The Juvenile Justice Standards and Training Commission is terminated on June 30, 2001, and such termination shall be reviewed by the Legislature prior to that date.~~

Section 14. Subsection (8) of section 985.48, Florida Statutes, is repealed.

Section 15. This act shall take effect July 1, 2011.

Approved by the Governor May 31, 2011.

Filed in Office Secretary of State May 31, 2011.