

CHAPTER 2018-86

Committee Substitute for Senate Bill No. 1552

An act relating to juvenile justice; amending s. 320.08058, F.S.; allowing the Department of Highway Safety and Motor Vehicles to distribute proceeds from the Invest in Children license plate annual use fee on a statewide basis; amending s. 985.03, F.S.; replacing the term “nonsecure detention” with the term “supervised release detention”; defining the term “supervised release detention”; amending ss. 985.037, 985.039, and 985.101, F.S.; conforming provisions to changes made by the act; amending s. 985.24, F.S.; deleting provisions authorizing the Department of Juvenile Justice to develop evening reporting centers; conforming provisions to changes made by the act; amending s. 985.245, F.S.; revising risk assessment instrument considerations; conforming provisions to changes made by the act; amending s. 985.25, F.S.; deleting a provision requiring mandatory detention for children taken into custody on three or more separate occasions within a 60-day period; amending s. 985.255, F.S.; revising the circumstances under which a continued detention status may be ordered; amending s. 985.26, F.S.; requiring the department to hold a prolific juvenile offender in secure detention pending a detention hearing following a violation of nonsecure detention; amending s. 985.26, F.S.; revising the definition of the term “disposition”; conforming provisions to changes made by the act; amending ss. 985.265 and 985.35, F.S.; conforming provisions to changes made by the act; amending s. 985.439, F.S.; deleting an authorization for placement of a child in a consequence unit in certain circumstances; allowing a child who violates conditions of probation to be detained or released based on the results of the detention risk assessment instrument; conforming provisions to changes made by the act; amending s. 985.601, F.S.; conforming provisions to changes made by the act; amending s. 985.672, F.S.; requiring the board of directors of the department’s direct-support organization to be appointed according to the organization’s bylaws; deleting the scheduled repeal of provisions governing the direct-support organization established by the department; providing effective dates.

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

Section 1. Paragraph (b) of subsection (11) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.—

(11) INVEST IN CHILDREN LICENSE PLATES.—

(b) The proceeds of the Invest in Children license plate annual use fee must be deposited into the Juvenile Crime Prevention and Early Intervention Trust Fund within the Department of Juvenile Justice. Based on the recommendations of the juvenile justice councils, the department shall use

the proceeds of the fee to fund programs and services that are designed to prevent juvenile delinquency. ~~The department shall allocate moneys for programs and services within each county based on that county's proportionate share of the license plate annual use fee collected by the county.~~

Section 2. Effective July 1, 2019, subsection (18) of section 985.03, Florida Statutes, is amended to read:

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

(18) “Detention care” means the temporary care of a child in secure or supervised release ~~nonsecure~~ detention, pending a court adjudication or disposition or execution of a court order. There are two types of detention care, as follows:

(a) “Secure detention” means temporary custody of the child while the child is under the physical restriction of a secure detention center or facility pending adjudication, disposition, or placement.

(b) “Supervised release ~~Nonsecure~~ detention” means temporary, non-secure custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the department staff pending adjudication, or disposition, through programs that ~~or placement. Forms of nonsecure detention include,~~ but are not limited to, ~~home detention,~~ electronic monitoring, day reporting centers, ~~evening reporting centers,~~ and nonsecure shelters. Supervised release ~~Nonsecure~~ detention may include other requirements imposed by the court.

Section 3. Effective July 1, 2019, subsection (5) of section 985.037, Florida Statutes, is amended to read:

985.037 Punishment for contempt of court; alternative sanctions.—

(5) ALTERNATIVE SANCTIONS COORDINATOR.—There is created the position of alternative sanctions coordinator within each judicial circuit, pursuant to subsection (3). Each alternative sanctions coordinator shall serve under the direction of the chief administrative judge of the juvenile division as directed by the chief judge of the circuit. The alternative sanctions coordinator shall act as the liaison between the judiciary, local department officials, district school board employees, and local law enforcement agencies. The alternative sanctions coordinator shall coordinate within the circuit community-based alternative sanctions, including supervised release ~~nonsecure~~ detention programs, community service projects, and other juvenile sanctions, in conjunction with the circuit plan implemented in accordance with s. 790.22(4)(c).

Section 4. Effective July 1, 2019, paragraph (a) of subsection (1) of section 985.039, Florida Statutes, is amended to read:

985.039 Cost of supervision; cost of care.—

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

(a) When any child is placed into supervised release ~~nonsecure~~ detention, probation, or other supervision status with the department, or is committed to the minimum-risk nonresidential restrictiveness level, 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 such status.

Section 5. Effective July 1, 2019, paragraph (d) of subsection (1) of section 985.101, Florida Statutes, is amended to read:

985.101 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, supervised release ~~nonsecure~~ detention, postcommitment probation, or conditional release supervision; has absconded from nonresidential commitment; or has escaped from residential commitment.

Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in part V.

Section 6. Effective July 1, 2019, subsections (2), (4), and (5) of section 985.24, Florida Statutes, are amended to read:

985.24 Use of detention; prohibitions.—

(2) A child alleged to have committed a delinquent act or violation of law may not be placed into secure or supervised release ~~nonsecure~~ detention care for any of the following reasons:

- (a) To allow a parent to avoid his or her legal responsibility.
- (b) To permit more convenient administrative access to the child.
- (c) To facilitate further interrogation or investigation.
- (d) Due to a lack of more appropriate facilities.

~~(4) The department may, within its existing resources, develop non-secure, nonresidential evening reporting centers as an alternative to placing a child in secure detention. Evening reporting centers may be collocated with a juvenile assessment center. If established, evening reporting centers shall serve children and families who are awaiting a child’s court hearing and, at a minimum, operate during the afternoon and evening hours to provide a highly structured program of supervision. Evening reporting centers may also provide academic tutoring, counseling, family engagement programs, and other activities.~~

~~(4)(5)~~ The department shall continue to identify and develop supervised release detention options ~~alternatives to secure detention care and shall develop such alternatives~~ and annually submit them to the Legislature for authorization and appropriation.

Section 7. Effective July 1, 2019, paragraph (b) of subsection (2) and subsection (4) of section 985.245, Florida Statutes, are amended to read:

985.245 Risk assessment instrument.—

(2)

(b) The risk assessment instrument shall take into consideration, but need not be limited to, pending felony and misdemeanor offenses, offenses committed pending adjudication, prior offenses, unlawful possession of a firearm, prior history of failure to appear, violations of supervision ~~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 supervision ~~probation~~ status at the time the child is taken into custody. The risk assessment instrument shall also take into consideration all statutory mandates for detention care ~~appropriate aggravating and mitigating circumstances,~~ and shall be designed to target a narrower population of children than s. 985.255. 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 or supervised release ~~nonsecure~~ detention care.

(4) For a child who is under the supervision of the department through probation, supervised release ~~nonsecure~~ detention, conditional release, postcommitment probation, 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 8. Effective July 1, 2019, paragraph (b) of subsection (1) of section 985.25, Florida Statutes, is amended to read:

985.25 Detention intake.—

(1) The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.

(b) The department shall base the decision whether to place the child into detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the department under s. 985.245, except that a child shall be placed in secure detention care until the child's detention hearing if the child meets the criteria specified in s.

~~985.255(1)(f) or 985.255(1)(j), is charged with possessing or discharging a firearm on school property in violation of s. 790.115, or has been taken into custody on three or more separate occasions within a 60-day period.~~

Under no circumstances shall the department or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

Section 9. Effective July 1, 2019, subsection (1) and paragraph (a) of subsection (3) of section 985.255, Florida Statutes, are amended to read:

985.255 Detention criteria; detention hearing.—

(1) Subject to s. 985.25(1), a child taken into custody and placed into detention care shall be given a hearing within 24 hours after being taken into custody. At the hearing, the court may order a continued detention status if:

(a) The result of the risk assessment instrument pursuant to s. 985.245 indicates secure or supervised release detention.

(b) The child is alleged to be an escapee from a residential commitment program; or an absconder from a nonresidential commitment program, a probation program, or conditional release supervision; or is alleged to have escaped while being lawfully transported to or from a residential commitment program.

~~(c)~~(b) The child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony.

~~(d)~~(e) The child is charged with a delinquent act or violation of law and requests in writing through legal counsel to be detained for protection from an imminent physical threat to his or her personal safety.

~~(d)~~—The child is charged with committing an offense of domestic violence as defined in s. 741.28 and is detained as provided in subsection (2).

~~(e)~~—The child is charged with possession of or discharging a firearm on school property in violation of s. 790.115 or the illegal possession of a firearm.

~~(f)~~—The child is charged with a capital felony, a life felony, a felony of the first degree, a felony of the second degree that does not involve a violation of chapter 893, or a felony of the third degree that is also a crime of violence, including any such offense involving the use or possession of a firearm.

~~(g)~~—The child is charged with any second degree or third degree felony involving a violation of chapter 893 or any third degree felony that is not also a crime of violence, and the child:

- ~~1. Has a record of failure to appear at court hearings after being properly notified in accordance with the Rules of Juvenile Procedure;~~
- ~~2. Has a record of law violations prior to court hearings;~~
- ~~3. Has already been detained or has been released and is awaiting final disposition of the case;~~
- ~~4. Has a record of violent conduct resulting in physical injury to others;~~
or
- ~~5. Is found to have been in possession of a firearm.~~

~~(h) The child is alleged to have violated the conditions of the child's probation or conditional release supervision. However, a child detained under this paragraph may be held only in a consequence unit as provided in s. 985.439. If a consequence unit is not available, the child shall be placed on nonsecure detention with electronic monitoring.~~

~~(e)(i)~~ The child is detained on a judicial order for failure to appear and has previously willfully failed to appear, after proper notice:

- 1. For an adjudicatory hearing on the same case regardless of the results of the risk assessment instrument; or
- 2. At two or more court hearings of any nature on the same case regardless of the results of the risk assessment instrument.

A child may be held in secure detention for up to 72 hours in advance of the next scheduled court hearing pursuant to this paragraph. The child's failure to keep the clerk of court and defense counsel informed of a current and valid mailing address where the child will receive notice to appear at court proceedings does not provide an adequate ground for excusal of the child's nonappearance at the hearings.

~~(f)(j)~~ The child is a prolific juvenile offender. A child is a prolific juvenile offender if the child:

- 1. Is charged with a delinquent act that would be a felony if committed by an adult;
- 2. Has been adjudicated or had adjudication withheld for a felony offense, or delinquent act that would be a felony if committed by an adult, before the charge under subparagraph 1.; and
- 3. In addition to meeting the requirements of subparagraphs 1. and 2., has five or more of any of the following, at least three of which must have been for felony offenses or delinquent acts that would have been felonies if committed by an adult:
 - a. An arrest event for which a disposition, as defined in s. 985.26, has not been entered;

- b. An adjudication; or
- c. An adjudication withheld.

As used in this subparagraph, the term “arrest event” means an arrest or referral for one or more criminal offenses or delinquent acts arising out of the same episode, act, or transaction.

(3)(a) The purpose of the detention hearing required under subsection (1) is to determine the existence of probable cause that the child has committed the delinquent act or violation of law that he or she is charged with and the need for continued detention. ~~Unless a child is detained under paragraph (1)(d) or paragraph (1)(e),~~ The court shall use the results of the risk assessment performed by the department and, based on the criteria in subsection (1), shall determine the need for continued detention. If the child is a prolific juvenile offender who is detained under s. 985.26(2)(c), the court shall use the results of the risk assessment performed by the department and the criteria in subsection (1) or subsection (2) only to determine whether the prolific juvenile offender should be held in secure detention.

Section 10. Paragraph (d) is added to subsection (2) of section 985.26, Florida Statutes, to read:

985.26 Length of detention.—

(2)

(d) A prolific juvenile offender under s. 985.255(1)(j) who is taken into custody for a violation of the conditions of his or her nonsecure detention must be held in secure detention until a detention hearing is held.

Section 11. Effective July 1, 2019, paragraphs (c) and (d) of subsection (2) and paragraph (b) of subsection (4) of section 985.26, Florida Statutes, as amended by this act, are amended to read:

985.26 Length of detention.—

(2)

(c) A prolific juvenile offender under s. ~~985.255(1)(f)~~ 985.255(1)(j) shall be placed on supervised release nonsecure detention care with electronic monitoring or in secure detention care under a special detention order until disposition. If secure detention care is ordered by the court, it must be authorized under this part and may not exceed:

1. Twenty-one days unless an adjudicatory hearing for the case has been commenced in good faith by the court or the period is extended by the court pursuant to paragraph (b); or
2. Fifteen days after the entry of an order of adjudication.

As used in this paragraph, the term “disposition” means a declination to file under s. 985.15(1)(h), the entry of nolle prosequi for the charges, the filing of an indictment under s. 985.56 or an information under s. 985.557, a dismissal of the case, or an order of final disposition by the court.

(d) A prolific juvenile offender under s. ~~985.255(1)(f)~~ 985.255(1)(j) who is taken into custody for a violation of the conditions of his or her supervised release ~~nonsensecure~~ detention must be held in secure detention until a detention hearing is held.

(4)

(b) The period for supervised release ~~nonsensecure~~ detention care under this section is tolled on the date that the department or a law enforcement officer alleges that the child has violated a condition of the child’s supervised release ~~nonsensecure~~ detention care until the court enters a ruling on the violation. Notwithstanding the tolling of supervised release ~~nonsensecure~~ detention care, the court retains jurisdiction over the child for a violation of a condition of supervised release ~~nonsensecure~~ detention care during the tolling period. If the court finds that a child has violated his or her supervised release ~~nonsensecure~~ detention care, the number of days that the child served in any type of detention care before commission of the violation shall be excluded from the time limits under subsections (2) and (3).

Section 12. Effective July 1, 2019, subsection (1), paragraph (b) of subsection (3), and paragraph (a) of subsection (4) of section 985.265, Florida Statutes, are amended to read:

985.265 Detention transfer and release; education; adult jails.—

(1) If a child is detained under this part, the department may transfer the child from supervised release ~~nonsensecure~~ detention care to secure detention care only if significantly changed circumstances warrant such transfer.

(3)

(b) When a juvenile is released from secure detention or transferred to supervised release ~~nonsensecure~~ detention, detention staff shall immediately notify the appropriate law enforcement agency, school personnel, and victim if the juvenile is charged with committing any of the following offenses or attempting to commit any of the following offenses:

1. Murder, under s. 782.04;
2. Sexual battery, under chapter 794;
3. Stalking, under s. 784.048; or
4. Domestic violence, as defined in s. 741.28.

(4)(a) While a child who is currently enrolled in school is in supervised release ~~nonsecure~~ detention care, the child shall continue to attend school unless otherwise ordered by the court.

Section 13. Effective July 1, 2019, paragraph (b) of subsection (1) of section 985.35, Florida Statutes, is amended to read:

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

(1)

(b) If the child is a prolific juvenile offender under s. ~~985.255(1)(f)~~ 985.255(1)(j), the adjudicatory hearing must be held within 45 days after the child is taken into custody unless a delay is requested by the child.

Section 14. Effective July 1, 2019, subsections (2) and (4) of section 985.439, Florida Statutes, are amended to read:

985.439 Violation of probation or postcommitment probation.—

(2) A child taken into custody under s. 985.101 for violating the conditions of probation shall be screened and detained or released based on his or her risk assessment instrument score 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. 985.101 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 part V 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 part V.~~

(4) 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 section, 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:

~~(a) 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.~~

~~(a)(b)~~ Place the child in supervised release ~~nonsecure~~ detention with electronic monitoring. ~~However, this sanction may be used only if a residential consequence unit is not available.~~

~~(b)(e)~~ If the violation of probation is technical in nature and not a new violation of law, place the child in an alternative consequence program designed to provide swift and appropriate consequences to any further violations of probation.

1. Alternative consequence programs shall be established, within existing resources, at the local level in coordination with law enforcement agencies, the chief judge of the circuit, the state attorney, and the public defender.

2. Alternative consequence programs may be operated by an entity such as a law enforcement agency, the department, a juvenile assessment center, a county or municipality, or another entity selected by the department.

3. Upon placing a child in an alternative consequence program, the court must approve specific consequences for specific violations of the conditions of probation.

~~(c)(d)~~ Modify or continue the child's probation program or postcommitment probation program.

~~(d)(e)~~ Revoke probation or postcommitment probation and commit the child to the department.

Section 15. Effective July 1, 2019, paragraph (a) of subsection (9) of section 985.601, Florida Statutes, is amended to read:

985.601 Administering the juvenile justice continuum.—

(9)(a) The department shall operate a statewide, regionally administered system of detention services for children, in accordance with a comprehensive plan for the regional administration of all detention services in the state. The plan must provide for the maintenance of adequate availability of detention services for all counties. The plan must cover all the department's operating circuits, with each operating circuit having access to a secure facility and supervised release ~~nonsecure~~ detention programs, and the plan may be altered or modified by the Department of Juvenile Justice as necessary.

Section 16. Subsections (3) and (7) of section 985.672, Florida Statutes, are amended to read:

985.672 Direct-support organization; definition; use of property; board of directors; audit.—

(3) BOARD OF DIRECTORS.—The Secretary of Juvenile Justice shall appoint a board of directors of the direct-support organization. The board

~~members shall be appointed according to the organization's bylaws. Members of the organization must include representatives from businesses, representatives from each of the juvenile justice service districts, and one representative appointed at large.~~

~~(7) REPEAL.— This section is repealed October 1, 2018, unless reviewed and saved from repeal by the Legislature.~~

Section 17. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2018.

Approved by the Governor March 23, 2018.

Filed in Office Secretary of State March 23, 2018.