

House Bill No. 1917

An act relating to juvenile justice; amending s. 985.03, F.S.; redefining terms relating to juvenile justice; redefining the terms “day treatment” and “restrictiveness level”; creating the minimum-risk nonresidential restrictiveness level; providing that temporary release may be granted under specified conditions to youth committed to the high-risk residential restrictiveness level; amending s. 985.207, F.S.; providing that a child may be taken into custody for absconding from a nonresidential commitment facility; amending s. 985.208, F.S.; providing that a child may be taken into custody for absconding from a nonresidential commitment facility; amending s. 985.215, F.S.; providing for release from detention for a child who has absconded; providing for detention for committed children awaiting placement; providing secure detention for children awaiting minimum-risk placement who violate home or nonsecure detention or electronic monitoring; providing for limited secure detention for children being transported to residential commitment programs; requiring the state to pay certain detention care costs for juveniles in certain counties for fiscal year 2005-2006; amending s. 985.231, F.S.; revising provisions relating to powers of disposition; providing the maximum length for a minimum-risk nonresidential commitment for a second degree misdemeanor; providing that the department or a provider report quarterly to the court the child’s treatment plan progress; making conforming changes; amending s. 985.2311, F.S.; requiring parents to pay fees for costs of supervision related to minimum-risk nonresidential commitment; amending s. 985.316, F.S.; providing for assessment of residentially committed youth for conditional release services; repealing s. 985.403, F.S., relating to the Task Force on Juvenile Sexual Offenders and their Victims; creating a new task force on juvenile sexual offenders and their victims; providing powers and duties; providing membership; requiring a report; providing for administrative support; providing for dissolution of the task force; creating a task force to study the certification of professional staff working for a provider of juvenile justice services; providing membership; requiring the task force to consider the feasibility of implementing and operating a certification system for professional staff; requiring the task force to consider specified issues; directing the task force to recommend a process for testing and validating the effectiveness of the recommended staff development system; requiring the task force to prepare and submit a report of its deliberations and recommendations by a specified date; providing for administrative support; providing for dissolution of the task force; amending s. 985.4135, F.S.; providing for permissible representation on juvenile justice county councils or circuit boards; amending s. 985.407, F.S.; changing the level of background screening required for certain department and provider employees from level 1 to level 2; requiring federal criminal records checks every 5 years for certain department and provider employees; providing for electronic submission of specified fingerprint information; providing

for retention of specified fingerprint information; providing for searches; requiring the adoption of rules; providing for an annual fee; providing for notice of changes in the employment status of persons whose fingerprint information is retained; requiring the removal of fingerprint information upon the occurrence of specified events; providing appropriations; amending ss. 784.075, 984.05, 985.31, and 985.3141, F.S.; conforming cross references; reenacting ss. 985.201(4)(a), 985.233(4)(b), 985.31(3)(k), and 985.311(3)(e), F.S., relating to jurisdiction, sentencing alternatives, commitment of serious or habitual juvenile offenders, and eligibility for an intensive residential treatment program for offenders less than 13 years of age, respectively, to incorporate the amendment to s. 985.231, F.S., in reference thereto; providing an effective date.

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

Section 1. Section 985.03, Florida Statutes, is amended to read:

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

(1) “Addictions receiving facility” means a substance abuse service provider as defined in chapter 397.

(2) “Adjudicatory hearing” means a hearing for the court to determine whether or not the facts support the allegations stated in the petition, as is provided for under s. 985.228 in delinquency cases.

(3) “Adult” means any natural person other than a child.

(4) “Arbitration” means a process whereby a neutral third person or panel, called an arbitrator or an arbitration panel, considers the facts and arguments presented by the parties and renders a decision which may be binding or nonbinding.

(5) “Authorized agent” or “designee” of the department means a person or agency assigned or designated by the department of ~~Juvenile Justice~~ or the Department of Children and Family Services, as appropriate, to perform duties or exercise powers ~~under pursuant~~ to this chapter and includes contract providers and their employees for purposes of providing services to and managing cases of children in need of services and families in need of services.

(6) “Child” or “juvenile” or “youth” means any unmarried person under the age of 18 who has not been emancipated by order of the court and who has been found or alleged to be dependent, in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.

(7) “Child eligible for an intensive residential treatment program for offenders less than 13 years of age” means a child who has been found to have committed a delinquent act or a violation of law in the case currently before the court and who meets at least one of the following criteria:

(a) The child is less than 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:

1. Arson;
2. Sexual battery;
3. Robbery;
4. Kidnapping;
5. Aggravated child abuse;
6. Aggravated assault;
7. Aggravated stalking;
8. Murder;
9. Manslaughter;
10. Unlawful throwing, placing, or discharging of a destructive device or bomb;
11. Armed burglary;
12. Aggravated battery;
13. Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age; or
14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.

(b) The child is less than 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least once to a delinquency commitment program.

(c) The child is less than 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.

(8) “Child in need of services” means a child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by the department of ~~Juvenile Justice~~ or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also, under pursuant to this chapter, be found by the court:

(a) To have persistently run away from the child’s parents or legal custodians despite reasonable efforts of the child, the parents or legal custodians, and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts shall include voluntary participation by the

child's parents or legal custodians and the child in family mediation, services, and treatment offered by the department of Juvenile Justice or the Department of Children and Family Services;

(b) To be habitually truant from school, while subject to compulsory school attendance, despite reasonable efforts to remedy the situation under pursuant to ss. 1003.26 and 1003.27 and through voluntary participation by the child's parents or legal custodians and by the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Family Services; or

(c) To have persistently disobeyed the reasonable and lawful demands of the child's parents or legal custodians, and to be beyond their control despite efforts by the child's parents or legal custodians and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts may include such things as good faith participation in family or individual counseling.

(9) "Child who has been found to have committed a delinquent act" means a child who, under pursuant to the provisions of this chapter, is found by a court to have committed a violation of law or to be in direct or indirect contempt of court, except that this definition does shall not include an act constituting contempt of court arising out of a dependency proceeding or a proceeding under pursuant to part III of this chapter.

(10) "Child support" means a court-ordered obligation, enforced under chapter 61 and ss. 409.2551-409.2597, for monetary support for the care, maintenance, training, and education of a child.

(11) "Circuit" means any of the 20 judicial circuits as set forth in s. 26.021.

(12) "Comprehensive assessment" or "assessment" means the gathering of information for the evaluation of a juvenile offender's or a child's physical, psychological, educational, vocational, and social condition and family environment as they relate to the child's need for rehabilitative and treatment services, including substance abuse treatment services, mental health services, developmental services, literacy services, medical services, family services, and other specialized services, as appropriate.

(13) "Conditional release" means the care, treatment, help, and supervision provided to a juvenile released from a residential commitment program which is intended to promote rehabilitation and prevent recidivism. The purpose of conditional release is to protect the public, reduce recidivism, increase responsible productive behavior, and provide for a successful transition of the youth from the department to the family. Conditional release includes, but is not limited to, nonresidential community-based programs.

(14) "Court," unless otherwise expressly stated, means the circuit court assigned to exercise jurisdiction under this chapter.

(15) "Day treatment" means a nonresidential, community-based program designed to provide therapeutic intervention to youth who are placed

on probation or conditional release or are committed to the minimum-risk nonresidential level. A day treatment program may provide educational and vocational services and shall provide case-management services; individual, group, and family counseling; training designed to address delinquency risk factors; and monitoring of a youth's compliance with, and facilitation of a youth's completion of, sanctions if ordered by the court. Program types may include, but are not limited to, career programs, marine programs, juvenile justice alternative schools, training and rehabilitation programs, and gender-specific programs.

~~(16)(a)(15)(a)~~ “Delinquency program” means any intake, probation, or similar program; regional detention center or facility; or community-based program, whether owned and operated by or contracted by the department of Juvenile Justice, or institution owned and operated by or contracted by the department of Juvenile Justice, which provides intake, supervision, or custody and care of children who are alleged to be or who have been found to be delinquent under pursuant to part II.

(b) “Delinquency program staff” means supervisory and direct care staff of a delinquency program as well as support staff who have direct contact with children in a delinquency program.

(c) “Delinquency prevention programs” means programs designed for the purpose of reducing the occurrence of delinquency, including youth and street gang activity, and juvenile arrests. The term excludes arbitration, diversionary or mediation programs, and community service work or other treatment available subsequent to a child committing a delinquent act.

~~(17)(16)~~ “Department” means the Department of Juvenile Justice.

~~(18)(17)~~ “Designated facility” or “designated treatment facility” means any facility designated by the department of Juvenile Justice to provide treatment to juvenile offenders.

~~(19)(18)~~ “Detention care” means the temporary care of a child in secure, nonsecure, or home detention, pending a court adjudication or disposition or execution of a court order. There are three 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 detention center or facility pending adjudication, disposition, or placement.

(b) “Nonsecure detention” means temporary custody of the child while the child is in a residential home in the community in a physically nonrestrictive environment under the supervision of the Department of Juvenile Justice pending adjudication, disposition, or placement.

(c) “Home detention” means temporary 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 of Juvenile Justice staff pending adjudication, disposition, or placement.

(20)(19) “Detention center or facility” means a facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure or nonsecure custody. A facility used for the commitment of adjudicated delinquents shall not be considered a detention center or facility.

(21)(20) “Detention hearing” means a hearing for the court to determine if a child should be placed in temporary custody, as provided for under ss. 985.213 and 985.215 in delinquency cases.

(22)(21) “Disposition hearing” means a hearing in which the court determines the most appropriate dispositional services in the least restrictive available setting provided for under s. 985.231, in delinquency cases.

(23)(22) “Family” means a collective of persons, consisting of a child and a parent, guardian, adult custodian, or adult relative, in which:

(a) The persons reside in the same house or living unit; or

(b) The parent, guardian, adult custodian, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.

(24)(23) “Family in need of services” means a family that has a child for whom there is no pending investigation into an allegation of abuse, neglect, or abandonment or no current supervision by the department of ~~Juvenile Justice~~ or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also have been referred to a law enforcement agency or the department of ~~Juvenile Justice~~ for:

(a) Running away from parents or legal custodians;

(b) Persistently disobeying reasonable and lawful demands of parents or legal custodians, and being beyond their control; or

(c) Habitual truancy from school.

(25)(24) “Foster care” means care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.

(26)(25) “Habitually truant” means that:

(a) The child has 15 unexcused absences within 90 calendar days with or without the knowledge or justifiable consent of the child’s parent or legal guardian, is subject to compulsory school attendance under s. 1003.21(1) and (2)(a), and is not exempt under s. 1003.21(3), s. 1003.24, or any other exemptions specified by law or the rules of the State Board of Education.

(b) Escalating activities to determine the cause, and to attempt the remediation, of the child’s truant behavior under ss. 1003.26 and 1003.27 have been completed.

If a child who is subject to compulsory school attendance is responsive to the interventions described in ss. 1003.26 and 1003.27 and has completed the necessary requirements to pass the current grade as indicated in the district pupil progression plan, the child shall not be determined to be habitually truant and shall be passed. If a child within the compulsory school attendance age has 15 unexcused absences within 90 calendar days or fails to enroll in school, the state attorney may file a child-in-need-of-services petition. Before ~~Prior to~~ filing a petition, the child must be referred to the appropriate agency for evaluation. After consulting with the evaluating agency, the state attorney may elect to file a child-in-need-of-services petition.

(c) A school representative, designated according to school board policy, and a juvenile probation officer of the department of ~~Juvenile Justice~~ have jointly investigated the truancy problem or, if that was not feasible, have performed separate investigations to identify conditions that could be contributing to the truant behavior; and if, after a joint staffing of the case to determine the necessity for services, such services were determined to be needed, the persons who performed the investigations met jointly with the family and child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truant behavior.

(d) The failure or refusal of the parent or legal guardian or the child to participate, or make a good faith effort to participate, in the activities prescribed to remedy the truant behavior, or the failure or refusal of the child to return to school after participation in activities required by this subsection, or the failure of the child to stop the truant behavior after the school administration and the department of ~~Juvenile Justice~~ have worked with the child as described in s. 1003.27(3) shall be handled as prescribed in s. 1003.27.

~~(27)~~(26) “Halfway house” means a community-based residential program for 10 or more committed delinquents at the moderate-risk commitment level which is operated or contracted by the department of ~~Juvenile Justice~~.

~~(28)~~(27) “Intake” means the initial acceptance and screening by the department of ~~Juvenile Justice~~ of a complaint or a law enforcement report or probable cause affidavit of delinquency, family in need of services, or child in need of services to determine the recommendation to be taken in the best interests of the child, the family, and the community. The emphasis of intake is on diversion and the least restrictive available services. Consequently, intake includes such alternatives as:

(a) The disposition of the complaint, report, or probable cause affidavit without court or public agency action or judicial handling when appropriate.

(b) The referral of the child to another public or private agency when appropriate.

(c) The recommendation by the juvenile probation officer of judicial handling when appropriate and warranted.

~~(29)~~(28) “Judge” means the circuit judge exercising jurisdiction pursuant to this chapter.

~~(30)~~(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 youth 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; 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.

~~(31)~~(30) “Juvenile probation officer” means the authorized agent of the department of ~~Juvenile Justice~~ who performs the intake, case management, or supervision functions.

~~(32)~~(31) “Juvenile sexual offender” means:

(a) A juvenile who has been found by the court under ~~pursuant to~~ s. 985.228 to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;

(b) A juvenile found to have committed any felony violation of law or delinquent act involving juvenile sexual abuse. “Juvenile sexual abuse” means any sexual behavior which occurs without consent, without equality, or as a result of coercion. For purposes of this subsection, the following definitions apply:

1. “Coercion” means the exploitation of authority, use of bribes, threats of force, or intimidation to gain cooperation or compliance.

2. “Equality” means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.

3. “Consent” means an agreement including all of the following:

a. Understanding what is proposed based on age, maturity, developmental level, functioning, and experience.

b. Knowledge of societal standards for what is being proposed.

c. Awareness of potential consequences and alternatives.

d. Assumption that agreement or disagreement will be accepted equally.

e. Voluntary decision.

f. Mental competence.

Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts.

(33)~~(32)~~ “Legal custody or guardian” means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

(34)~~(33)~~ “Licensed child-caring agency” means a person, society, association, or agency licensed by the Department of Children and Family Services to care for, receive, and board children.

(35)~~(34)~~ “Licensed health care professional” means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under part I of chapter 464, a physician assistant licensed under chapter 458 or chapter 459, or a dentist licensed under chapter 466.

(36)~~(35)~~ “Likely to injure oneself” means that, as evidenced by violent or other actively self-destructive behavior, it is more likely than not that within a 24-hour period the child will attempt to commit suicide or inflict serious bodily harm on himself or herself.

(37)~~(36)~~ “Likely to injure others” means that it is more likely than not that within a 24-hour period the child will inflict serious and unjustified bodily harm on another person.

(38)~~(37)~~ “Mediation” means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decisionmaking authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

(39)~~(38)~~ “Necessary medical treatment” means care which is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child’s condition or to alleviate immediate pain of a child.

(40)~~(39)~~ “Next of kin” means an adult relative of a child who is the child’s brother, sister, grandparent, aunt, uncle, or first cousin.

(41)~~(40)~~ “Parent” means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1). If a child has been legally adopted, the term “parent” means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. 39.503(1) or s. 63.062(1).

(42)(41) “Preliminary screening” means the gathering of preliminary information to be used in determining a child’s need for further evaluation or assessment or for referral for other substance abuse services through means such as psychosocial interviews; urine and breathalyzer screenings; and reviews of available educational, delinquency, and dependency records of the child.

(43)(42) “Preventive services” means social services and other supportive and rehabilitative services provided to the parent of the child, the legal guardian of the child, or the custodian of the child and to the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child’s need for a safe, continuous, stable living environment and shall promote family autonomy and shall strengthen family life as the first priority whenever possible.

(44)(43) “Probation” means the legal status of probation created by law and court order in cases involving a child who has been found to have committed a delinquent act. Probation is an individualized program in which the freedom of the child is limited and the child is restricted to noninstitutional quarters or restricted to the child’s home in lieu of commitment to the custody of the department of Juvenile Justice. Youth on probation may be assessed and classified for placement in day-treatment probation programs designed for youth who represent a minimum risk to themselves and public safety and do not require placement and services in a residential setting. ~~Program types in this more intensive and structured day-treatment probation option include career programs, marine programs, juvenile justice alternative schools, training and rehabilitation programs, and gender-specific programs.~~

(45)(44) “Relative” means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

(46)(45) “Restrictiveness Residential Commitment level” means the level of programming and security provided by programs that service the supervision, custody, care, and treatment needs of committed children. Sections 985.3141 and 985.404(11) apply to children placed in programs at any residential commitment level. The restrictiveness levels of residential commitment are as follows:

(a) Minimum-risk nonresidential.—Programs or program models at this commitment level work with youth who remain in the community and participate at least 5 days per week in a day treatment program. Youth assessed and classified for programs at this commitment level represent a minimum risk to themselves and public safety and do not require placement and services in residential settings. Youth in this level have full access to, and reside in, the community. Youth who have been found to have committed delinquent acts that involve firearms, that are sexual offenses, or that would be life felonies or first-degree felonies if committed by an adult may not be committed to a program at this level.

(b)(a) Low-risk residential.—Programs or program models at this commitment level are residential but may allow youth to have unsupervised access to the community. Youth assessed and classified for placement in programs at this commitment level represent a low risk to themselves and public safety but do require placement and services in residential settings. Children who have been found to have committed delinquent acts that involve firearms, delinquent acts that are sexual offenses, or delinquent acts that would be life felonies or first degree felonies if committed by an adult shall not be committed to a program at this level.

(c)(b) Moderate-risk residential.—Programs or program models at this commitment level are residential but may allow youth to have supervised access to the community. Facilities are either environmentally secure, staff secure, or are hardware-secure with walls, fencing, or locking doors. Facilities shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for placement in programs at this commitment level represent a moderate risk to public safety and require close supervision. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary.

(d)(e) High-risk residential.—Programs or program models at this commitment level are residential and ~~do shall~~ not allow youth to have access to the community except that, temporary release providing community access for up to 72 continuous hours may be approved by a court for a youth who has made successful progress in his or her program in order for the youth to attend a family emergency or, during the final 60 days of his or her placement, to visit his or her home, enroll in school or a vocational program, complete a job interview, or participate in a community service project. High-risk residential facilities are hardware-secure with perimeter fencing and locking doors. Facilities shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for this level of placement require close supervision in a structured residential setting. Placement in programs at this level is prompted by a concern for public safety that outweighs placement in programs at lower commitment levels. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. The facility may provide for single cell occupancy.

(e)(d) Maximum-risk residential.—Programs or program models at this commitment level include juvenile correctional facilities and juvenile prisons. The programs are long-term residential and ~~do shall~~ not allow youth to have access to the community. Facilities are maximum-custody hardware-secure with perimeter security fencing and locking doors. Facilities shall provide 24-hour awake supervision, custody, care, and treatment of residents. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. The facility shall provide for single cell occupancy, except that youth may be housed together during prerelease transition. Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting. Placement in

a program at this level is prompted by a demonstrated need to protect the public.

~~(47)~~(46) “Respite” means a placement that is available for the care, custody, and placement of a youth charged with domestic violence as an alternative to secure detention or for placement of a youth when a shelter bed for a child in need of services or a family in need of services is unavailable.

~~(48)~~(47) “Secure detention center or facility” means a physically restricting facility for the temporary care of children, pending adjudication, disposition, or placement.

~~(49)~~(48) “Serious or habitual juvenile offender,” for purposes of commitment to a residential facility and for purposes of records retention, means a child who has been found to have committed a delinquent act or a violation of law, in the case currently before the court, and who meets at least one of the following criteria:

(a) The youth is at least 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:

1. Arson;
2. Sexual battery;
3. Robbery;
4. Kidnapping;
5. Aggravated child abuse;
6. Aggravated assault;
7. Aggravated stalking;
8. Murder;
9. Manslaughter;
10. Unlawful throwing, placing, or discharging of a destructive device or bomb;
11. Armed burglary;
12. Aggravated battery;
13. Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age; or
14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.

(b) The youth is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least two times to a delinquency commitment program.

(c) The youth is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.

~~(50)~~(49) “Serious or habitual juvenile offender program” means the program established in s. 985.31.

~~(51)~~(50) “Shelter” means a place for the temporary care of a child who is alleged to be or who has been found to be delinquent.

~~(52)~~(51) “Shelter hearing” means a hearing provided for under s. 984.14 in family-in-need-of-services cases or child-in-need-of-services cases.

~~(53)~~(52) “Staff-secure shelter” means a facility in which a child is supervised 24 hours a day by staff members who are awake while on duty. The facility is for the temporary care and assessment of a child who has been found to be dependent, who has violated a court order and been found in contempt of court, or whom the Department of Children and Family Services is unable to properly assess or place for assistance within the continuum of services provided for dependent children.

~~(54)~~(53) “Substance abuse” means using, without medical reason, any psychoactive or mood-altering drug, including alcohol, in such a manner as to induce impairment resulting in dysfunctional social behavior.

~~(55)~~(54) “Taken into custody” means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child’s release, detention, placement, or other disposition as authorized by law.

~~(56)~~(55) “Temporary legal custody” means the relationship that a juvenile court creates between a child and an adult relative of the child, adult non relative approved by the court, or other person until a more permanent arrangement is ordered. Temporary legal custody confers upon the custodian the right to have temporary physical custody of the child and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the temporary legal custody relationship.

~~(57)~~(56) “Temporary release” means the terms and conditions under which a child is temporarily released from a residential commitment facility or allowed home visits. If the temporary release is from a moderate-risk residential facility, a high-risk residential facility, or a maximum-risk residential facility, the terms and conditions of the temporary release must be approved by the child, the court, and the facility. The term includes periods during which the child is supervised pursuant to a conditional release program or a period during which the child is supervised by a juvenile probation officer or other nonresidential staff of the department or staff employed by an entity under contract with the department.

~~(58)~~(57) “Training school” means one of the following facilities: the Arthur G. Dozier School or the Eckerd Youth Development Center.

(59)(58) “Violation of law” or “delinquent act” means a violation of any law of this state, the United States, or any other state which is a misdemeanor or a felony or a violation of a county or municipal ordinance which would be punishable by incarceration if the violation were committed by an adult.

(60)(59) “Waiver hearing” means a hearing provided for under s. 985.226(3).

Section 2. Paragraph (d) of subsection (1) of section 985.207, Florida Statutes, is amended to read:

985.207 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, home detention, post commitment 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 s. 985.215.

Section 3. Section 985.208, Florida Statutes, is amended to read:

985.208 Detention of escapee or absconder on authority of the department.—

(1) If an authorized agent of the department has reasonable grounds to believe that any delinquent child committed to the department has escaped from a residential commitment facility of the department or from being lawfully transported thereto or there from, or has absconded from a nonresidential commitment facility, the agent may take the child into active custody and may deliver the child to the facility or, if it is closer, to a detention center for return to the facility. However, a child may not be held in detention longer than 24 hours, excluding Saturdays, Sundays, and legal holidays, unless a special order so directing is made by the judge after a detention hearing resulting in a finding that detention is required based on the criteria in s. 985.215(2). The order shall state the reasons for such finding. The reasons shall be reviewable by appeal or in habeas corpus proceedings in the district court of appeal.

(2) Any sheriff or other law enforcement officer, upon the request of the secretary of the department or duly authorized agent, shall take a child who has escaped ~~or absconded~~ from a residential commitment department facility for committed delinquent children, or from being lawfully transported thereto or there from, or has absconded from a nonresidential commitment facility, into custody and deliver the child to the appropriate juvenile probation officer ~~of the department~~.

Section 4. Subsections (2) and (10) of section 985.215, Florida Statutes, are amended to read:

985.215 Detention.—

(2) Subject to the provisions of subsection (1), a child taken into custody and placed into nonsecure or home detention care or detained in secure detention care prior to a detention hearing may continue to be detained by the court if:

(a) 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 such program or supervision.

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

(c) 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 s. 985.213(2)(b)3.

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

(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. 985.231(1)(a)1.c. If a consequence unit is not available, the child shall be placed on home detention with electronic monitoring.

(i) The child is detained on a judicial order for failure to appear and has previously willfully failed to appear, after proper notice, for an adjudicatory hearing 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.

(j) The child is detained on a judicial order for failure to appear and has previously willfully failed to appear, after proper notice, 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.

A child who meets any of these criteria and who is ordered to be detained pursuant to this subsection shall be given a hearing within 24 hours after being taken into custody. The purpose of the detention hearing is to determine the existence of probable cause that the child has committed the delinquent act or violation of law with which he or she is charged and the need for continued detention, except where the child is alleged to have absconded from a nonresidential commitment program in which case the court, at the detention hearing, shall order that the child be released from detention and returned to his or her nonresidential commitment program. Unless a child is detained under paragraph (d) or paragraph (e), the court shall ~~use~~ utilize the results of the risk assessment performed by the juvenile probation officer and, based on the criteria in this subsection, shall determine the need for continued detention. A child placed into secure, nonsecure, or home detention care may continue to be so detained by the court pursuant to this subsection. If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement. Except as provided in s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c), or paragraph (10)(d), when a child is placed into secure or nonsecure detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in paragraph (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1., whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted pursuant to paragraph (5)(f).

(5)

(d) Except as provided in paragraph (g), a child may not be held in secure, nonsecure, or home detention care for more than 15 days following the entry of an order of adjudication.

(g) Upon good cause being shown that the nature of the charge requires additional time for the prosecution or defense of the case, the court may extend the time limits for detention specified in paragraph (c) an additional 9 days if the child is charged with an offense that would be, if committed by an adult, a capital felony, a life felony, a felony of the first degree, or a felony of the second degree involving violence against any individual.

(10)(a)1. When a child is committed to the Department of Juvenile Justice awaiting dispositional placement, removal of the child from detention care shall occur within 5 days, excluding Saturdays, Sundays, and legal holidays. Any child held in secure detention during the 5 days must meet detention admission criteria pursuant to this section. If the child is committed to a moderate-risk residential program, the department may seek an order from the court authorizing continued detention for a specific period of time necessary for the appropriate residential placement of the child. However, such continued detention in secure detention care may not exceed 15 days after commitment, excluding Saturdays, Sundays, and legal holidays, and except as otherwise provided in this subsection.

2. The court must place all children who are adjudicated and awaiting placement in a ~~residential~~ commitment program in detention care. Children who are in home detention care or nonsecure detention care may be placed on electronic monitoring.

(b) A child who is placed in home detention care, nonsecure detention care, or home or nonsecure detention care with electronic monitoring, while awaiting placement in a minimum-risk, low-risk, or moderate-risk program, may be held in secure detention care for 5 days, if the child violates the conditions of the home detention care, the nonsecure detention care, or the electronic monitoring agreement. For any subsequent violation, the court may impose an additional 5 days in secure detention care.

(c) If the child is committed to a high-risk residential program, the child must be held in detention care until placement or commitment is accomplished.

(d) If the child is committed to a maximum-risk residential program, the child must be held in detention care until placement or commitment is accomplished.

(e) Upon specific appropriation, the department may obtain comprehensive evaluations, including, but not limited to, medical, academic, psychological, behavioral, sociological, and vocational needs of a youth with multiple arrests for all level criminal acts or a youth committed to a minimum-risk or low-risk commitment program.

(f) Regardless of detention status, a child being transported by the department to a residential commitment facility of the department may be placed in secure detention overnight, not to exceed a 24-hour period, for the specific purpose of ensuring the safe delivery of the child to his or her residential commitment program, court, appointment, transfer, or release.

Section 5. Notwithstanding s. 985.2155, Florida Statutes, as amended by ch. 2004-473, Laws of Florida, the state, subject to appropriation, shall pay all costs of detention care for juveniles for Highlands County, Sumter County, and Wakulla County for fiscal year 2005-2006.

Section 6. Paragraphs (a) and (d) of subsection (1) and subsection (2) of section 985.231, Florida Statutes, are amended to read:

985.231 Powers of disposition in delinquency cases.—

(1)(a) 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:

1. Place the child in a probation program or a postcommitment probation program under the supervision of an authorized agent of the department of ~~Juvenile Justice~~ or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct. A probation program for an adjudicated delinquent child must include a penalty component such as restitution in money or in kind, community service, a curfew, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense and must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in school or other educational program. If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d). Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child's conditions of postcommitment probation, the court may order the child to submit to random testing for the purpose of detecting and monitoring the use of alcohol or controlled substances.

a. A ~~restrictiveness~~ level classification scale for levels of supervision shall be provided by the department, taking into account the child's needs and risks relative to probation supervision requirements to reasonably ensure the public safety. Probation programs for children shall be supervised by the department or by any other person or agency specifically authorized by the court. These programs must include, but are not limited to, structured or restricted activities as described in this subparagraph, and shall be designed to encourage the child toward acceptable and functional social behavior. If supervision or a program of community service is ordered by the court, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. When restitution is ordered by the court, the amount

of restitution may not exceed an amount the child and the parent or guardian could reasonably be expected to pay or make. A child who participates in any work program under this part is considered an employee of the state for purposes of liability, unless otherwise provided by law.

b. The court may conduct judicial review hearings for a child placed on probation for the purpose of fostering accountability to the judge and compliance with other requirements, such as restitution and community service. The court may allow early termination of probation for a child who has substantially complied with the terms and conditions of probation.

c. If the conditions of the probation program or the postcommitment probation program are violated, the department or the state attorney may bring the child before the court on a petition alleging a violation of the program. Any child who violates the conditions of probation or postcommitment probation must be brought before the court if sanctions are sought. A child taken into custody under s. 985.207 for violating the conditions of probation 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. 985.207 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 s. 985.215 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 s. 985.215. If the child denies violating the conditions of probation or postcommitment probation, the court shall appoint counsel to represent the child at the child's request. 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 paragraph, 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:

(I) 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.

(II) Place the child on home detention with electronic monitoring. However, this sanction may be used only if a residential consequence unit is not available.

(III) Modify or continue the child's probation program or postcommitment probation program.

(IV) Revoke probation or postcommitment probation and commit the child to the department.

d. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, 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 its own motion.

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

3. Commit the child to the department of ~~Juvenile Justice~~ at a restrictiveness residential commitment 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, urine 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 eligible to attend public school following residential commitment and the court finds that the victim or a sibling of the victim in the case is or may be attending the same school as the child, the commitment order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d). If the child is not successful in the conditional release program, the department may use the transfer procedure under s. 985.404. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, 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.

4. Revoke or suspend the driver's license of the child.

5. Require the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to render community service in a public service program.

6. As part of the probation program to be implemented by the department of ~~Juvenile Justice~~, or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment, order the child to make restitution in money, through a promissory note cosigned by the child's parent or guardian, or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. The clerk of the circuit court shall be the receiving and dispensing agent. In such case, the court shall order the child or the child's parent or guardian to pay to the office of the clerk of the circuit court an amount not to exceed the actual cost incurred by the clerk as a result of receiving and dispensing restitution payments. The clerk shall notify the court if restitution is not made, and the court shall take any further action that is necessary against the child or the child's parent or guardian. A finding by the court, after a hearing, that the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts absolves the parent or guardian of liability for restitution under this subparagraph.

7. Order the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or probation program.

8. Commit the child to the department of ~~Juvenile Justice~~ for placement in a program or facility for serious or habitual juvenile offenders in accordance with s. 985.31. 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. The court may retain jurisdiction over such child until the child reaches the age of 21, specifically for the purpose of the child completing the program.

9. In addition to the sanctions imposed on the child, order the parent or guardian of the child to perform community service if the court finds that the parent or guardian did not make a diligent and good faith effort to prevent the child from engaging in delinquent acts. The court may also order the parent or guardian to make restitution in money or in kind for any damage or loss caused by the child's offense. The court shall determine a reasonable amount or manner of restitution, and payment shall be made to the clerk of the circuit court as provided in subparagraph 6.

10. Subject to specific appropriation, commit the juvenile sexual offender to the department of ~~Juvenile Justice~~ for placement in a program or facility for juvenile sexual offenders in accordance with s. 985.308. 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. The court may retain jurisdiction over a juvenile sexual offender until the juvenile sexual offender reaches the age of 21, specifically for the purpose of completing the program.

(d) Any commitment of a delinquent child to the department of ~~Juvenile Justice~~ must be for an indeterminate period of time, which may include periods of temporary release; ~~however, but~~ the period of time may not exceed the maximum term of imprisonment that an adult may serve for the same offense, except that the duration of a minimum-risk nonresidential commitment for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. The duration of the child's placement in a ~~residential~~ residential commitment program of any restrictiveness level shall be based on objective performance-based treatment planning. The child's treatment plan progress and adjustment-related issues shall be reported to the court quarterly, unless the court requests monthly reports each month. The child's length of stay in a ~~residential~~ residential commitment program may be extended if the child fails to comply with or participate in treatment activities. The child's length of stay in the ~~such~~ program shall not be extended for purposes of sanction or punishment. Any temporary release from such program must be approved by the court. Any child so committed may be discharged from institutional confinement or a program upon the direction of the department with the concurrence of the court. The child's treatment plan progress and adjustment-related issues

must be communicated to the court at the time the department requests the court to consider releasing the child from the ~~residential~~ commitment program. Notwithstanding s. 743.07 and this subsection, and except as provided in ss. 985.201 and 985.31, a child may not be held under a commitment from a court under ~~pursuant to~~ this section after becoming 21 years of age. The department shall give the court that committed the child to the department reasonable notice, in writing, of its desire to discharge the child from a commitment facility. The court that committed the child may thereafter accept or reject the request. If the court does not respond within 10 days after receipt of the notice, the request of the department shall be deemed granted. This section does not limit the department's authority to revoke a child's temporary release status and return the child to a commitment facility for any violation of the terms and conditions of the temporary release.

(2) Following a delinquency adjudicatory hearing pursuant to s. 985.228 and a delinquency disposition hearing pursuant to s. 985.23 which 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. 985.31. The determination shall be made pursuant to ss. 985.03~~(49)~~~~(48)~~ and 985.23(3).

Section 7. Paragraph (a) of subsection (1) of section 985.2311, Florida Statutes, is amended 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~~, 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 supervision status.

Section 8. Subsection (3) of section 985.316, Florida Statutes, is amended to read:

985.316 Conditional release.—

(3) For juveniles referred or committed to the department, the function of the department may include, but shall not be limited to, assessing each ~~committed juvenile~~ placed in a residential commitment program to determine the need for conditional release services upon release from ~~the a commitment~~ program, supervising the juvenile when released into the community from a residential commitment facility of the department, providing such counseling and other services as may be necessary for the families and assisting their preparations for the return of the child. Subject to specific appropriation, the department shall provide for outpatient sexual offender

counseling for any juvenile sexual offender released from a residential commitment program as a component of conditional release.

Section 9. Section 985.403, Florida Statutes, is repealed.

Section 10. Task Force on Juvenile Sexual Offenders and their Victims.—

(1) On or before August 1, 2005, there shall be created a task force to review and evaluate the state's laws that define and address juvenile sex offenders and the Department of Juvenile Justice's practices and procedures for serving these offenders and their victims. The task force shall make findings that include, but are not limited to: identification of statutes that address juvenile sexual offenders; a profile of the acts committed by each juvenile placed in juvenile sexual offender programming in this state between July 2000 and June 2005 and an assessment of the appropriateness of those placements based upon the acts committed; identification of community-based and residential commitment programming available for juvenile sexual offenders and an assessment of such programming's effectiveness; and identification of qualifications required for staff who serve juvenile sexual offenders. Based on its findings, the task force shall make recommendations for the improvement of the state's laws, policies, programs, and funding for juvenile sexual offenders, and such recommendations shall specifically include, but are not limited to, identification of criteria that should be satisfied prior to placement of a juvenile in juvenile sexual offender programming.

(2) The Governor shall appoint up to 12 members to the task force. The task force shall be composed of representatives who shall include, but are not limited to: a circuit court judge with at least 1 year's experience in the juvenile division, a state attorney with at least 1 year's experience in the juvenile division, a public defender with at least 1 year's experience in the juvenile division, one representative of the Department of Juvenile Justice, two representatives of providers of juvenile sexual offender services, one member of the Florida Juvenile Justice Association, one member of the Florida Association for the Treatment of Sexual Abusers, and one victim of a juvenile sexual offense.

(3) The task force shall submit a written report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2005.

(4) Administrative support for the task force shall be provided by the Department of Juvenile Justice. Members of the task force shall receive no salary from the state beyond the salary already received from their sponsoring agency, if any, and are not entitled to reimbursement for travel and per diem expenses.

(5) The task force shall be dissolved upon submission of its report.

Section 11. Task force to study certification for juvenile justice provider staff.—

(1) On or before August 1, 2005, there shall be created a task force to study the feasibility of establishing a certification process for staff employed by a provider under contract with the Department of Juvenile Justice to provide juvenile justice services to youth.

(2) The Governor shall appoint up to 12 members to the task force. The task force shall be composed of representatives who shall include, but are not limited to, the following: two representatives of the Department of Juvenile Justice, two representatives of providers of juvenile justice services, two members of the Florida Juvenile Justice Association, two provider employees who provide direct care services, and two representatives of the Florida Certification Board.

(3) The task force shall consider the feasibility of implementing and operating a certification system for staff who work in juvenile justice facilities, services, or programs. At a minimum, the task force shall consider and make recommendations concerning: per diem levels, the occupational levels of staff subject to certification, the criteria that may be used to certify staff, the levels of certification, and a process for testing and validating the effectiveness of any recommended staff certification system. In making its recommendations, the task force shall make findings regarding the benefits of a staff certification system for the state's juvenile justice programming and the cost to implement such a system.

(4) The task force shall submit a written report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2006.

(5) Administrative support for the task force shall be provided by the Department of Juvenile Justice. Members of the task force shall receive no salary from the state beyond the salary already received from their sponsoring agency, if any, and are not entitled to reimbursement for travel and per diem expenses.

(6) The task force shall be dissolved upon submission of its report.

Section 12. Subsection (10) of section 985.4135, Florida Statutes, is amended to read:

985.4135 Juvenile justice circuit boards and juvenile justice county councils.—

(10) Membership of the juvenile justice county councils, or juvenile justice circuit boards established under subsection (9), ~~may~~ must include representatives from the following entities:

(a) Representatives from the school district, which may include elected school board officials, the school superintendent, school or district administrators, teachers, and counselors.

(b) Representatives of the board of county commissioners.

(c) Representatives of the governing bodies of local municipalities within the county.

(d) A representative of the corresponding circuit or regional entity of the Department of Children and Family Services.

(e) Representatives of local law enforcement agencies, including the sheriff or the sheriff's designee.

(f) Representatives of the judicial system.

(g) Representatives of the business community.

(h) Representatives of other interested officials, groups, or entities, including, but not limited to, a children's services council, public or private providers of juvenile justice programs and services, students, parents, and advocates. Private providers of juvenile justice programs may not exceed one-third of the voting membership.

(i) Representatives of the faith community.

(j) Representatives of victim-service programs and victims of crimes.

(k) Representatives of the Department of Corrections.

Section 13. Subsection (4) of section 985.407, Florida Statutes, is amended to read:

985.407 Departmental contracting powers; personnel standards and screening.—

(4)(a) For any person employed by the department, or by a provider under contract with the department, in delinquency facilities, services, or programs, the department shall require:

1. A level 2 employment screening pursuant to chapter 435 prior to employment, using the level 1 standards for screening set forth in that chapter, for personnel in delinquency facilities, services, and programs.

2. A federal criminal records check by the Federal Bureau of Investigation every 5 years following the date of the person's employment.

(b) Except for law enforcement, correctional, and correctional probation officers, to whom s. 943.13(5) applies, the department shall electronically submit to the Department of Law Enforcement:

1. Fingerprint information obtained during the employment screening required by subparagraph (a)1.

2. Beginning on December 15, 2005, fingerprint information for all persons employed by the department, or by a provider under contract with the department, in delinquency facilities, services, or programs if such fingerprint information has not previously been electronically submitted to the Department of Law Enforcement under this paragraph.

(c) All fingerprint information electronically submitted to the Department of Law Enforcement under paragraph (b) shall be retained by the

Department of Law Enforcement and entered into the statewide automated fingerprint identification system authorized by s. 943.05(2)(b). Thereafter, such fingerprint information shall be available for all purposes and uses authorized for arrest fingerprint information entered into the statewide automated fingerprint identification system pursuant to s. 943.051 until the fingerprint information is removed pursuant to paragraph (e). The Department of Law Enforcement shall search all arrest fingerprint information received pursuant to s. 943.051 against the fingerprint information entered into the statewide automated fingerprint system pursuant to this subsection. Any arrest records identified as a result of the search shall be reported to the department in the manner and timeframe established by the Department of Law Enforcement by rule.

(d) The department shall pay an annual fee to the Department of Law Enforcement for its costs resulting from the fingerprint information retention services required by this subsection. The amount of the annual fee and procedures for the submission and retention of fingerprint information and for the dissemination of search results shall be established by the Department of Law Enforcement by a rule that is applicable to the department individually pursuant to this subsection or that is applicable to the department and other employing agencies pursuant to rulemaking authority otherwise provided by law.

(e) The department shall notify the Department of Law Enforcement when a person whose fingerprint information is retained by the Department of Law Enforcement under this subsection is no longer employed by the department, or by a provider under contract with the department, in a delinquency facility, service, or program. This notice shall be provided by the department to the Department of Law Enforcement no later than 6 months after the date of the change in the person's employment status. Fingerprint information for persons identified by the department in the notice shall be removed from the statewide automated fingerprint system.

Section 14. The sums of \$36,834 in recurring funds and \$86,407 in nonrecurring funds are appropriated from the General Revenue Fund to the Department of Juvenile Justice for expenses for the 2005-2006 fiscal year. The sum of \$133,335 in recurring funds is appropriated from the Administrative Trust Fund to the Department of Juvenile Justice for expenses for the 2005-2006 fiscal year.

Section 15. Section 784.075, Florida Statutes, is amended to read:

784.075 Battery on detention or commitment facility staff or a juvenile probation officer.—A person who commits a battery on a juvenile probation officer, as defined in s. 984.03 or s. 985.03, on other staff of a detention center or facility as defined in s. 984.03(19) or s. 985.03(19), or on a staff member of a commitment facility as defined in s. 985.03(45), commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this section, a staff member of the facilities listed includes persons employed by the Department of Juvenile Justice, persons employed at facilities licensed by the Department of Juvenile Justice, and persons employed at facilities operated under a contract with the Department of Juvenile Justice.

Section 16. Section 984.05, Florida Statutes, is amended to read:

984.05 Rules relating to habitual truants; adoption by State Board of Education and Department of Juvenile Justice.—The Department of Juvenile Justice and the State Board of Education shall work together on the development of, and shall adopt, rules as necessary for the implementation of ss. 984.03(27), 985.03(~~26~~)(25), and 1003.27.

Section 17. Paragraph (e) of subsection (3) and paragraph (a) of subsection (4) of section 985.31, Florida Statutes, are amended, and for the purpose of incorporating the amendment to section 985.231, Florida Statutes, in references thereto, paragraph (k) of subsection (3) of said section is reenacted to read:

985.31 Serious or habitual juvenile offender.—

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(e) After a child has been adjudicated delinquent pursuant to s. 985.228, the court shall determine whether the child meets the criteria for a serious or habitual juvenile offender pursuant to s. 985.03(~~49~~)(48). If the court determines that the child does not meet such criteria, the provisions of s. 985.231(1) shall apply.

(k) Any commitment of a child to the department for placement in a serious or habitual juvenile offender program or facility shall be for an indeterminate period of time, but the time shall not exceed the maximum term of imprisonment which an adult may serve for the same offense. Notwithstanding the provisions of ss. 743.07 and 985.231(1)(d), a serious or habitual juvenile offender shall not be held under commitment from a court pursuant to this section, s. 985.231, or s. 985.233 after becoming 21 years of age. This provision shall apply only for the purpose of completing the serious or habitual juvenile offender program pursuant to this chapter and shall be used solely for the purpose of treatment.

(4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.—

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of serious or habitual juvenile offenders and for the assessment, which assessment shall include the criteria under s. 985.03(~~49~~)(48) and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.
2. Proclivity toward violence.
3. Tendency toward gang involvement.
4. Substance abuse or addiction and the level thereof.
5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.

6. Number and type of previous adjudications, findings of guilt, and convictions.

7. Potential for rehabilitation.

Section 18. Subsection (2) of section 985.3141, Florida Statutes, is amended to read:

985.3141 Escapes from secure detention or residential commitment facility.—An escape from:

(2) Any residential commitment facility described in s. 985.03~~(46)~~(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 19. For the purpose of incorporating the amendment to section 985.231, Florida Statutes, in a reference thereto, paragraph (a) of subsection (4) of section 985.201, Florida Statutes, is reenacted to read:

985.201 Jurisdiction.—

(4)(a) Notwithstanding ss. 743.07, 985.229, 985.23, and 985.231, and except as provided in ss. 985.31 and 985.313, 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 that the court had prior to the child becoming an adult.

Section 20. For the purpose of incorporating the amendment to section 985.231, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 985.233, Florida Statutes, is reenacted to read:

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

(4) SENTENCING ALTERNATIVES.—

(b) Sentencing to juvenile sanctions.—For juveniles transferred to adult court but who do not qualify for such transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or (b), the court may impose juvenile sanctions under this paragraph. If juvenile sentences are imposed, the court shall, pursuant to 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 pursuant to s. 985.231 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. 985.234.

Section 21. For the purpose of incorporating the amendment to section 985.231, Florida Statutes, in a reference thereto, paragraph (e) of subsection (3) of section 985.311, Florida Statutes, is reenacted to read:

985.311 Intensive residential treatment program for offenders less than 13 years of age.—

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(e) After a child has been adjudicated delinquent pursuant to s. 985.228(5), the court shall determine whether the child is eligible for an intensive residential treatment program for offenders less than 13 years of age pursuant to s. 985.03(7). If the court determines that the child does not meet the criteria, the provisions of s. 985.231(1) shall apply.

Section 22. This act shall take effect July 1, 2005.

Approved by the Governor June 17, 2005.

Filed in Office Secretary of State June 17, 2005.