

CHAPTER 2012-56

Committee Substitute for House Bill No. 173

An act relating to the Department of Juvenile Justice; amending s. 984.03, F.S.; deleting obsolete references; amending s. 985.03, F.S.; creating and revising definitions; amending s. 984.14, F.S.; deleting obsolete references; amending s. 985.441, F.S.; deleting an obsolete provision; amending s. 985.601, F.S.; revising the types of diversified and innovative programs to provide rehabilitative treatment that may be developed or contracted for by the department, to include mother-infant programs and remove reference to an obsolete program; authorizing the department, at the secretary's discretion, to pay up to a specified amount toward the basic funeral expenses for a youth who dies while in the custody of the department and whose parents or guardians are indigent and for which no other funding is available; amending s. 985.0301, F.S.; deleting obsolete or unnecessary references and language; amending s. 985.045, F.S.; conforming a cross-reference; amending s. 985.688, F.S.; deleting obsolete references; amending s. 985.721, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Subsections (49) through (56) of section 984.03, Florida Statutes, are renumbered as subsections (48) through (55), respectively, and present subsection (48) of that section is amended to read:

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

(48)—“~~Serious or habitual juvenile offender program~~” means the program established in s. ~~985.47~~.

Section 2. Subsection (29) of section 985.03, Florida Statutes, is amended, subsections (37) through (57) of that section are renumbered as subsections (38) through (58), respectively, and a new subsection (37) is added to that section, to read:

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

(29) “Juvenile justice continuum” includes, but is not limited to, delinquency prevention programs and services designed for the purpose of preventing or reducing delinquent acts, including criminal activity by criminal gangs, and juvenile arrests, as well as programs and services targeted at children who have committed delinquent acts, and children who have previously been committed to residential treatment programs for delinquents. The term includes children-in-need-of-services and families-in-need-of-services programs; conditional release; substance abuse and mental health programs; educational and career programs; recreational programs; community services programs; community service work programs; mother-

infant programs; and alternative dispute resolution programs serving children at risk of delinquency and their families, whether offered or delivered by state or local governmental entities, public or private for-profit or not-for-profit organizations, or religious or charitable organizations.

(37) “Mother-infant program” means a residential program designed to serve the needs of juvenile mothers or expectant juvenile mothers who are committed as delinquents, which is operated or contracted by the department. A mother-infant program facility must be licensed as a child care facility under s. 402.308 and must provide the services and support necessary to enable each juvenile mother committed to the facility to provide for the needs of her infants who, upon agreement of the mother, may accompany them in the program.

Section 3. Paragraph (a) of subsection (3) of section 985.14, Florida Statutes, is amended to read:

985.14 Intake and case management system.—

(3) The intake and case management system shall facilitate consistency in the recommended placement of each child, and in the assessment, classification, and placement process, with the following purposes:

(a) An individualized, multidisciplinary assessment process that identifies the priority needs of each individual child for rehabilitation and treatment and identifies any needs of the child’s parents or guardians for services that would enhance their ability to provide adequate support, guidance, and supervision for the child. This process shall begin with the detention risk assessment instrument and decision, shall include the intake preliminary screening and comprehensive assessment for substance abuse treatment services, mental health services, retardation services, literacy services, and other educational and treatment services as components, additional assessment of the child’s treatment needs, and classification regarding the child’s risks to the community and, ~~for a serious or habitual delinquent child, shall include the assessment for placement in a serious or habitual delinquent children program under s. 985.47.~~ The completed multidisciplinary assessment process shall result in the predisposition report.

Section 4. Subsection (1) of section 985.441, Florida Statutes, is amended to read:

985.441 Commitment.—

(1) 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:

(a) Commit the child to a licensed child-caring agency willing to receive the child; however, the court may not commit the child to a jail or to a facility used primarily as a detention center or facility or shelter.

(b) Commit the child to the department at a 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, monitoring for substance abuse, electronic monitoring, and treatment of the child and release of the child from residential commitment into the community in a postcommitment nonresidential conditional release program. If the child is not successful in the conditional release program, the department may use the transfer procedure under subsection (4).

~~(c) Commit the child to the department for placement in a program or facility for serious or habitual juvenile offenders in accordance with s. 985.47.~~

~~1. Following a delinquency adjudicatory hearing under s. 985.35 and a delinquency disposition hearing under s. 985.433 that 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. 985.47. The determination shall be made under ss. 985.47(1) and 985.433(7).~~

~~2. 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.~~

~~(c)(d)~~ Commit the child to the department for placement in a program or facility for juvenile sexual offenders in accordance with s. 985.48, subject to specific appropriation for such a program or facility.

1. The child may only be committed for such placement pursuant to determination that the child is a juvenile sexual offender under the criteria specified in s. 985.475.

2. 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.

Section 5. Paragraph (a) of subsection (3) of section 985.601, Florida Statutes, is amended, and subsection (11) is added to that section, to read:

985.601 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 non-residential programs, mother-infant programs, and 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.

(11) At the secretary's discretion, the department is authorized to pay up to \$5,000 toward the basic funeral expenses for a youth who dies while in the custody of the department and whose parents or guardians are indigent and unable to pay such expenses and for which there is no other source of funding available.

Section 6. Subsection (5) of section 985.0301, Florida Statutes, is amended to read:

985.0301 Jurisdiction.—

(5)(a) Notwithstanding ss. 743.07, 985.43, 985.433, 985.435, 985.439, and 985.441, and except as provided in ss. 985.461 and, 985.465, ~~and 985.47~~ and paragraph (f), when the jurisdiction of any child who is alleged to have committed a delinquent act or violation of law is obtained, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 19 years of age, with the same power over the child which the court had before the child became an adult. For the purposes of s. 985.461, the court may retain jurisdiction for an additional 365 days following the child's 19th birthday if the child is participating in transition-to-adulthood services. The additional services do not extend involuntary court-sanctioned residential commitment and therefore require voluntary participation by the affected youth.

(b) Notwithstanding ss. 743.07 and 985.455(3), ~~and except as provided in s. 985.47,~~ 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 his or her own motion.

(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, 985.455, 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), or s. 985.455 after becoming 21 years of age.

(d) The court may retain jurisdiction over a child committed to the department for placement in a juvenile prison or in a high-risk or maximum-risk residential commitment program to allow the child to participate in a juvenile conditional release program pursuant to s. 985.46. The jurisdiction of the court may not be retained after ~~beyond~~ the child's 22nd birthday. However, if the child is not successful in the conditional release program, the department may use the transfer procedure under s. 985.441(4).

(e) The court may retain jurisdiction over a child committed to the department for placement in an intensive residential treatment program for 10-year-old to 13-year-old offenders, in the residential commitment program in a juvenile prison or, in a residential sex offender program, ~~or in a program for serious or habitual juvenile offenders as provided in s. 985.47 or s. 985.483~~ until the child reaches the age of 21. If the court exercises this jurisdiction retention, it shall do so solely for the purpose of the child completing the intensive residential treatment program for 10-year-old to 13-year-old offenders, in the residential commitment program in a juvenile prison, or in a residential sex offender program, ~~or the program for serious or habitual juvenile offenders~~. Such jurisdiction retention does not apply for other programs, other purposes, or new offenses.

(f) The court may retain jurisdiction over a child committed to a juvenile correctional facility or a juvenile prison until the child reaches the age of 21 years, specifically for the purpose of allowing the child to complete such program.

~~(g)1. Notwithstanding ss. 743.07 and 985.455(3), a serious or habitual juvenile offender shall not be held under commitment from a court under s. 985.441(1)(c), s. 985.47, or s. 985.565 after becoming 21 years of age. This subparagraph shall apply only for the purpose of completing the serious or habitual juvenile offender program under this chapter and shall be used solely for the purpose of treatment.~~

~~2. The court may retain jurisdiction over a child who has been placed in a program or facility for serious or habitual juvenile offenders until the child reaches the age of 21, specifically for the purpose of the child completing the program.~~

(g)(h) The court may retain jurisdiction over a juvenile sexual offender who has been placed in a program or facility for juvenile sexual offenders until the juvenile sexual offender reaches the age of 21, specifically for the purpose of completing the program.

(h)(i) The court may retain jurisdiction over a child and the child's parent or legal guardian whom the court has ordered to pay restitution until the restitution order is satisfied. To retain jurisdiction, the court shall enter a restitution order, which is separate from any disposition or order of commitment, on or prior to the date that the court's jurisdiction would cease under this section. The contents of the restitution order shall be limited to the child's name and address, the name and address of the parent or legal guardian, the name and address of the payee, the case number, the date and amount of restitution ordered, any amount of restitution paid, the amount of restitution due and owing, and a notation that costs, interest, penalties, and attorney attorney's fees may also be due and owing. The terms of the restitution order are subject to s. 775.089(5).

(i)(j) This subsection does not prevent the exercise of jurisdiction by any court having jurisdiction of the child if the child, after becoming an adult, commits a violation of law.

Section 7. Subsection (5) of section 985.045, Florida Statutes, is amended to read:

985.045 Court records.—

(5) This chapter does not prohibit a circuit court from providing a restitution order containing the information prescribed in s. ~~985.0301(5)(h)~~ 985.0301(5)(i) to a collection court or a private collection agency for the sole purpose of collecting unpaid restitution ordered in a case in which the circuit court has retained jurisdiction over the child and the child's parent or legal guardian. The collection court or private collection agency shall maintain the confidential status of the information to the extent such confidentiality is provided by law.

Section 8. Subsection (2) of section 985.688, Florida Statutes, is amended to read:

985.688 Administering county and municipal delinquency programs and facilities.—

(2) A county or municipal government may develop or contract for innovative programs that provide rehabilitative treatment with particular emphasis on reintegration and conditional release for all children in the program, including halfway houses and community-based substance abuse treatment services, mental health treatment services, residential and nonresidential programs, and environmental programs, ~~and programs for serious or habitual juvenile offenders.~~

Section 9. Subsection (2) of section 985.721, Florida Statutes, is amended to read:

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

(2) Any residential commitment facility described in s. ~~985.03(46)~~ 985.03(45), maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or

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

Section 10. This act shall take effect July 1, 2012.

Approved by the Governor April 6, 2012.

Filed in Office Secretary of State April 6, 2012.