

CHAPTER 2021-219

Committee Substitute for Committee Substitute for House Bill No. 885

An act relating to juvenile justice programs and detention; amending s. 20.316, F.S.; creating the Accountability and Program Support Program within the Department of Juvenile Justice and revising the name of an existing program; amending s. 985.101, F.S.; requiring a court to consider specified information before it issues an order to take a child into custody for failing to appear; amending s. 985.435, F.S.; requiring each judicial circuit to develop, in consultation with specified persons and entities, a written plan specifying the alternative consequence component which must be based upon certain principles; providing that the alternative consequence component is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of probation; repealing s. 985.686, F.S., relating to the shared county and state financial support responsibility for juvenile detention; amending s. 985.6865, F.S.; deleting provisions relating to legislative findings and intent; requiring the Department of Juvenile Justice to calculate annually by a certain date and provide to each county that is not a fiscally constrained county and that does not provide its own detention care for juveniles its annual percentage share of detention costs; requiring each county that is not a fiscally constrained county and that does not provide its own detention care for juveniles to incorporate into its annual county budget sufficient funds to pay its annual percentage share of detention costs; amending s. 1003.52, F.S.; authorizing the Department of Juvenile Justice, in consultation with the Department of Education, to evaluate the viability of an alternative model for providing and funding education services for youth in detention and residential facilities; providing requirements; providing for expiration; reenacting ss. 960.001(1)(b) and 985.439(2), F.S., relating to guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems and violation of probation or postcommitment probation, respectively, to incorporate the amendment made to s. 985.101, F.S., in references thereto; reenacting s. 985.565(4)(b), F.S., relating to sentencing alternatives, to incorporate the amendment made to s. 985.435, F.S., in a reference thereto; providing an effective date.

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

Section 1. Upon the expiration and reversion of the amendment made to section 20.316, Florida Statutes, pursuant to section 65 of chapter 2020-114, Laws of Florida, subsections (2) and (3) of section 20.316, Florida Statutes, are amended to read:

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

(2) DEPARTMENT PROGRAMS.—The following programs are established within the Department of Juvenile Justice:

- (a) Accountability and Program Support.
- ~~(d)(a)~~ Prevention and Victim Services.
- ~~(c)(b)~~ Intake and Detention.
- ~~(f)(e)~~ Residential and Correctional Facilities.
- ~~(e)(d)~~ Probation and Community Corrections.
- ~~(b)(e)~~ Administration.

The secretary may establish assistant secretary positions and a chief of staff position as necessary to administer the requirements of this section.

(3) JUVENILE JUSTICE OPERATING CIRCUITS.—The department shall plan and administer its programs through a substate structure that conforms to the boundaries of the judicial circuits prescribed in s. 26.021. A county may seek placement in a juvenile justice operating circuit other than as prescribed in s. 26.021 for participation in the Prevention and Victim Services Program and the Probation and Community Corrections Program by making a request of the chief circuit judge in each judicial circuit affected by such request. Upon a showing that geographic proximity, community identity, or other legitimate concern for efficiency of operations merits alternative placement, each affected chief circuit judge may authorize the execution of an interagency agreement specifying the alternative juvenile justice operating circuit in which the county is to be placed and the basis for the alternative placement. Upon the execution of said interagency agreement by each affected chief circuit judge, the secretary may administratively place a county in an alternative juvenile justice operating circuit pursuant to the agreement.

Section 2. Paragraph (c) 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:

(c) By a law enforcement officer for failing to appear at a court hearing after being properly noticed. However, before a court issues an order to take a child into custody for failing to appear, it must consider all of the following information relating to whether the child's nonappearance was willful:

1. Whether notice was sent to the child's address included in the official court record.

2. Whether any person provided notice to the child in any format.

3. If the child is represented by counsel, whether counsel for the child has information that the nonappearance was not willful or was otherwise beyond the child’s control.

4. Whether a department representative had contact or attempted to have contact with the child.

5. Whether the department has any other specific information to assist the court in making the determination.

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 3. Subsection (4) of section 985.435, Florida Statutes, is amended to read:

985.435 Probation and postcommitment probation; community service.

(4) A probation program may also include an alternative consequence component to address instances in which a child is noncompliant with technical conditions of his or her probation but has not committed any new violations of law. Each judicial circuit shall develop, in consultation with judges, the state attorney, the public defender, the regional counsel, relevant law enforcement agencies, and the department, a written plan specifying the alternative consequence component which must be based upon the principle that sanctions must reflect the seriousness of the violation, the assessed criminogenic needs and risks of the child, the child’s age and maturity level, and how effective the sanction or incentive will be in moving the child to compliant behavior. The alternative consequence component is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of ~~to any noncompliance with technical conditions of~~ probation. If the probation program includes this component, specific consequences that apply to noncompliance with specific technical conditions of probation, as well as incentives used to move the child toward compliant behavior, must be detailed in the disposition order.

Section 4. Section 985.686, Florida Statutes, is repealed.

Section 5. Subsections (1) through (6) of section 985.6865, Florida Statutes, are amended to read:

985.6865 Juvenile detention.—

~~(1) The Legislature finds that various counties and the Department of Juvenile Justice have engaged in a multitude of legal proceedings regarding detention cost sharing for juveniles. Such litigation has largely focused on how the Department of Juvenile Justice calculates the detention costs that the counties are responsible for paying, leading to the overbilling of counties for a period of years. Additionally, litigation pending in 2016 is a financial burden on the taxpayers of this state.~~

~~(2)—It is the intent of the Legislature that all counties that are not fiscally constrained counties and that have pending administrative or judicial claims or challenges file a notice of voluntary dismissal with prejudice to dismiss all actions pending on or before February 1, 2016, against the state or any state agency related to juvenile detention cost sharing. Furthermore, all counties that are not fiscally constrained shall execute a release and waiver of any existing or future claims and actions arising from detention cost share prior to the 2016-2017 fiscal year. The department may not seek reimbursement from counties complying with this subsection for any underpayment for any cost-sharing requirements before the 2016-2017 fiscal year.~~

~~(1)(3)~~ As used in this section, the term:

(a) “Detention care” means secure detention and respite beds for juveniles charged with a domestic violence crime.

(b) “Fiscally constrained county” means a county within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656 or each county for which the value of a mill will raise no more than \$5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., from the previous July 1.

(c) “Total shared detention costs” means the amount of funds expended by the department for the costs of detention care for the prior fiscal year. This amount includes the most recent actual certify forward amounts minus any funds it expends on detention care for juveniles residing in fiscally constrained counties or out of state.

~~(2)(4)~~ Annually ~~Notwithstanding s. 985.686, for the 2017-2018 fiscal year, and each fiscal year thereafter, each county that is not a fiscally constrained county and that has taken the action fulfilling the intent of this section as described in subsection (2) shall pay its annual percentage share of 50 percent of the total shared detention costs. by July 15, 2017, and each year thereafter, the department shall calculate and provide to each county that is not a fiscally constrained county and that does not provide its own detention care for juveniles its annual percentage share by dividing the total number of detention days for juveniles residing in the county for the most recently completed 12-month period by the total number of detention days for juveniles in all counties that are not fiscally constrained counties during the same period. The annual percentage share of each county that is not a fiscally constrained county and that does not provide its own detention care for juveniles must be multiplied by 50 percent of the total shared detention costs to determine that county’s share of detention costs. Beginning August 1, each such county shall pay to the department its share of detention costs, which shall be paid in 12 equal payments due on the first day of each month. The state shall pay the remaining actual costs of detention care.~~

~~(3)(5)~~ The state shall pay all costs of detention care for juveniles residing in a fiscally constrained county and for juveniles residing out of state. The

state shall pay all costs of detention care for juveniles housed in state detention centers from counties that provide their own detention care for juveniles.

~~(4)(6)~~ Each county that is not a fiscally constrained county and that does not provide its own detention care for juveniles ~~has taken the action fulfilling the intent of this section as described in subsection (2)~~ shall incorporate into its annual county budget sufficient funds to pay its annual percentage share of the total shared detention costs required by subsection ~~(2)~~ (4).

Section 6. Subsection (23) is added to section 1003.52, Florida Statutes, to read:

1003.52 Educational services in Department of Juvenile Justice programs.—

(23) Notwithstanding this section, during fiscal year 2021-2022, the Department of Juvenile Justice, in consultation with the Department of Education, is authorized to evaluate the viability of an alternative model for providing and funding educational services for youth in detention and residential facilities. This evaluation must include material gathered through a request for information process. Such model must provide for assessments and direct educational services, including, but not limited to, special education and career and technical educational services; transition planning; educational program accountability standards; research-based best practices for educating justice-involved youth; and the recruiting, hiring, and training of teachers. This subsection expires June 1, 2022.

Section 7. For the purpose of incorporating the amendment made by this act to section 985.101, Florida Statutes, in references thereto, paragraph (b) of subsection (1) of section 960.001, Florida Statutes, is reenacted to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.—

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Florida Commission on Offender Review, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(b) *Information for purposes of notifying victim or appropriate next of kin of victim or other designated contact of victim.*—In the case of a homicide, pursuant to chapter 782; or a sexual offense, pursuant to chapter 794; or an

attempted murder or sexual offense, pursuant to chapter 777; or stalking, pursuant to s. 784.048; or domestic violence, pursuant to s. 25.385:

1. The arresting law enforcement officer or personnel of an organization that provides assistance to a victim or to the appropriate next of kin of the victim or other designated contact must request that the victim or appropriate next of kin of the victim or other designated contact complete a victim notification card. However, the victim or appropriate next of kin of the victim or other designated contact may choose not to complete the victim notification card.

2. Unless the victim or the appropriate next of kin of the victim or other designated contact waives the option to complete the victim notification card, a copy of the victim notification card must be filed with the incident report or warrant in the sheriff's office of the jurisdiction in which the incident report or warrant originated. The notification card shall, at a minimum, consist of:

- a. The name, address, and phone number of the victim; or
- b. The name, address, and phone number of the appropriate next of kin of the victim; or
- c. The name, address, and telephone number of a designated contact other than the victim or appropriate next of kin of the victim; and
- d. Any relevant identification or case numbers assigned to the case.

3. The chief administrator, or a person designated by the chief administrator, of a county jail, municipal jail, juvenile detention facility, or residential commitment facility shall make a reasonable attempt to notify the alleged victim or appropriate next of kin of the alleged victim or other designated contact within 4 hours following the release of the defendant on bail or, in the case of a juvenile offender, upon the release from residential detention or commitment. If the chief administrator, or designee, is unable to contact the alleged victim or appropriate next of kin of the alleged victim or other designated contact by telephone, the chief administrator, or designee, must send to the alleged victim or appropriate next of kin of the alleged victim or other designated contact a written notification of the defendant's release.

4. Unless otherwise requested by the victim or the appropriate next of kin of the victim or other designated contact, the information contained on the victim notification card must be sent by the chief administrator, or designee, of the appropriate facility to the subsequent correctional or residential commitment facility following the sentencing and incarceration of the defendant, and unless otherwise requested by the victim or the appropriate next of kin of the victim or other designated contact, he or she must be notified of the release of the defendant from incarceration as provided by law.

5. If the defendant was arrested pursuant to a warrant issued or taken into custody pursuant to s. 985.101 in a jurisdiction other than the jurisdiction in which the defendant is being released, and the alleged victim or appropriate next of kin of the alleged victim or other designated contact does not waive the option for notification of release, the chief correctional officer or chief administrator of the facility releasing the defendant shall make a reasonable attempt to immediately notify the chief correctional officer of the jurisdiction in which the warrant was issued or the juvenile was taken into custody pursuant to s. 985.101, and the chief correctional officer of that jurisdiction shall make a reasonable attempt to notify the alleged victim or appropriate next of kin of the alleged victim or other designated contact, as provided in this paragraph, that the defendant has been or will be released.

Section 8. For the purpose of incorporating the amendment made by this act to section 985.101, Florida Statutes, in a reference thereto, subsection (2) of section 985.439, Florida Statutes, is reenacted 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.

Section 9. For the purpose of incorporating the amendment made by this act to section 985.435, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 985.565, Florida Statutes, is reenacted 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), 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 may 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 before 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, 985.45, 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 10. This act shall take effect July 1, 2021.

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.